

## **Legislative Issues**

4/13/2020

### **How would anti-TML legislation that died last session have affected cities during and after this emergency?**

For the past several legislative sessions, legislation has been filed and moved through the process that would have prohibited a city from paying dues to the League if we advocate on your behalf. (The same bills would have prohibited cities from hiring outside lobbyists.)

In 2019, the legislation came in the form of [Senate Bill 29](#) by Bob Hall (R – Rockwall) and [House Bill 281](#) by Mayes Middleton (R – Wallisville). Senate Bill 29 made it all the way to the House floor (one vote away from passing), where it died on a 58-85 vote. The restrictions in the bills morphed as they moved through the legislative process, but they essentially would have eliminated the League’s ability to advocate on your behalf.

Could such bills, if passed, prohibit League staff from working on your behalf during the virus emergency? Most certainly. We have advocated on your behalf for the governor to suspend certain laws, such as the Open Meetings Act and election-related laws. We have advocated on your behalf for more federal stimulus funds to come directly to cities. We have advocated on your behalf that the state process for distributing those funds include cities of all sizes. We have interacted with the governor’s office, numerous state legislators and their staff, leadership and staff of multiple state agencies (TDEM, DSHS, Workforce Commission, etc.), coordinated advice and messaging with other local government associations, and dealt with dozens of industries and their representatives and associations.

The League, which is nothing more than each of you working together for the betterment of your city, region, and the state, is your community’s advocate.

4/28/2020

### **What is going on in the Texas Senate in relation to the Coronavirus?**

Lt. Gov. Dan Patrick announced that he has established six [Senate working groups](#) to discuss challenges the state will face in the next legislative session as a result of the COVID-19 pandemic.

7/20/2020

### **How are committee of the Texas House of Representatives going to conduct interim hearings during the pandemic?**

It appears that they may not. Typically, the interim period between sessions is devoted to numerous public committee hearings on a range of issues. The Speaker of the Texas House

issued [interim study charges](#) late last year, and the Lt. Governor [did so as well](#). Many of the charges could affect cities, including by limiting their authority in many areas.

Months ago, the governor suspended many provisions of the Open Meetings act to allow local governments to meet virtually. Last week, however, Speaker Bonnen [issued a memo to his committee chairs](#) banning them from doing so:

“Committees are not authorized:

-To use virtual meetings or virtual hearings to conduct business in lieu of holding in-person meetings open to the public at the Capitol or an approved location outside of Austin; or  
-To intentionally meet, via videoconference, telephone conference, or in person, in numbers of less than a quorum to conduct committee business, including receiving briefings from agency officials at which committee members may ask questions.”

Why the limiting interpretation? Why not ask the governor to allow them to meet virtually? Who knows...

One thing is sure, cities are heading into what is certain to be the toughest session we’ve ever encountered. And it looks like, in the Texas House at least, they will do so without having had the chance to provide public input on the issues. Because of that, it make even more sense for city officials to visit with their members now to ensure they are educated on city issues.

7/21/2020

### **How are committees of the Texas House of Representatives going to conduct interim hearings during the pandemic?**

Didn’t you ask and answer this question yesterday (July 20)? Yep. We reported that the Speaker of the Texas House [issued a memo to his committee chairs](#) banning House committees from meeting virtually during the interim.

Later last night, however, one House committee – Land and Resource Management – issued a [notice](#) asking for written input on annexation reform and eminent domain law (including the “Landowner’s Bill of Rights”):

“Due to the ongoing pandemic and the uncertainty as to scheduling interim hearings, the Committee requests written submissions from interested parties and the public in regards to the assigned Interim Charges below.

All submissions are due on August 14, 2020, by 5pm (CST). Submissions should be submitted via email to the Chairman, Tom Craddick, at [Tom.Craddick@House.Texas.Gov](mailto:Tom.Craddick@House.Texas.Gov) and shall be in word format.

Submissions should be no longer than five (5) pages in length for each charge. The page limit is inclusive of any photos, graphs, spreadsheets, charts, etc. the submitter chooses to include.

Submissions shall include the submitter name, organization or entity (if applicable and an authorized representative), mailing address, email, and telephone number.

All submissions will be circulated to each Member of the Committee after the August 14, 2020 deadline. A copy of all received comments will be made available to the public by the Chairman.”

The League will, of course, be submitting written comments to the committee.

8/7/2020

### **What’s the latest with regard to the effect of the pandemic on the upcoming legislative session?**

*The Texas Tribune* [ran a story](#) with some interesting commentary on the upcoming session. The article states that:

“Some of it [other than the state budget and redistricting] can wait. And if the coronavirus is thriving in January anything like it’s thriving now, lawmakers will be faced then – like educators and parents and students are faced today – with decisions about what’s safe and what’s right.

And they’re going to have some explaining to do if what they do for themselves is much different from what they prescribe for the rest of us.”

8/10/2020

### **What’s the latest with regard to the effect of the pandemic on public hearings, especially a city’s statutorily-required property tax hearing?**

Some state legislators are having a tough time deciding what to do, but the answer is in state law for a city’s tax rate hearing. As it stands right now, Texas House committees aren’t allowing in-person hearings. [That decision](#), made by Speaker Bonnen, may or may not stand permanently.

The Texas Sunset Advisory Commission (a 12-member legislative committee that periodically reviews the functions and efficiencies of state agencies) met last week. According to *The Texas Tribune*, “[a]fter two hours, members couldn’t agree whether to let people testify in person or online, or choose between the two options. Their unpleasant meeting was a miniature version of the argument we’ve all been watching for months.”

Several weeks ago, the City of Austin asked the governor to suspend the following [provision from Tax Code 26.06](#): “(a) A public hearing required by Section [26.05](#) may not be held before the fifth day after the date the notice of the public hearing is given. The hearing must be on a weekday that is not a public holiday. The hearing must be held inside the boundaries of the unit **in a publicly owned building** or, if a suitable publicly owned building is not available, in a **suitable building to which the public normally has access**. At the hearing, the governing body

must afford adequate opportunity for proponents and opponents of the tax increase to present their views.”

The governor refused to suspend the requirement that the hearing be “in-person” in a public or suitable building. He presumably did so because he believes doing so would reduce public input on city tax rates. Austin also posed the question to the attorney general’s “disaster counsel” email. The attorney general’s office responded that they believe Section 26.06(a) requires an in-person hearing. Please note that the tax hearing in question is the one cities hold only if they are exceeding the no-new-revenue rate (formerly called the effective rate).

That advice raises questions about any number of statutorily-required public hearings. The governor’s Open Meetings Act [suspensions](#) don’t mention any provision outside of the Act related to hearings. Many attorneys argue that, if the meeting itself may be conducted virtually, a hearing within that meeting may be as well. Others point out that the governor hasn’t expressly suspended any public hearing requirement. That answer may lie in a statute’s language relating to a required hearing. In other words, the Tax Code provision discussed above has very specific language.

Contrast that with, for example, zoning-related hearing requirements in Local Government Code Sections [211.007](#) and [211.0075](#). (The “zoning commission shall make a preliminary report and hold public hearings on that report...” ) Or consider the budget hearing required by [Section 102.006](#). (“The governing body of a municipality shall hold a public hearing on the proposed budget. Any person may attend and may participate in the hearing.”) Those sections don’t seem to restrict hearings from being held virtually, and we find no general requirement that in-person comment must be allowed when conducting a public hearing. That being said, many cities are conducting them in-person out of an abundance of caution.

The bottom line: As always, city officials should rely on their attorney’s advice.

11/10/2020

### **How can we help retain our city’s ability to make emergency authority and other decisions that affect our residents?**

The pandemic has demonstrated that cities can focus on local needs in a responsive way that the state cannot. With the 2021 legislative session right around the corner, it’s important to start engaging state lawmakers and citizens in tackling the challenges that directly impact your community. Join TML for our 2021 Legislative Series where we’ll discuss the key city issues and our work ahead. [Learn more and register.](#)

11/12/2020

### **With pre-filing of bills underway for the 2021 legislative session, have bills been filed related to Coronavirus that would have an effect on cities?**

Yes. Following are some of the bills filed so far related to or stemming from the pandemic that could have an effect on cities. Summaries of all city-related bills filed can be accessed in each Friday's Legislative Update, published in the weekly TML Exchange e-newsletter and available [here](#).

**H.B. 26 (Swanson) – Weapons:** would eliminate the governor's authority to: (1) limit the sale, dispensing, or transportation of firearms during a state of disaster; and (2) issue directives on the control of the sale, transportation, and use of weapons during a state of emergency.

**H.B. 34 (Canales) – Disease Presumption:** would, among other things, add a diagnosis of SARS-CoV-2 or COVID-19 by a test approved by the CDC to the workers' compensation disease presumption statute.

**H.B. 89 (Canales) – Sales Tax Exemption:** would exempt the following from sales and use taxes as "emergency preparation items": (1) medical or other face masks used to protect the nose and mouth of a person wearing the mask from potential contaminants, or from transmission of particles from the person wearing the mask; (2) disposable gloves the primary purpose of which is to act as a protective barrier to prevent the possible transmission of disease; and (3) disinfectant cleaning supplies, including bleach products and sanitizing wipes.

**H.B. 173 (Springer) – Emergency Powers Board:** would: (1) establish the Emergency Powers Board to provide oversight during a declared state of disaster, including a declared public health disaster; (2) provide that the Board is made up of the governor, lieutenant governor, the speaker of the house, the chair of the Senate State Affairs Committee; and the chair of the House State Affairs Committee; (3) provide that after the eighth day after the date the governor issues an executive order, proclamation, or regulation related to a declared state of disaster or public health disaster, the Board, by a majority vote, may set an expiration date for the order, proclamation, or regulation; (4) the board may meet by telephone conference, videoconference, or other similar telecommunication method provided that the requirements of the Open Meetings Act are met; and (5) if an executive order, proclamation, or regulation issued by the governor has an expiration date set by the governor and not modified by the Board that is on or after the 22<sup>nd</sup> day after the date the order, proclamation, or regulation is issued, the governor shall convene a special legislative session to determine whether any legislation is necessary to implement, modify, or repeal the order, proclamation, or regulation.

12/3/2020

### **Have there been any new bills filed by Texas legislators relating to Coronavirus or its impacts?**

Yes. The following are the bills newly filed since we last reported on the issue. The League will monitor and report of the progress of all such bills once the Legislature convenes its session in January.

**H.B. 639 (White) – Emergency Services Districts:** would allow an emergency services district to provide public health services, contract with a local government to provide those services, and charge a reasonable fee for performing those services for or on behalf of a person or entity.

**H.B. 665 (Landgraf) – Emergency Rules:** would provide, among other things, that an emergency rule that is adopted by a state agency during a period in which at least 75 percent of the counties in the state are declared to be in a state of disaster or emergency by the governor may be effective for not longer than 30 days, and may be renewed for not longer than 60 days.

**H.J.R. 40 (White) – Disaster Management:** would amend the Texas Constitution to prohibit the governor from suspending or limiting, by order or proclamation, the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, or combustibles regardless of whether the state is in a period of emergency resulting from a disaster.

**H.B. 637 (Canales) - Disease Presumption:** would, among other things: (1) provide that for purposes of reimbursement of medical expenses for public safety employees, including peace officers, firefighters, and emergency medical services personnel who are exposed to a contagious disease, a disease is not an “ordinary disease of life” if the disease is the basis for a disaster declared by the governor for all or part of the state; (2) expand the applicability of the disease presumption statute to include detention officers, including such officers who are employed by a city; and (3) expand the disease presumption statute to provide that a detention officer, firefighter, peace officer, or emergency medical technician who contracts a disease that is the basis of a state declared disaster for all or part of the state and dies or is totally or partially disabled is presumed to have contracted such disease in the course and scope of employment as a detention officer, firefighter, peace officer, or emergency medical technician. (Companion bill is **S.B. 107** by **Powell**.)

### **How can we have an impact on the legislative issues that affect our community?**

With the 2021 legislative session starting on January 12, it’s important to start engaging state lawmakers and citizens in tackling the challenges that directly impact your community. Join TML for our 2021 Legislative Series (four webinars and a workshop) where we’ll discuss the key city issues and our work ahead. [Learn more and register](#).

12/8/2020

### **What’s the latest news on how Coronavirus might affect the 2021 Texas Legislative Session?**

According to [reporting](#) by *The Texas Tribune*, the Senate and House are considering a number of protocols before witnesses would be allowed to testify at committee hearings, the most significant of which would be a requirement that witnesses must pass a Coronavirus test and register at least three days in advance of the hearing.

If there’s any bright side to such requirements, it’s that both chambers of the Legislature routinely in the past suspended the rules to hold hearings on sometimes a few minutes’

notice. Unless the rule requiring testing is also subject to suspension, the new requirements would seem to slow down the process and allow more time for deliberation by stakeholders and community advocates.

### **How can we have an impact on the legislative issues that affect our community?**

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12/10/2020

### **Are there new pre-filed bills at the Texas Capitol related to Coronavirus that would affect Texas cities?**

Yes, the following bill has been filed since last week:

**H.J.R. 42 (Toth) – Governor's Authority in a Disaster:** would amend the Texas Constitution to: (1) prohibit the governor from issuing an order or proclamation that violates or suspends constitutional rights; (2) provide that a state of disaster or emergency declared by the governor may not continue for more than 30 days unless it is renewed or extended by the legislature; (3) require the governor to convene the legislature in special session when the governor proposes to renew an order or proclamation declaring a state of disaster or emergency; (4) provide that in a special session convened under (3), above, the legislature may: (a) renew or extend the state of disaster or emergency; (b) respond to the state of disaster or emergency by passing or suspending laws related to the state of disaster or emergency; and (c) consider any other subjects stated in the governor's proclamation convening the special session.

12/22/2020

### **Are there newly filed state bills related to Coronavirus?**

Yes, the following bill for the 2021 legislative session has been filed since we last reported.

**S.B. 239 (Powell) – Disaster Educational Materials:** would: (1) require the Department of State Health Services (DSHS) to develop and implement a disease prevention information system for dissemination of immunization information during a declared state of disaster or local state of disaster; and (2) provide that during a declared state of disaster or local state of disaster, DSHS shall ensure that educational materials regarding immunizations are available to local health authorities in this state for distribution to certain organizations.

2/4/2021

### **What pandemic-related statements did Governor Abbott make in his "State of the State" address?**

Earlier this week, Governor Abbott presented his “State of the State” speech. At the speech, he laid out several priority items. Expanded broadband in the state and liability protections for business are the key pandemic-related items.

Following the speech, he spoke to [The Texas Tribune](#) about legislation to curb his emergency powers. He said that he is open to reconsidering his executive powers during state emergencies and that his office is offering up some legislation on this issue. “What we are working on – and we’ve already begun working with legislators – is approaches to make sure we can pre-plan how a response would be done, but it has to be done in a way that leaves flexibility to move swiftly,” Abbott said.

[2/9/2021](#)

### **What pandemic-related state legislation has been filed thus far?**

League staff summarizes each city-related bill in the [Legislative Update](#) newsletter, which is included in your Friday “TML Exchange” email. The bills are categorized by subject matter.

For the current legislative session, we’ve added the new subject heading of “Emergency Management.” Many pandemic-related bills will show up in that section, with some falling under other headings, such as Open Government, Public Safety, etc. Also, a [complete list](#) of bills filed to date by subject matter is updated each week.

[2/11/2021](#)

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[3/9/2021](#)

### **What action is the legislature taking with regard to city and state disaster authority during a pandemic?**

A House State Affairs Committee [hearing](#) on [H.B. 3](#), which adds a new Texas Government Code chapter titled “Pandemic Emergency Management,” is set for Thursday, March 11, at 8:00 a.m. The 19-page bill affects mayoral and city council authority during a pandemic. Interested



city officials can [register to testify](#) in person or [electronically submit written comments](#) to the committee. A summary of the bill is available on page 128 of [this document](#).