



Legislative UPDATE

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Number 32

Problems with Tax Notice Language Under S.B. 2

It's recently been discovered that required tax rate notices under last session's S.B. 2 may require some smaller cities to announce that citizens may petition for a rollback election, or that a city may be required to hold a rollback election, even though the city is not actually subject to either requirement under the bill.

The glitch appears to be the result of a technical drafting error in S.B. 2 and how that bill interacts with previous Tax Code provisions, which isn't surprising because S.B. 2 was a large, complicated bill that was amended frequently right through the end of the process.

Specifically, cities under 30,000 population are permitted a "de minimus" tax rate adjustment that always allows them to raise an additional \$500,000 in a given tax year without triggering a rollback election (one bill sponsor called this the "firetruck exception", which was designed to allow small cities to make necessary large purchases without triggering elections). Whether the proposed tax rate of any particular city under 30,000 population triggers the de minimus exception depends on several factors such as the proposed rate, levy, and the relative size of the \$500,000 allowance compared to the overall proposed levy. So we can't answer here for sure if your city is affected. But for cities that do intend to use the de minimus exception, state law appears to require them to say things in their tax rate notice that literally aren't true under the bill—a difficult situation given that the notice is required to be given.

The League is working with various stakeholders including the bill authors and the Comptroller's office to try to find a workaround that might mitigate this discrepancy. We will share any such language or additional advice as soon as it becomes available.

City officials with questions should contact Bill Longley at TML: bill@tml.org or (512) 231-7462.

House Land and Resource Management Committee: League Submits Comments

Last month, the League reported in its *Coronavirus Update* email that the House 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).

The League submitted a [letter](#) conveying information related to annexation. Specifically, the letter speaks to: (1) the need for legislation to fix a minor, apparently-unintended consequence caused by H.B. 347 ("crossing a road" to make petitioning landowner contiguous); (2) the prohibition against forced annexation; and (3) the continuing need for extraterritorial jurisdiction (ETJ).

With regard to eminent domain, the League is currently part of a coalition of entities with eminent domain authority called the Coalition for Critical Infrastructure (CCI). CCI and its many members worked diligently with bill authors and landowner groups last session to provide more transparency in the process and appropriate compensation to landowners. They have continued that effort this interim, and submitted comments on eminent domain related to the "[landowner's bill of rights](#) (a document explaining the process that a condemnor must provide to a landowner)" and the right of a property owner to [repurchase land](#) if it isn't used for a public use within a certain period of time.

The Texas Mayors of Military Communities also submitted [comments](#), which encourage the committee to retain and protect all existing local land use authority in the areas around Texas military bases.

Senate Finance Committee Releases Interim Report

The Senate Finance Committee released its interim report studying issues under the committee's jurisdiction. Of particular interest to cities are the charges related to the business personal property tax and disaster funding.

Charge:

Study the economic dynamics of the current business personal property tax. Consider the economic and fiscal effects of increased exemptions to the business personal property tax, versus its elimination. Following such study, make recommended changes to law.

Committee Recommendations:

Texas remains a national leader when it comes to establishing a hospitable environment in which businesses can succeed. The Legislature should evaluate the following ways to strengthen Texas' competitive advantage:

- Consider adjusting the current \$500 exemption to account for inflation and the cost of administering the tax.
- Streamline the process for compliance.
- Reduce reliance on the business personal property tax as the state budget allows.

Charge:

Review federal, state, and local eligibility and receipt of disaster funds from Community Development Block Grants – Disaster Relief and the Federal Emergency Management Agency. Identify any barriers to the effective utilization of those funds and recommend any changes to statute, rule, or practice to promote the efficient deployment of those funds and expedite recovery by affected citizens, businesses, and communities.

Committee Recommendations:

- Work with the federal government to streamline federal disaster aid and reduce confusion among the public about where to seek assistance.
- Discourage federal pass-throughs to cities and counties with the state bearing financial responsibility without strengthened tools to prevent misuse of those funds.
- Continue to provide strong oversight of disaster and infrastructure funding approved last session to avoid duplication of effort, fraud, and waste.
- Require agencies to work with TDEM to seek federal aid for FEMA-reimbursable costs and work with the LBB to streamline agency cost reporting for future disasters.

The full report can be found [here](#).

National Coalition Files FCC Collocation Lawsuit

In September of last year, the Wireless Industry Association (WIA) and the Communications Technology Industry Association (CTIA) filed petitions with the Federal Communications Commission to further limit local oversight of wireless towers and pole attachments. As with other recent FCC preemptive orders, the League is participating in a national coalition that filed

comments and reply comments with the FCC. In addition, the coalition filed a [court challenge](#) to the order this week.

TML Municipal Policy Summit Wraps with Eyes on Recovery

Leaders from cities across Texas gathered virtually last week to discuss legislative priorities for the 87th Texas Legislative Session. The Texas Municipal League (TML) Policy Summit met for two full days to discuss priorities for cities which included preserving the tools to meet the needs of Texas taxpayers, bridging the digital divide and increasing rural broadband connectivity, pay as you go financing options for critical infrastructure projects, and the importance of community advocacy before the legislature.

The full press release can be found [here](#).

NLC Releases City Fiscal Conditions Report

Yesterday, the National League of Cities (NLC) released its [report](#) on the Annual City Fiscal Conditions survey. In its 35th year, the survey has become the nation's most trusted barometer of the financial well-being of cities, towns, and villages across the country. It has become an annual snapshot of city fiscal conditions, with a firm grasp on trends over time. This year, NLC collected information from 485 cities varied in population and region. NLC predicts that the toll on city finances is set to be more severe than that experienced during the Great Recession. Some highlights of the report include:

- Nearly 90 percent of cities will be less able in FY 2021 than in FY 2020 to meet the fiscal needs of their communities. This widespread sentiment about lack of fiscal capacity has not been reported since the low point of the Great Recession;
- Current estimates for FY 2020 put year-over-year general fund revenue growth at near zero;
- All major local tax revenue sources slowed in FY 2020 with a severe year-over-year decline in sales receipts (-11%);
- On average, cities anticipate a 13 percent decline in FY 2021 general fund revenues over FY 2020.

The full report can be read [here](#).

NLC continues to call on the federal government to provide at least \$500 billion in direct federal funding to support the nation's municipalities. To support advocacy efforts, NLC has launched the [Cities are Essential](#) campaign.

City-Related News from Other Organizations

In this new and occasional feature of the *Legislative Update*, the League may include articles and other information from city-related organizations, law firms, and others, when they have good information for city officials. For example, Focused Advocacy (a consultant for TML and many cities) prepared the following excellent information on upcoming legislative activities:

New RFIs issued by House Natural Resources, Higher Education, and International Relations & Economic Development committees

Focused Advocacy remains ready to help you formulate, edit or file your comments

Since our last update, new RFIs were published by House committees seeking public input on interim charges and other subjects:

House Natural Resources Committee:

Interim Charges 1 - 4

Emerging issues in groundwater and surface water interaction
Water markets in Texas

[Read the RFI](#)

Submissions Due by Sept. 25, 2020

House International Relations & Economic Development Committee

Interim Charges 1 - 6

[Read the RFI](#)

Submissions Due by Aug. 31, 2020

House Higher Education Committee

Special Questions Regarding Impact of COVID-19 - [Read the RFI](#)

Interim Charge #1 - [Read the RFI](#)

Interim Charge #2 - [Read the RFI](#)

Interim Charge #3 - [Read the RFI](#)

Interim Charge #4 - [Read the RFI](#)

Interim Charge #5 - [Read the RFI](#)

Submissions Due by Sept. 1, 2020

Here are all of the RFIs posted to date and the due dates for submissions:

- **Due Aug. 14:** House Culture Recreation and Tourism Charges 1-6. [Review RFI](#)
- **Due Aug. 14:** House Land and Resources Management Charges 1-4. [Review RFI](#)
- **Due Aug. 28:** House Appropriations Subcommittee on Article II Charges 1-7. [Review RFI](#)
- **Due Aug. 31:** House International Relations & Economic Development Charges 1-6. [Review RFI](#)
- **Due Sept. 1:** Higher Education Special Questions Re: Impact of COVID-19 ([Review RFI](#)), Charge 1 ([Review RFI](#)), Charge 2 ([Review RFI](#)), Charge 3 ([Review RFI](#)), Charge 4 ([Review RFI](#)), Charge 5 ([Review RFI](#))
- **Due Sept. 14:** House Ways and Means Charges 1.3, 2, 3 and 4. [Review RFI](#)
- **Due Sept. 25:** Natural Resources Charges 1-4, ground and surface water interactions, water markets in Texas. [Review RFI](#)
- **Due Nov. 13:** House Ways and Means Charge 1.1 (Senate Bill 2). [Review RFI](#)

Interim Charges

Formal Requests for Information

Resolutions for the 2020 TML Annual Conference

The TML Constitution states that resolutions for consideration at the annual conference must be submitted to the TML headquarters 45 calendar days prior to the first day of the Annual Conference. For 2020, this provision means that resolutions from any member city, TML region, or TML affiliate must arrive at the TML headquarters no later than 5:00 p.m. on August 31, 2020.

For details on the submission process, go to:

https://www.tml.org/DocumentCenter/View/2020/Memo-for-Cities-2020-05312020_final_corrected-date

To learn more about how resolutions fit within the League's Legislative Policy Development Process, go to:

<https://www.tml.org/DocumentCenter/View/1859/2019-2020-Policy-Process-53120>.

Coronavirus (COVID-19) Updates

The Texas Municipal League is open for business. The building is closed to all but essential personnel and most staff is working remotely, but the League remains open for business and is

fully ready to serve. Cities are encouraged to call or email for legal assistance, help with ordinances, or for general advice or assistance. Let us know how we can assist you and your city.

Call TML staff at 512-231-7400, or email Scott Houston for legal assistance at SHouston@tml.org; Rachael Pitts for membership support at RPitts@tml.org; and Chris Corrigan or questions about conferences and workshops at chris@tml.org.

The League has prepared a coronavirus clearinghouse [web page](#) to keep cities updated. In addition, everyone who receives the *Legislative Update* should receive a daily email update each afternoon with information on new developments. The daily email updates will be our primary means of communication during the pandemic. Those emails are being archived [chronologically](#) as well as by [subject matter](#).

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