



Legislative UPDATE

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Number 6

Post-Session Update: Paved Accessible Parking Spaces

[House Bill 3163](#), passed in 2019, established new requirements for paved parking spaces designated by cities for the exclusive use of vehicles transporting persons with disabilities.

They include: (1) a requirement to paint the international symbol of access on the paved accessible parking space and the words “NO PARKING” adjacent to the space; and (2) a requirement that signage identify the potential consequences of parking illegally in an accessible space.

The Texas Department of Licensing and Regulation [proposes rules](#) to implement H.B. 3163’s new requirements. The Department will accept comments on the proposal until February 24, 2020. Comments may be submitted by email to erule.comments@tdlr.texas.gov.

Cities’ Transportation Efforts Ramp Up for 2020

The last federal transportation bill, the Fixing Americas Surface Transportation (FAST) Act of 2016, will expire in September 2020. It brought cities year-over-year increases in federal transportation block grant funding. Now, a brand new transportation bill must be stitched together by Congress. Cities need this new legislation to set the course for the next several years.

In many ways, this reauthorization process is very similar to a new year’s resolution – it’s a new opportunity to reevaluate the direction of our transportation choices and set a path of clear actions for how we make our lives – and commutes – just a bit better.

At the end of 2019, the National League of Cities' [Transportation and Infrastructure Services Committee](#) came together to set six resolutions for 2020, including one specifically on [Cities' Transportation Priorities for Reauthorization](#). Alongside the NLC [National Municipal Policy](#), these resolutions will serve as a guide as cities collaborate with Congress on the next transportation bill. Congress should make significant steps on the legislation in the first quarter of 2020.

For the upcoming transportation bill, communities are calling on Congress to include and address the following eleven priorities:

1. Leverage partnerships with local governments, which are closest to both transportation problems and residents, in decision making on all transportation programs that impact communities.
2. Support regional transportation models and planning to increase the effectiveness of the nation's multimodal and integrated transportation investments.
3. Increase the overall funding directly available to local governments, through programs like the Surface Transportation Block Grants (STBG) and Transportation Alternatives.
4. Expand and implement new revenue mechanisms that are developed collaboratively with local governments, reflect the true cost of every mode of transportation, and can grow with the county's transportation demands.
5. Increase investment in both traditional and emerging transportation, including regional and intercity rail connections, micromobility options, safe biking and walking infrastructure, autonomous vehicles and modern buses.
6. Move toward a performance-based transportation structure, in which the goals of the programs align with the region's goals for economic development, sustainability, safety, innovation, equity, and regional connectivity.
7. Sustain the highway, rail, air, and port freight systems with trade partners, in order to better connect urban and rural communities to each other and to the global economy.
8. Recognize the essential connections between transportation and people's lives – land use planning, housing, energy, the economy, public health and the environment.
9. Support affordable public transportation systems of all sizes and ensure that factors like wages can keep up with costs of providing transportation services.
10. Advance the work of Vision Zero cities to improve safety for all users and across all modes of transportation through new investment with cities and regions.
11. Increase the transparency of the federal regulatory processes for both localities and the general public by streamlining duplicative federal processes.

NLC looks forward to bringing local voices into the important conversations on Capitol Hill. If you are a city leader who wants to become more involved in NLC's national transportation work, email advocacy@nlc.org.

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White House Proposes Changes to Environmental Review Law

Last month, the White House Council on Environmental Quality (CEQ) unveiled proposed changes to the [National Environmental Policy Act \(NEPA\)](#) to “modernize and clarify” the regulations to facilitate more efficient, effective, and timely NEPA reviews by federal agencies. With the proposed changes, CEQ aims to reduce paperwork and project delays.

NEPA was signed into law on January 1, 1970. It requires federal agencies to consider the environmental impacts of proposed projects – from construction of roads, bridges, highways, transmission lines, conventional and renewable energy projects, broadband deployment and water infrastructure to management of activities on federal lands, such as grazing, forest management, wildfire protection and environmental restoration.

The [proposed rule](#) would:

1. Establish time limits of two years for completion of environmental impact statements and one year for environmental assessments.
2. Establish a 300-page limit for environmental impact statements and a 75-page limit for environmental assessments.
3. For projects that require multi-agency reviews, establish a lead federal agency to develop a joint review schedule, procedures to elevate delays or disputes, and preparation of a single environmental impact statement and joint record of decision to the extent practicable.
4. Exclude non-federal projects from the NEPA review process (those with minimal federal funding or involvement).
5. Reduce duplication between federal, state and local governments by facilitating the use of documents required by other statutes or prepared by state or local agencies to comply with NEPA.
6. Eliminate the requirement for analysis of “cumulative” effects from factors agencies must consider, while establishing that effects must be “reasonably foreseeable” and have a direct, causal relationship to the project.

National League of Cities policy supports improving the NEPA process. Some of the proposed provisions will benefit local governments by reducing unnecessary project delays and decision time.

Specifically, NLC policy calls for: (1) concurrent reviews among all federal agencies; (2) clearly defined procedures for resolving disputes among federal agencies; (3) eliminating duplicative reviews by crediting equal or more stringent state environmental review actions; (4) requiring all agencies to determine appropriate time frames to complete their reviews; (5) penalizing agencies that do not meet the deadlines; and (6) ensuring adequate opportunity for public involvement.

NLC policy also calls on the federal government to reduce the vulnerability of federal programs to the impacts of climate change and extreme weather and to better align federal funding with local preparedness and resilience-building efforts. Federal agencies have previously used the “cumulative” effects provision to incorporate consideration of climate change into their reviews.

Doing away with the requirement to consider climate impacts would be contrary to one of the main themes NLC has called for in an infrastructure package – making sound investments to building sustainable infrastructure.

Regulatory streamlining has been a theme of the Trump Administration. In 2017, President Trump issued [Executive Order 13807](#) establishing a One Federal Decision policy, including a two-year goal for completing environmental reviews for major infrastructure projects, and directing CEQ to consider revisions to modernize its regulations.

Additionally, the President’s 2018 [infrastructure proposal](#) called for infrastructure permitting changes such as shortening the process for approving projects to two years or less.

CEQ has found that, on average, it takes federal agencies [four-and-a-half years](#) to complete environmental impact statements under NEPA, and for some projects it takes much longer. Additionally, these statements can also be lengthy and exceed, on average, [600 pages](#).

CEQ is accepting comments on the proposed rule through March 10, 2020, via the [Federal Register](#), Docket ID No. CEQ-2019-0003. NLC is reviewing the proposal and will likely submit comments. Local officials are encouraged to share any filed comments with NLC by emailing them to berndt@nlc.org.

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Sales Tax Sourcing Rule Changes: **Comptroller Holds Public Hearing and Issues Op-Ed**

After receiving several requests from interested parties, the comptroller held a public hearing on [recently-proposed](#) sales tax rule changes that would alter sourcing for internet orders under certain circumstances. As previously reported, the proposed rule changes are in response to the United State Supreme Court decision in *South Dakota v. Wayfair* (2018) and recent *Wayfair*-related legislation that passed during the 2019 legislative session.

Of particular importance is the change in sales tax sourcing of certain internet marketplace purchases to the destination city. Although no action was taken at the hearing, the agency will consider the testimony presented by Texas cities from across the state before the rules are finalized.

The next day, the House Ways and Means Committee held a hearing to consider the proposed rules as well. City officials testified both for and against the sourcing changes contained in the rules.

The deadline to file written comments with the comptroller on the proposed rule change is Monday, February 17, 2020.

Please contact Bill Longley, TML Legislative Counsel, with questions at bill@tml.org or 512-231-7400.

Don't Forget: Mandatory Hotel Occupancy Tax Reporting

The 50-day window for reporting local hotel occupancy tax information opened January 1, 2020.

Tax Code Section 351.009 requires cities to file an annual report with the comptroller that includes the city's hotel occupancy tax rate, the amount of revenue generated by the tax, and the amount and percentage of the revenue spent for each of the following purposes:

- Convention or information centers.
- Convention delegates registration.
- Advertising to attract tourists.
- Arts promotion and improvement.
- Historical restoration and preservation projects.
- Signage directing the public to sights and attractions.

Cities have two reporting options: (1) use the comptroller's online reporting form to submit all required information; or (2) clearly post and maintain all required information on the city's website and provide the comptroller's office with a link to the information. For cities selecting the second option, the comptroller provides an [optional format template](#) to post on the city's website.

For more information and access to the online reporting form, see the comptroller's hotel occupancy tax reporting [webpage](#). City officials with questions about the new requirements can also contact the comptroller's transparency team by email at transparency@cpa.texas.gov or (844) 519-5676.

Don't Forget: Mandatory Eminent Domain Reporting

Legislation passed in 2015 requires cities to annually fill out a [web-based form](#) with the comptroller relating to each city's statutory eminent domain authority. (The failure to fill out the form could result in a \$1,000 per day penalty against a city.)

The entry should be, for almost every city, just an update of previously-filed information, including whether the city exercised its eminent domain authority in the preceding calendar year by filing a condemnation petition under Section 21.012, Property Code.

Of course, any city that never filled out the form as required should do so now. City officials with questions about the new requirements can also contact the comptroller's transparency team by email at transparency@cpa.texas.gov or (844) 519-5676.

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