



# Legislative UPDATE

May 10, 2019  
Number 19

## The Final Stretch: Where We Stand in the Legislative Session

With 18 days remaining in the legislative session, here's the status of some important city-related bills that are still in play:

- **Revenue Caps:** Senate Bill 2 has passed both the Senate and House. A conference committee will negotiate the differences. Both chambers imposed a revenue cap of 3.5 percent, meaning the final version would most likely pass at that figure. The only sticking point appears to be that the House has linked passage of the bill to Senate passage of H.B. 3, the school finance bill. The two chambers are still fairly far apart on that bill, meaning final resolution of S.B 2 and H.B. 3 could happen in the final days of the session.
- **Lobbying:** Senate Bill 29 would prevent cities, or the associations to which they belong, from lobbying on the issues of tax, debt, or ethics. The bill has been reported from the House State Affairs Committee and is pending in the House Calendars Committee.
- **Super Preemption:** One of the three so-called super preemption bills is still moving in a way that would substantially impact cities. Senate Bill 1209 by Hancock would prevent cities from regulating occupations that are licensed by state law. Exceptions were added that would permit cities to continue to regulate zoning, payday lenders, towing, and alcohol. It's very possible that, if this bill passes, other business entities will claim they are exempt from city regulation under this bill.

- **Tax Abatement:** Legislation to extend the sunset date for Chapter 312 tax abatement authority, H.B. 3143 by Murphy, is pending in the Senate Natural Resources and Economic Development Committee. At issue are some additional procedural requirements that would apply to abatement agreements, including a public notice period.
- **Debt:** Two bills that would require cities to add some information to bond ballot propositions, S.B. 462 by Campbell and H.B. 477 by Murphy, are pending in the House.

City officials interested in any of these bills should continue discussions with their legislators.

## **Legislature Passes Annexation Reform:** **Still a Tiny Window Left**

On May 8, the Texas Senate passed [H.B. 347](#). The bill essentially eliminates most unilateral annexations by any city, regardless of population or location.

Specifically, the bill would: (1) eliminate the distinction between Tier 1 and Tier 2 cities and counties created by S.B. 6 (2017); (2) eliminate existing annexation authority that applied to Tier 1 cities and make most annexations subject to the three consent annexation procedures created by S.B. 6 (2017), which allow for annexation: (a) on request of the each owner of the land; (b) of an area with a population of less than 200 by petition of voters and, if required, owners in the area; and (c) of an area with a population of at least 200 by election of voters and, if required, petition of landowners; and (3) authorize certain narrowly-defined types of annexation (e.g., city-owned airports, areas subject to industrial district contracts, navigable streams, etc.) to continue using a service plan, notice, and hearing annexation procedure.

The bill was approved by a vote of more than two-thirds of the legislators in each chamber, meaning it will become “effective immediately.” That means, once it is presented to him, the governor has 10 days to sign the legislation or let it become effective by operation of law. The effective date is thus the earlier of: (1) the governor’s signature; or (2) 10 days after it is formally presented to him. However, the following provision was added to the bill prior to its passage:

The changes in law made by this Act do not apply to the annexation of an area for which the governing body of a municipality has adopted a resolution to direct the municipality’s city manager to prepare a service plan for the area on or before the effective date of this Act. An annexation of an area for which the governing body adopted a resolution to direct the municipality’s city manager to prepare a service plan for the area before the effective date of this Act is governed by Chapter 43, Local Government Code, as it existed on January 1, 2019.

The above means that a city still has time to adopt a [resolution](#) prior to the effective date of the bill. Doing so would “grandfather” that annexation under existing law. Any city that decides to take action should consult with its city attorney prior to doing so.

## **Significant Floor Actions**

**Workers' Compensation:** [H.B. 741](#), relating to rights and benefits under the Texas workers' compensation system. Passed the House.

**Pipeline Incident Reporting:** [H.B. 864](#), relating to pipeline incidents; clarifying changes to related administrative penalties. Passed the House. As passed, the bill would provide that the Railroad Commission by rule shall require a distribution gas pipeline facility operator, after a pipeline incident involving the operator's pipelines, to: (1) notify the commission of the incident before the expiration of one hour following the operator's discovery of the incident; and (2) provide certain information to the commission:

**Gas Pipelines:** [H.B. 866](#), relating to the installation, removal, and replacement of certain gas pipelines; clarifying changes to related administrative penalties. Passed the House. As passed, the bill would provide that the Railroad Commission by rule shall require the operator of a distribution gas pipeline facility system to: (a) develop and implement a risk-based program for the removal or replacement of underground distribution gas pipeline facilities; and (b) annually remove or replace at least eight percent of underground distribution gas pipeline facilities posing the greatest risk in the system and identified for replacement under the program; and (c) a distribution gas pipeline facility operator shall replace any known cast iron pipelines installed as part of the operator's underground system not later than December 31, 2021.

**Golf Carts and Way More:** [H.B. 1548](#), relating to the operation of neighborhood electric vehicles, golf carts, and off-highway vehicles. Passed the House. As passed, the bill would make changes to the equipment, license plate, registration, inspection, and insurance requirements to operate these vehicles. In addition, the bill would change where these vehicles may be operated and the authority of a city, county, or the Texas Department of Transportation to prohibit the operation of these vehicles.

**No More Red Light Cameras:** [H.B. 1631](#), relating to prohibiting the use of photographic traffic signal enforcement systems. Passed the House.

**Open Meetings:** [H.B. 2840](#), relating to the right of a member of the public to address the governing body of a political subdivision at an open meeting of the body. Passed the House.

**Paid Military Leave:** [H.B. 2885](#), relating to paid leave for public officers and employees engaged in certain military service. Passed the House.

**Elections:** [H.B. 2909](#), relating to election practices and procedures; creating a criminal offense. Passed the House.

**Speed Limits Near Schools:** [H.B. 3871](#), relating to the process for establishing speed limits on roads near certain schools. Passed the House. As passed, the bill would mandate that a city take certain actions related to the speed limit near a school at the request of the school.

**Electric Utilities:** [H.B. 4150](#), relating to safety and inspection requirements for certain utilities that provide electricity. Passed the House.

**Nonsubmetered Billing:** [H.B. 4246](#), relating to nonsubmetered billing for water or wastewater service. Passed the House. As passed, the bill would provide, among other things, that a municipally owned utility may not charge a: (1) dwelling unit base charge for nonsubmetered master metered utility service if the utility charges a master meter charge; or (2) master meter charge for nonsubmetered master metered utility service if the charge is based on the number of dwelling units.

**Charter Schools:** [S.B. 968](#), relating to the applicability of certain laws to open-enrollment charter schools. Passed the Senate.

**Attorney Contingent Fee Contracts:** [S.B. 970](#), relating to the review and approval of contingent fee contracts for certain public agencies. Passed the Senate.

**Monument Removal:** [S.B. 1663](#), relating to the removal, relocation, alteration, or construction of certain monuments, memorials, or designations located on public property. Passed the Senate.

**Workers' Compensation:** [S.B. 2551](#), relating to liability, payment, and death benefits for certain workers' compensation claims. Passed the Senate.

*\*Editor's Note: The links above lead to the bill's landing page on the Texas Legislature Online website. To read the latest version, click on the "text" tab and click on the lowest version on the screen.*

## **Significant Committee Actions**

**Notice of Debt Obligations:** [H.B. 477](#), relating to the notice required before the issuance of certain debt obligations by political subdivisions. Reported from the Senate Committee on Property Tax. As reported the bill would, among other things: (1) require a bond ballot proposition to include the estimated maximum annual increase in the amount of taxes that would be imposed on a residence homestead in the political subdivision with an appraised value of \$100,000 to repay the debt obligations to be authorized; (2) require a political subdivision with at least 250 registered voters to prepare a voter information document stating various types of financial and tax information for each debt obligation proposition on the ballot and require the document to be posted in the same manner as a debt obligation election order; and (3) expand the notice requirements for the issuance of a certificate of obligation.

**First Responder:** [H.B. 1090](#), relating to the definition of first responder. Reported from the House Committee on Homeland Security and Public Safety. As reported, the bill would expand workers' compensation liability for certain first responders.

**Annexation:** [H.B. 2479](#), relating to certain procedures associated with voter approval of municipal annexation. Reported from the House Committee on Land and Resource Management.

**Recovery of Damages:** [H.B. 2882](#), relating to recovery in a civil action of damages attributable to excavation activities. Reported from the House Committee on Judiciary and Civil Jurisprudence.

**Guns in Courts:** [H.B. 3136](#), relating to carrying a weapon on the premises of a government court or offices utilized by the court. Reported from the House Committee on Judiciary and Civil Jurisprudence.

**Development Applications:** [H.B. 3167](#), relating to county and municipal approval procedure for land development applications. Reported from the Senate Business and Commerce Committee. As reported, the bill would impose very detailed procedures on site plan and subdivision plat development.

**Residential Building Codes:** [H.B. 3810](#), relating to the residential building codes of municipalities. Reported favorably as substituted from the House Committee on Land and Resource Management. As reported, the bill would, among other things, require a hearing prior to an amendment to a city's residential building code.

**Historic Sites:** [H.B. 3952](#), relating to creating a program to designate historic sites in this state. Reported favorably from the House Committee on Culture, Recreation and Tourism.

**Lobbying Prohibition and No More TML:** [S.B. 29](#), relating to expenditures for lobbying activities made by certain entities. Reported from the House Committee on State Affairs. As reported, the bill would prohibit a city or the Texas Municipal League from advocating at the Capitol.

**Package Delivery Robots:** [S.B. 969](#), relating to the operation of personal delivery and mobile carrying devices. Reported from the House Committee on Transportation. As reported, the bill would authorize package delivery robots and preempt city regulations related to them.

**Release of ETJ:** [S.B. 1326](#), relating to municipal release of extraterritorial jurisdiction and disannexation involving certain areas. Reported from the Senate Committee on Intergovernmental Affairs.

**Annexation:** [S.B. 1468](#), relating to annexation by certain municipalities of a special district under a strategic partnership agreement. Reported from the House Committee on Land and Resource Management.

**Benefits for Peace Officers:** [S.B. 1582](#), relating to benefits for peace officers relating to certain diseases or illnesses. Reported from the House Committee on Homeland Security & Public Safety.

**Bond/Tax Elections:** [S.B. 1613](#), relating to turnout requirements for certain elections authorizing the issuance of bonds or an increase in taxes by a political subdivision. Reported from the Senate Committee on Property Tax. As reported, the bill would provide that an election

held by a political subdivision to authorize the issuance of bonds or a tax increase has no effect regarding the issuance of the bonds or the tax increase unless more than 15 percent of the registered voters of the political subdivision vote in the election.

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## **City Officials Testify**

When the legislature is in session, nothing compares to the effectiveness of city officials testifying at the Capitol. City officials who take the time to travel to Austin to speak out on important city issues should be applauded by us all. The League extends its thanks to all those who have vigilantly represented cities during this session. This list generally covers testimony through Monday of each week. Witnesses who testified later than that date will be included in the next week's edition. If we missed your testimony let us know by an email to [ford@tml.org](mailto:ford@tml.org), and we'll recognize you in next week's edition.

The following officials testified in committee hearings:

- Stephen Cumbie, Assistant City Attorney I, City of Fort Worth
- Andy Segovia, City Attorney, City of San Antonio
- Steve Kosub, Senior Water Resource Counsel, San Antonio Water System
- Christ Harder, Water Director, City of Fort Worth
- Guadalupe Cuellar, Legislative Attorney, City of El Paso
- Christopher Mosley, Senior Assistant City Attorney, City of Fort Worth
- Brian Johnson, Lieutenant, City of Arlington Police Department
- Aaron Woolverton, Assistant Chief, City of Austin Fire Department
- Michael Shannon, Director - Development Services Department, City of San Antonio
- James Taylor, Detective, City of Houston Police Department
- Stephen Costello, Mayor's Office, City of Houston
- Greg Casar, Councilmember, City of Austin
- Philip Kingston, Councilmember, City of Dallas
- Heather Hurlbert, Finance Director, City of San Marcos
- Sara Wamsley, Senior Management Analyst, City of San Antonio
- Phil Roberts, Mayor Pro Tem, City of Texas City
- Bill Kelly, Director Government Relations, City of Houston
- Aubrey Paul, Sergeant, City of Plano Police Department
- Mario Diaz, Director – Houston Airport System, City of Houston
- Jeff Bauknight, Councilmember, City of Victoria
- Darryl Lesak, Director of Environmental Services, City of Victoria
- Jennifer Richie, City Attorney, City of Waco

## City-Related Bills

### Utilities and Environment

**S.B. 2559 (Creighton) – Supplemental Environmental Projects:** would provide that: (1) a supplemental environmental project for a local government must include (a) purchasing, operating, or maintaining alternative fuel vehicles and alternative fuel heavy equipment; (b) constructing, operating, or maintaining alternative fuel refueling infrastructure necessary to operate an alternative fuel fleet; and (c) providing energy efficiency upgrades to buildings and facilities owned by the local government, including heating, ventilation, air conditioning, lighting, and building envelope upgrades; (2) for a supplemental environmental project involving alternative fuels, the Texas Commission on Environmental Quality (a) must allow the project to include the entire cost of the vehicle and any alternative fuel equipment or upgrades involved; and (b) may not limit the project to including only the difference in cost between conventional fuel vehicles, equipment, or upgrades and the alternative fuel counterparts; and (3) TCEQ (a) may not require a contract associated with a supplemental environmental project to be for a term of less than five years; and (b) must allow a contract associated with a supplemental environmental project to be renewable for periods of at least five years. (Companion bill is **H.B. 4493** by **Deshotel**.)

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