



# Legislative UPDATE

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## COURT UPHOLDS SALES TAX “LOOK-BACK”

The Austin Court of Appeals ruled on October 2 that cities don't have a vested right in local sales tax distributions until four years have passed. Accordingly, the state comptroller may continue to go back for up to four years to redistribute or refund city sales taxes.

In *Combs v. City of Webster*, several cities argued that the four-year “look-back” provision in the Tax Code, which can result in the redistribution of millions of dollars in mistakenly allocated sales taxes from one city to another, violates the due course of law and the takings provisions of the Texas Constitution. The court disagreed, reasoning that until the four-year statute of limitations has passed, cities merely have a “contingent” or “potential” right to keep the sales tax revenue that has been distributed to them. This is true even if cities have long since spent the revenue under previous budgets.

The case arose out of a dispute over allocation of sales tax revenue between so-called “warehouse cities” and “storefront cities”. Although that allocation issue was clarified by the passage of **S.B. 636** earlier this year (read a description of the bill here at [http://www.tml.org/leg\\_updates/legis\\_update070209g\\_addenda.asp](http://www.tml.org/leg_updates/legis_update070209g_addenda.asp)), the ruling of the case with respect to the “look-back” will affect all other reallocation decisions for the foreseeable future.

## **TML PRESENTS AWARDS TO FOUR LAWMAKERS**

During the recent Texas Municipal League Annual Conference in Fort Worth, the League recognized four lawmakers who have consistently supported cities and defended municipal authority.

Senator John Carona (R-Dallas) and Representative Rene Oliveira (D-Brownsville) each received a Legislator of the Year Award for their efforts during the 81<sup>st</sup> session of the Texas Legislature.

First elected to the Texas Senate in 1996 after serving three terms in the Texas House of Representatives, Senator Carona is the Chairman of the Senate Transportation and Homeland Security Committee and serves on three other Senate committees (Criminal Justice, Jurisprudence, and State Affairs). Prior to being elected to the Senate, Senator Carona served three terms in the Texas House of Representatives. During the 81<sup>st</sup> regular session, Senator Carona led the fight to enact the Local Option Transportation Act, an initiative that would have authorized local option, vote-approved funding mechanisms for transportation projects. He is a consistent advocate for local control.



Representative Rene Oliveira (D-Brownsville) was first elected to the Texas House of Representatives in 1981 and has served 14 terms. He is the Chairman of the House Ways and Means Committee and serves on the powerful House State Affairs Committee. During the 81<sup>st</sup> regular session, Representative Oliveira passed legislation that extended the authority of cities to grant tax abatements, without which tax abatement authority would have expired this year. He also led the House Ways and Means Committee in the study and ultimate passage of appraisal reform legislation.

The League also presented Distinguished Legislative Service Awards to Senator Wendy Davis (D-Fort Worth) and Representative Carol Alvarado (D-Houston) for their service to Texas cities during the 81<sup>st</sup> session of the Texas Legislature.

Senator Davis is serving in her first term in the Texas Senate after serving as a member of the Fort Worth City Council. She is a member of four Senate committees: Education, International Relations and Trade, Transportation and Homeland Security, and



Veterans Affairs and Military Installations. During the 81<sup>st</sup> regular session, Senator Davis passed important legislation related to informing voters about municipal ballot measures. She is a consistent advocate for local control.



Representative Alvarado was elected to the Texas House of Representatives in 2008 after serving on the Houston City Council. While a Houston councilmember, Ms. Alvarado served as president of the League. She is a member of three House committees: Urban Affairs, Land and Resource Management, and Redistricting. During the 81<sup>st</sup> regular session, Representative Alvarado worked to promote and protect municipal authority in the face of numerous attempts to erode local control.

We hope that city leaders across Texas will express their appreciation to these outstanding leaders for their dedication to Texas cities.

## **MUNICIPAL COST INFLATION RISES SLIGHTLY FOR THE MONTH**

The Municipal Cost Index (MCI), developed exclusively by *American City and County* magazine, shows the effect of inflation on the cost of providing municipal services. The MCI is used to study price trends, make informed government contract decisions, and facilitate sound budget planning.

According to *American City and County* magazine, the MCI for October was 206.5, an increase of 0.5 percent over last month's MCI, but still a decline of 3.9 percent over the previous 12 months. The October 2008 MCI was 214.8.

## **JURY FINDS FOR CITIES AGAINST ONLINE HOTEL BOOKERS**

A federal jury has ruled in favor of San Antonio and 172 other Texas cities in their class action lawsuit against online hotel booking companies including Expedia.com,

Hotels.com, Hotwire.com, Priceline.com, and others. The jury awarded \$20.6 million to the cities based on their argument that the online companies failed to remit city hotel occupancy tax on the “markup” difference between the amount the companies paid for the rooms and the price at which they sold the rooms to consumers. Punitive damages were not awarded.

An appeal by the companies is likely. The companies argue that they don’t “control” hotel rooms, which is required before the local hotel occupancy tax is due.

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