



Legislative UPDATE

November 13, 2020
Number 45

Senate State Affairs to Hear Community Censorship Charge Next Week

The Senate State Affairs Committee will meet next week (Wednesday, November 18th) to hear invited testimony on the interim charge below. The official notice can be found [here](#).

**Study how governmental entities use public funds for political lobbying purposes.
Examine what types of governmental entities use public funds for lobbying purposes.
Make recommendations to protect taxpayers from paying for lobbyists who may not represent the taxpayers' interests.**

Although no public testimony will be taken, we encourage city officials to continue discussing this issue with your state representative and state senator as it will continue to be a priority issue for state leadership.

Stay Engaged During the Legislative Session: Grassroots Involvement Program

During the upcoming Texas legislative session, Texas cities will face many challenges and opportunities. TML will need to mobilize our membership at key points during session. The Grassroots Involvement Program (GRIP) is one way to do so. Our GRIP survey focuses on a

variety of items including your areas of expertise and involvement with other professional organizations. Most importantly, the GRIP survey asks how well you know various state legislators and if you are willing to communicate with those legislators during the session. With many unknowns on how the capitol will operate during a pandemic, TML's grassroots approach will be crucial to our efforts.

If you have a relationship with your legislator(s) or want to be more involved during session, please take the time to complete the [GRIP survey](#). Past efforts have proven that such participation is a highly effective tool.

We ask that you complete the survey as soon as possible, preferably before January 8, 2021.

2020 City Property Tax Rate Survey Results

TML previously requested that the membership complete a one-question survey on city property tax rates. In total, 344 cities responded to the survey. The results are below.

The city's adopted tax rate for tax year 2020 was:

Less than or equal to the city's no new revenue rate.	51.2% (176 cities)
Higher than the no-new-revenue rate, but less than or equal to the 3.5% voter approval rate.	40.4% (139 cities)
Higher than the 3.5% voter approval rate, but less than the equivalent of an 8% voter approval rate.	4.9% (17 cities)
Equal to or greater than the equivalent of an 8% voter-approval rate.	3.5% (12 cities)

Thanks to all the cities that responded to the survey.

House Ways and Means Committee: League Submits Comments on Senate Bill 2 Charge

This week, the League submitted [this letter](#) to the House Ways and Means committee in response to the committee's recent [Request for Information](#). The League's comments were made regarding the following interim charge:

Charge 1.1: Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 86th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including the following: SB 2, which is the Texas Property Tax Reform and Transparency Act of 2019. Monitor the implementation of the legislation, including a review of the tax rates adopted by taxing units in 2019 and 2020, the appraisal review board survey system, and progress in

onboarding the tax rate notices and websites. Make recommendations for modifications as necessary and appropriate.

Legislative Committees Request Information on Interim Charges

Due to the ongoing pandemic and the uncertainty as to scheduling interim hearings, several legislative committees have issued notices of formal “requests for information” (“RFIs”) to which the public, including cities, may respond. The following is a non-exhaustive list of RFIs on city-relevant interim charges, sorted by the deadline for submitting comments. Interested city officials may follow the links associated with each committee for more details about the procedure to submit comments:

November 13, 2020 – [House Ways and Means Committee](#)

- **Interim Charge 1.1:** Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 86th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including the following:
 - S.B. 2, which is the Texas Property Tax Reform and Transparency Act of 2019. Monitor the implementation of the legislation, including a review of the tax rates adopted by taxing units in 2019 and 2020, the appraisal review board survey system, and progress in onboarding the tax rate notices and websites. Make recommendations for modifications as necessary and appropriate.

City-Related Bills Filed

(Editor's Note: These summaries stop at H.B. 210 and S.B. 75. Summaries of higher numbered bills will appear in next week's edition. Also, some lower numbered bills won't be filed until later in the process.)

Property Tax

H.B. 59 (Murr) – School District Property Taxes: would: (1) provide for the elimination of school district maintenance and operations property taxes by January 1, 2024, with certain exceptions; and (2) create a joint interim committee on the elimination of school district maintenance and operations property taxes.

H.B. 96 (Toth) – Appraisal Cap: would, among other things: (1) provide that the appraised value of residence homestead for a tax year is equal to the market value of the property for the first tax year that the owner qualified the property for a homestead exemption; and (2) require an owner of property to apply for the appraisal cap under (1), above, using an application form prescribed by

the comptroller that includes, among other information, the purchase price of the property paid by the applicant. (See **H.J.R. 8**, below.)

H.B. 122 (Bernal) – Property Tax Exemption: would provide that a qualifying caregiver is entitled to a property tax exemption of the total appraised value of the qualifying caregiver’s residence homestead for the period during which the qualifying individual for whom the qualifying caregiver provides care is on an interest list for long-term services and supports under the Medicaid program. (See **H.J.R. 14**, below.)

H.B. 125 (Buckley) – Disabled Veteran Grants: would provide that, for purposes of the law governing the provision of state aid to certain local governments disproportionately affected by the granting of property tax relief to disabled veterans, the term “local government” includes a city with extraterritorial jurisdiction located within two miles of the boundary line of a United States military installation.

H.B. 186 (Zwiener) – Property Tax Exemption: would exempt from property taxation the portion of the appraised value of a person’s property that is attributable to the installation in or on the property of a rainwater harvesting or graywater system. (See **H.J.R. 17**, below.)

H.B. 203 (Bernal) – Sales Price Disclosure: would require the comptroller to conduct a study of the impact, feasibility, and advisability of adopting a property tax system in which the disclosure of the sales price of real property is required by law.

H.J.R. 8 (Toth) – Appraisal Cap: would amend the Texas Constitution to provide that the appraised value of residence homestead for a tax year is equal to the market value of the property for the first tax year that the owner qualified the property for a homestead exemption. (See **H.B. 96**, above.)

H.J.R. 14 (Bernal) – Property Tax Exemption: would amend the Texas Constitution to authorize the legislature to exempt from property taxes the total assessed value of the residence homestead of an unpaid caregiver of an individual who is eligible to receive certain long-term services. (See **H.B. 122**, above.)

H.J.R. 17 (Zwiener) – Property Tax Exemption: would amend the Texas Constitution to authorize the legislature to exempt from property taxation the portion of the appraised value of a person’s property that is attributable to the installation in or on the property of a rainwater harvesting or graywater system. (See **H.B. 186**, above.)

S.B. 63 (Nelson) – Appraisal Process: would make several changes to the property tax appraisal process, including: (1) imposing term limits on appraisal district board of directors members; (2) prohibiting certain former employees of an appraisal district from later serving on an appraisal district board of directors; (3) prohibiting certain former members of the appraisal review board from serving as an employee of the appraisal district; (4) imposing a 90-day time limit on various determinations that a chief appraiser can make on certain exemptions and other appraisal applications; and (5) limiting the ability of a chief appraiser to offer evidence at certain protest and appraisal hearings in support of modifying or denying an application.

Public Safety

H.B. 43 (Dominguez) – Medical Marihuana: would: (1) authorize the possession, use, cultivation, distribution, transportation, and delivery of medical cannabis for medical use by qualifying patients with certain debilitating medical conditions; and (2) authorize the licensing of dispensing organizations with a fee not to exceed \$30,000 for licenses to dispense medical cannabis.

H.B. 54 (Talarico) – Police Reality TV Shows: would prohibit a law enforcement department that employs peace officers from authorizing a television crew to film peace officers while acting in the line of duty for the purpose of creating a reality television show.

H.B. 71 (J. Johnson) – Motor Vehicle Search: would provide that: (1) a peace officer is prohibited from searching a motor vehicle that is stopped for a traffic violation unless the peace officer: (a) has probable cause; (b) obtains written consent from the vehicle’s operator on a specific form; (c) obtains oral consent from the vehicle’s operator that is evidenced by an audio and video recording on a body worn camera; or (d) has reasonable and articulable fear that the vehicle’s operator and/or passengers pose a threat to the safety of the peace officer or another person; and (2) the Texas Commission of Law Enforcement shall promulgate rules related to the required written consent form and audio and video recording.

H.B. 73 (Hinojosa) – Criminal Defense Limitations: would: (1) define the terms “gender identity” and “sexual orientation;” (2) limit the use of certain criminal defenses if they are based on the actor’s or defendant’s discovery or knowledge of, or the victim’s disclosure or potential disclosure of, the gender identity or sexual orientation of the victim or a nonviolent romantic or sexual advance made by the victim toward the actor; and (3) apply regardless of whether a defendant’s knowledge, discovery, or belief regarding the victim’s gender identity or sexual orientation was accurate.

H.B. 86 (Swanson) – Wireless Devices: would prohibit a local authority from regulating or prohibiting the use of a wireless communication device while operating a motor vehicle.

H.B. 88 (Thompson) – Police Reform: this bill, known as the “George Floyd Act,” would make numerous changes related to interactions between peace officers and individuals detained or arrested on the suspicion of the commission of crimes, peace officer liability for those interactions, and the disciplinary of peace officers in certain cities. Of primary importance to cities, the bill would:

1. With respect to officer liability:
 - a. provide that a person may bring an action for any appropriate relief against a peace officer who, under the color of law, deprived the person or caused the person to be deprived of any rights under the Texas Constitution, provided that such action is brought not later than two years after the day the cause of action accrues;

- b. provide that statutory immunity or a limitation on liability, damages, or attorney's fees does not apply to the action described in (1)(a), above, and a court shall award reasonable attorney's fees and court costs to a prevailing plaintiff and if judgment is entered in favor of the defendant, the court may award reasonable attorney's fees and costs to the defendant only for defending claims the court finds frivolous;
 - c. provide that qualified immunity or the defendant's good faith but erroneous belief in the lawfulness of the defendant's conduct is not a defense to an action brought under (1)(a), above; and
 - d. require a public entity, including a city, to indemnify a peace officer employed by the entity for liability incurred by and a judgement imposed against the officer in an action brought under (1)(a), above, except that the entity shall not be required to indemnify the peace officer if the officer was convicted for the conduct that is the basis for the action;
2. With respect to the duties and powers of a peace officer:
- a. amend current law to provide that a peace officer has the discretion on whether or not, if authorized, to:
 - i. interfere without a warrant to prevent or suppress a crime; or
 - ii. arrest offenders without warrant so that they may be taken before the proper magistrate or court and be tried;
 - b. provide that a peace officer shall:
 - i. identify as a peace officer before taking any action within the course and scope of the officer's official duties unless the identification would render the action impracticable;
 - ii. intervene if the use of force by another peace officer:
 - 1. violates state or federal law or a policy of any entity service by the other officer;
 - 2. puts any person at risk of bodily injury, unless the officer reasonably believes that the other officer's use of force is immediately necessary to avoid imminent harm to a peace officer or other person; or
 - 3. is not required to apprehend or complete the apprehension of a suspect; and
 - 4. shall provide aid immediately to any person who needs medical attention, including a person who needs medical attention as a result of the use of force by a peace officer;
 - c. provide that a defendant may not be convicted of an offense related to controlled substances on the testimony of person acting covertly on behalf of a law enforcement agency unless the testimony is corroborated by evidence tending to connect the defendant with the offense committed;
3. With respect to issuing citations in lieu of arrest for misdemeanor offenses:
- a. provide that the Texas Southern University, in consultation with other law enforcement organizations, shall publish a model policy related to the issuance of citations for misdemeanor offenses, including traffic offenses, that are punishable by fine only, that includes the procedure for a peace officer, upon a

- person's presentation of appropriate identification, to verify the person's identity and issue a citation to the person;
- b. provide that each law enforcement agency shall adopt a written policy regarding the issuance of citations for misdemeanor offenses, including traffic offenses, that are punishable by fine only, provided that such policy meets the requirements of the model policy described in (3)(a), above;
 - c. provide that a law enforcement agency may adopt the model policy developed under (3)(a), above;
 - d. provide that, with the exception of certain assault offenses and for the offense of public intoxication, a peace officer or any other person may not, without a warrant, arrest an offender for a misdemeanor punishable by fine only or arrest a person who commits one or more offenses punishable by fine only;
 - e. provide that a peace officer who is charging a person, including a child, with committing an offense that is a misdemeanor punishable by fine only, other than an offense of public intoxication, shall, instead of taking the person before a magistrate, issue a citation to the person;
 - f. provide that a peace officer who is charging a person, including a child, with committing certain assault offenses that are a misdemeanor, punishable by fine only, may, instead of taking the person before a magistrate, issue a citation to the person;
 - g. provide that a peace officer may not arrest, without warrant, a person found only committing one or more misdemeanors related to certain traffic offenses that are punishable by fine only, and in such instances shall issue a written notice to appear to the person;
4. With respect to de-escalation and proportionate response:
 - a. provide that a law enforcement agency shall adopt a detailed written policy regarding the use of force by peace officers that must:
 - i. emphasize the use of force in a manner proportionate to the threat posed and to the seriousness of the alleged offense;
 - ii. mandate that deadly force is only to be used by peace officers as a last resort; and
 - iii. affirm the sanctity of human life and the importance of treating all persons with dignity and respect;
 - b. provide that a law enforcement agency may adopt the model policy on use of force developed by the Texas Commission on Law Enforcement and described in (6)(a), below;
 5. With respect to disciplinary procedures in certain cities:
 - a. require a civil service commission to implement a progressive disciplinary matrix for infractions committed by police officers that consists of a range of progressive disciplinary actions applied in a standardized way based on the nature of the infraction and the officer's prior conduct record, and such matrix must include:
 - i. standards for disciplinary actions related to use of force against another person, including the failure to de-escalate force incidents in accordance with departmental policy;

- ii. standards for evaluating the level of discipline appropriate for uncommon infractions; and
 - iii. presumptive actions to be taken for each type of infraction and any adjustment to be made based on a police officer's previous disciplinary action;
 - b. make changes to the meet and confer provisions applicable to police officers to provide that certain cities that have adopted a meet and confer agreement but are not subject to civil service rules or collective bargaining shall implement a progressive disciplinary matrix as described in (5)(a), above, for its police officers, and that such agreement may not conflict or supersede a rule concerning the disciplinary actions that may be imposed under the disciplinary matrix;
 - c. provide that a hearing examiner in a city subject to civil service rules must presume a disciplinary action applied to a police officer under a progressive disciplinary matrix is reasonable unless the facts indicate that the department inappropriately applied a category of offense to the particular violation; and
 - d. make changes to the collective bargaining statute to provide that a city that has adopted a collective bargaining agreement but is not subject to civil service rules shall implement a progressive disciplinary matrix as described in (5)(a), above, for its police officers, and that such agreement may not conflict with an ordinance, order, statute, or rule related to disciplinary actions that may be imposed on its police officers under a disciplinary matrix implemented by the city;
- 6. With respect to use of force:
 - a. provide that the Texas Commission on Law Enforcement shall develop and make available to all law enforcement agencies a model policy and associated training materials regarding the use of force by peace officers;
 - b. make changes to the instances in which a person, including a peace officer and a person in the presence of and at the direction of a peace officer, may be justified in using nonlethal force in connection with making or assisting in making an arrest or search, or preventing or assisting in preventing escape after an arrest,
 - c. make changes to instances in which a peace officer or a person in the presence of and at the direction of a peace officer may be justified in using deadly force in connection to making an arrest or preventing escape after an arrest;
 - d. provide that the use of force against a person in connection with making or assisting in making an arrest or search, or preventing or assisting in preventing an escape after an arrest, is not justified if the force is used in a manner that impedes the normal breathing or circulation of the blood of the person by applying pressure to the person's throat or neck or by blocking the person's nose or mouth; and
 - e. repeal the Penal Code provision that provides that a peace officer or a person other than a peace officer acting in the officer's presence and direction has no duty to retreat before using deadly force in connection with making an arrest or preventing escape after arrest.

(Companion bill is **S.B. 161** by **West**.)

H.B. 94 (Reynolds) – Medical Marihuana: would: (1) authorize the possession, use, cultivation, distribution, transportation, and delivery of medical cannabis for medical use by qualifying patients with certain debilitating medical conditions; (2) provide for medical cannabis registry identification cards; (3) authorize the licensing of dispensing organizations and testing facilities; and (4) authorize an application fee for licenses to operate a dispensing organization. (Companion bill is **S.B. 90** by **Menéndez**.)

H.B. 95 (Meza) – Discharge of Weapon: would: (1) require a law enforcement agency that is authorized to employ peace officers to adopt a policy regarding a peace officer discharging a firearm at or in the direction of a moving vehicle; and (2) provide that such policy must prohibit a police officer from discharging a firearm at or in the direction of a moving vehicle unless the peace officer discharges the firearm only when and to the degree the officer reasonably believes is immediately necessary to protect the officer or another person from the use of unlawful deadly force by an occupant of the vehicle by means other than by using the moving vehicle to strike any person. (Companion bill is **S.B. 72** by **Miles**.)

H.B. 99 (Toth) – Criminal Penalties for Possession of Marihuana: would: (1) reduce criminal penalties for the possession of two ounces or less of marihuana; (2) provide that a peace officer may not arrest an individual without a warrant for possession of two ounces or less of marihuana; and (3) provide that the driver's license of a person convicted of possession of two ounces or less of marihuana is not automatically suspended.

H.B. 100 (Gervin-Hawkins) – Dangerous Dogs: would provide that a municipal animal control authority may impound and manage dangerous dogs and aggressive dogs in the extraterritorial jurisdiction (ETJ) of the city if: (1) the authority receives a petition: (a) signed by at least three residents from three different households in the ETJ requesting assistance from the authority; and (b) alleging that dangerous or aggressive dogs have repeatedly attacked humans, domestic animals, or livestock within the ETJ, and due to their presence, the ETJ is an unsafe environment for humans, domestic animals, or livestock; and (2) no other animal control authority is authorized to operate in the ETJ, or the operating animal control authority does not provide for the impoundment or management of dangerous dogs or aggressive dogs.

H.B. 101 (Toth) – Immigration Detainers: would provide that a city that releases from custody a person who is the subject of an immigration detainer request issued by United State Immigration and Customs Enforcement is liable for damages resulting from a felony committed by the person in Texas within 10 years following the person's release if: (1) the city did not retain the person as requested; (2) the person was not a citizen at the time of release; and (3) the attorney general has filed a petition or applied for equitable relief against the city.

H.B. 103 (Landgraf) – Active Shooter Alert System: would require the Texas Department of Public Safety to establish the Texas Active Shooter Alert System and allow local law enforcement agencies to request activation of the system when certain criteria are met.

H.B. 118 (Ortega) – Private Firearms Transfers: would impose regulations on a person who sells or otherwise transfers a firearm to another person, and provide criminal penalties for a failure to comply with such regulations.

H.B. 127 (Ortega) – Firearms: would, with certain exceptions, make it an offense for a person to intentionally, knowingly, or recklessly carry on or about his person a firearm, other than a handgun, at any time in which the firearm is in plain view.

H.B. 132 (Canales) – Forfeiture Proceeding: would: (1) raise the state’s burden of proof from preponderance of the evidence to clear and convincing evidence in proceedings related to the seizure of property and criminal forfeiture hearings; (2) limit the transfer of criminal forfeitable property to the federal government; and (3) limit law enforcement agency or Texas National Guard cooperation in federal criminal forfeiture actions.

H.B. 138 (Landgraf) – Disorderly Conduct: would increase, to a Class B misdemeanor, the penalty for the offense of, for a lewd or unlawful purpose: (1) entering into property of another and looking into a dwelling on the property through any window or other opening in the dwelling; (2) while on the premises of a hotel or comparable establishment looking into a guest room not the person’s own through the window or other opening in the room; or (3) while on the premises of a public place, looking into an area such as a restroom or shower stall or changing or dressing room that is designed to provide privacy to a person using the area.

H.B. 162 (Thierry) – Prostitution: would: (1) provide that a child may not be referred to juvenile court for the crime of prostitution; (2) provide that a law enforcement officer taking possession of a child suspected of engaging in prostitution shall: (a) use best efforts to deliver the child to the child’s parent or another person entitled to take possession of the child; (b) in the event the officer cannot find an individual under (a), take the child to a local service provider who will facilitate the assignment of a caseworker; or (c) in the event an individual under (a) and (b) is unavailable, transfer possession of the child to the Department of Family Protective Services; and (3) provide that a person may not be prosecuted for prostitution that the person committed when younger than 17 years of age.

H.B. 169 (S. Thompson) – Criminal Penalties for Drug Possession: would reduce the criminal penalties for possession of small amounts of Penalty Group 1 controlled substances and marihuana.

H.B. 170 (Ortega) – Alcoholic Beverages: would provide that the prohibition on the consumption of alcoholic beverages in a public place during certain hours applies to all public places, regardless of whether it is a licensed or permitted premises.

H.B. 175 (Thierry) – Arrest Without Warrant: would eliminate a Penal Code provision that provides that a peace officer or any other person may arrest, without a warrant, an offender who commits a felony or offense against the public peace when the offense is committed in the presence or view of the officer or person.

H.B. 177 (Bernal) – Immigration Enforcement: would provide that a law enforcement agency is not required to comply with, honor, or fulfill a detainer request provided by the federal government with respect to a person who is younger than 18 years of age.

H.B. 182 (Bernal) – Immigration Enforcement: would repeal certain provisions governing state and local enforcement of immigration laws and other provisions related to immigration law, such as the requirement that a law enforcement agency honor a detainer request.

H.B. 184 (Thierry) – Civilian Complaint Review Board: would create, in a city with a population of one million or more and in a county with a population of two million or more, a civilian complaint review board with, among other things, the authority to: (1) investigate allegations of peace officer misconduct involving excessive use of force or abuse of authority; and (2) issue subpoenas.

H.B. 196 (Meza) – Stand Your Ground: would, among other things, amend current law to provide that: (1) a person is not justified in using deadly force against another individual: (a) if the person is able to safely retreat, unless the person is in his or her own habitation; or (b) to prevent the individual's imminent commission of robbery or aggravated robbery.

H.J.R. 11 (Reynolds) – Medical Marihuana: would amend the Texas Constitution to provide that the legislature shall authorize and regulate the possession, cultivation, and sale of cannabis for medical use in Texas.

H.J.R. 13 (Canales) – Legalization of Marihuana: would amend the Texas Constitution to provide that the legislature shall authorize and regulate the possession, cultivation, and sale of cannabis in Texas.

S.B. 42 (Zaffirini) – Cell Phone Ban: would provide: (1) that a vehicle operator commits an offense if the operator uses a portable wireless communication device while operating a motor vehicle, unless the vehicle is stopped outside a lane of travel; and (2) for an affirmative defense (except for a person under 18 years of age or by a person operating a school bus with a minor passenger on the bus) for the use of a portable wireless communications device: (a) in conjunction with a hands-free device; (b) to contact emergency services; or (c) that was mounted in or on the vehicle solely to continuously record or broadcast video inside or outside of the vehicle.

S.B. 64 (Nelson) – Mental Health Programs: would require: (1) the executive commissioner of the Health and Human Services Commission to develop a mental health intervention program for peace officers that includes, among other things, peer-to-peer counseling, access to licensed mental health professionals, training, including suicide prevention training, technical assistance, and coordination of mental health first aid for law enforcement officers and their immediate family members; and (2) require the commission submit an annual report to the governor and legislature that includes the number of peace officers who received services through the program, the number of peers and peer service coordinators trained, an evaluation of the services provided, and any recommendations for program improvements.

S.B. 66 (Miles) – Retention and Disclosure of Police Complaints: would, among other things, provide that: (1) a complaint that alleges conduct by a peace officer employed by a municipality that constitutes official oppression by the police officer must be retained on file by the city for at least five years after the officer’s employment with the city ends; (2) an abstract of the complaint described in (1), above, must be created and retained indefinitely once the original complaint is destroyed; and (3) such complaint is not excepted from disclosure under a discretionary exception or the law enforcement exception of the Public Information Act.

S.B. 67 (Miles) – Civilian Complaint Review Boards: would create, in cities with a population of 200,000 or more, a municipal civilian complaint review board with, among other things, the authority to: (1) investigate a complaint of alleged misconduct by a peace officer involving: (a) excessive use of force; (b) improper use of power to threaten, intimidate, or otherwise mistreat a member of the public; (c) threat of force; (d) an unlawful act, search, or seizure; or (e) other abuses of authority; and (2) issue subpoenas.

S.B. 68 (Miles) – Excessive Force Reporting: would provide that: (1) a peace officer has a duty to intervene to stop or prevent another peace officer from using excessive force against a person suspected of committing an offense if an ordinary, prudent peace officer would intervene under the same or similar circumstances; and (2) a peace officer who witnesses the use of excessive force by another peace officer shall promptly make a detailed report of the incident and deliver the report to the supervisor of the peace officer making the report and the supervisor of the peace officer who used the excessive force.

S.B. 69 (Miles) – Prohibiting Chokeholds: would provide that the use of any force, by any person, including a peace officer or person acting in and the direction of an officer, in connection with the arrest of another person, is not a justified use of force if such force is used in a manner that impedes the normal breathing or circulation of the blood of the person by applying pressure to the person’s throat, neck, or torso or by blocking the person’s nose or mouth. (This bill is identical to **H.B. 346** and **H.B. 418** by **Rose** and **Sherman**, respectively.)

S.B. 70 (Miles) – Use of Force Reporting: would provide that: (1) a law enforcement agency, including an agency of a political subdivision, authorized by law to employ peace officers shall require each police officer employed by the agency to submit a detailed report to the agency regarding each incident in which the officer uses force, or witnesses another officer use force, against a person suspected of committing an offense; and (2) the report described in (1), above, must include: (a) a description of the force used by the peace officer; (b) an explanation as to why the degree of force used was necessary; and (c) if applicable, a description of any attempt that was made by the officer to de-escalate the situation before the force was used.

S.B. 71 (Miles) – Use of Force Policy: would provide that: (1) no later than January 1, 2022, a law enforcement agency, including an agency of a political subdivision authorized by law to employ police officers, shall adopt a detailed written policy regarding the use of force by police officers; and (2) such policy must provide peace officers employed by the agency with explicit guidelines for the use of force that ensure that force will only be used against a person in a manner proportionate to the threat posed by the person.

S.B. 72 (Miles) – Discharge of Firearms Policy: would provide that: (1) a law enforcement agency, including an agency of a political subdivision authorized by law to employ police officers, shall adopt a policy regarding the discharge of a firearm by a peace officer at or in the direction of a moving vehicle; and (2) such policy must prohibit a peace officer from discharging a firearm at or in the direction of a moving vehicle unless the peace officer discharges the firearm only when and to the degree the officer reasonably believes is immediately necessary to protect the officer or another person from the use of unlawful deadly force by an occupant of the vehicle by means other than by using the moving vehicle to strike any person. (Companion bill is **H.B. 95** by **Meza**.)

Sales Tax

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. 174 (Canales) – Sales Tax Exemption: would exempt the sale, use, or consumption of college textbooks from sales taxes during two seven-day periods, one beginning in August and one beginning in January.

S.B. 61 (Zaffirini) – Sales Tax Exemption: would exempt the sale, storage, use, or other consumption of firearm safety supplies from the sales tax.

Community and Economic Development

H.B. 84 (Hinojosa) – Home and Residential Lot Sales Price: would repeal the provision in current state law that prohibits a city from adopting a requirement that establishes a maximum sales price for a privately produced housing unit or residential building lot.

H.B. 128 (Landgraf) – Economic Development Corporations: would: (1) expand the definition of “primary job” for purposes of Type A and Type B EDC projects to include certain health care and mental health care facilities; and (2) expand the scope of projects related to the creation or retention of primary jobs to include facilities for the provision of health care or mental health care to the public.

H.B. 149 (Reynolds) – Group Homes Study: would direct the Texas Health and Human Services Commission to conduct a study on the regulation of group homes, and provide that the study analyze, among other things: (1) city authority to enforce boarding home regulations; and (2) whether the prohibition against a city excluding board homes from residential areas prevents cities from regulating boarding homes.

H.B. 206 (Bernal) – Payday and Auto Title Lending: would provide for the statewide regulation of payday and auto title lenders. Of primary importance for cities, the bill would: (1) provide that a municipal ordinance regulating credit access businesses is not preempted by state law; and (2) provide that, if a municipal ordinance conflicts with a provision of state law, the more stringent regulation controls.

Additionally, the bill would, among other things:

(1) require the contract and other documents provided by a credit access business to be written wholly in English or the language in which the contract is negotiated, and read in their entirety in the language in which the contract is negotiated to any consumer who cannot read; (2) prohibit a credit services organization from assisting a consumer in obtaining an extension of consumer credit in any form other than a single-payment payday loan, multiple-payment payday loan, single payment auto title loan, or multiple-payment auto title loan; (3) provide that each day of a continuing violation of a provision related to state notice and disclosure requirements or state licensing and regulation requirements by a credit services organization constitutes a separate offense; (4) provide that the general limitations on payday and auto title loans in the bill apply to any consumer physically located in this state at the time the loan is made, regardless of whether the loan was made in person in this state; (5) require a credit access business to require certain types of documentation to establish a consumer’s income for purposes of extending credit; (6) provide specific limitations on the structure of single-payment and multiple-payment payday and auto title loans; (7) require any refinance of a payday or auto title loan to: (a) be authorized by state law; (b) be in the same form as the original loan; and (c) meet all requirements applicable to the original loan; and (8) require a credit access business to maintain a complete set of records of all loans and retain the records until the third anniversary of the date of the loan.

S.B. 46 (Zaffirini) – Homelessness: would provide that: (1) a city zoning or land use ordinance may not prohibit a religious organization from using the organization’s facility as housing for

homeless individuals, or from having housing units for the homeless on the organization's property; and (2) a city may adopt or enforce an ordinance that imposes reasonable health and safety regulations on housing for homeless individuals provided on a religious organization's property, including requirements that the organization provide electricity and heat for each housing unit, and at least one kitchen and bathroom on the property.

Elections

H.B. 22 (Swanson) – Polling Place Parking: would require: (1) that a polling place have two parking spaces reserved for the use of a voter who is unable to enter the polling place without personal assistance or likelihood of injuring the voter's health; and (2) that each parking space must be clearly marked with a sign indicating that the space is reserved for use by a voter who is unable to enter the polling place and displaying, in large font, a telephone number that a voter may call to request assistance from an election official at the polling place.

H.B. 25 (Swanson) – Early Voting Ballot Application: would prohibit an officer or employee of the state or a political subdivision from distributing an official application form for an early voting ballot to a person, except for reasons already defined in current law.

H.B. 32 (Fierro) – Voting Outside Polling Place: would, on the voter's request, require an election officer to deliver a ballot to the voter at the polling place entrance or curb if a voter is: (1) physically unable to enter the polling place without personal assistance or likelihood of injuring the voter's health (Note: (1) is current law); or (2) a parent or legal guardian accompanied by the parent's or legal guardian's child (Note: this is new law added by the bill).

H.B. 46 (Fierro) – Vote by Mail Application: would: (1) provide that the officially prescribed application form for an early voting ballot must include, among other things, a space for entering an applicant's email address; (2) require the early voting clerk, before rejecting an application for a ballot to be voted by mail, to make a reasonable effort to contact the applicant by e-mail, at any e-mail address provided on the application, to ask questions about the application; (3) provide that if the early voting clerk does not receive a response before the fourth day after the date the clerk tries to contact an applicant as described in (2), the clerk may reject the application; (4) authorize an applicant for an application for a ballot to be voted by mail to make clerical corrections to the application by email; (5) require the early voting clerk to attach to and maintain with the original application submissions and corrections provided by email; and (6) prohibit an applicant from changing the address or county of residence submitted on the original application to a different address or county of residence by email.

H.B. 61 (Swanson) – Early Voting by Mail: would, among other things: (1) require that an application for an early voting ballot to be voted by mail be signed by the applicant using ink on paper; and (2) provide that an electronic signature or photocopied signature is not permitted.

H.B. 76 (Meza) – Early Voting by Mail: would, among many other things, authorize early voting by mail for any qualified voter and provide for implementing procedures. (Companion bill is **S.B. 95** by Menéndez.)

H.B. 110 (Reynolds) – Voter Identification: would, among other things, eliminate the photo identification requirement and expand the types of documentation that are considered acceptable forms of identification for purposes of voting.

H.B. 123 (Meza) – Countywide Polling Place: would authorize the secretary of state to select any county, not just certain pilot program counties, to participate in the countywide polling place program.

H.B. 142 (Meza) – Voter Registration: would, among other things: (1) require the voter registrar to appoint at least one election officer serving each polling place as a regular deputy registrar; and (2) provide that a person may register to vote at the polling place located in the precinct of the person's residence if the person submits a voter registration application and presents adequate proof of identification on the day the person offers to vote.

H.B. 160 (Zwiener) – Voter Identification: would provide that an identification card issued by a public institution of higher education in the state that contains the person's photograph, full legal name, and a date of expiration that has not expired or that expired no earlier than four years before the date of presentation, is an acceptable form of identification for voting.

H.J.R. 18 (Canales) – Resign to Run: would amend the Texas Constitution to allow judges of the county courts at law, county criminal courts, county probate courts, and county domestic relations courts to become candidates for another office without automatically resigning from the office already held.

Emergency Management

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. 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 22nd 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.

H.J.R. 15 (Springer) – Emergency Special Session: would provide that: (1) the governor shall convene a special session of the legislature: (a) if a state of disaster or emergency declared by the governor continues for more than 21 days; or (b) on receipt of a petition from any member of the legislature requesting legislative review of a declared state of disaster or emergency if the petition is signed by at least two-thirds of the members of the house of representatives and at least two-thirds of the members of the senate; (2) in such convened special session, the Legislature may: (a) review an order, proclamation, or other instrument issued by the governor during the 90 days before the special session begins declaring a state of disaster or emergency or in response to an emergency declared by any federal, state, or local official or entity; (b) terminate or modify an order, proclamation, or other instrument described in (2)(a), above, by passage of a resolution approved by a majority voted of the members of the members present in each house of the legislature; (c) respond to the state of disaster or emergency, including by passing laws and resolutions related to the state of disaster or emergency; and (d) consider any other subjects stated in the governor’s proclamation convening the legislature.

Municipal Courts

H.B. 80 (J. Johnson) – Municipal Court: would provide, when fines and costs are being imposed on a defendant under the conservatorship of the Department of Family and Protective Services or in extended foster care, that a municipal judge: (1) may not require a defendant to pay any amount of fines and costs; and (2) shall require the defendant to perform community services to discharge fines and costs if the fines and costs are not waived.

H.B. 210 (Meza) – Family Violence Cases: would: (1) require a court, in regard to a person convicted of certain family violence offenses or subject to a family violence protective order, to provide written notice to the person that he/she is prohibited from acquiring, possessing, or controlling a firearm, and order the person to surrender all firearms; and (2) provide various ways a person in (1) may surrender a firearm, including surrender to a law enforcement agency.

Open Government

No open government bills were summarized this week.

Other Finance and Administration

H.B. 29 (Swanson) – Temporary Weapon Storage: would authorize several methods to temporarily store firearms and certain other weapons for a person who enters a building used by a political subdivision in which carrying the weapon is prohibited by law or the political subdivision.

H.B. 35 (Swanson) – Local Debt: would, among other things: (1) 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 25 percent of the registered voters of the political subdivision vote in the election; (2) require an election for the issuance of bonds or a tax increase by a political subdivision to be held on the November uniform election date, except for an automatic election to approve a tax rate; (3) provide that in an election held by a political subdivision for which the ballot includes a proposition seeking voter approval of the issuance of

bonds or a tax increase, a temporary branch polling place must: (a) remain at the same location for the entire period during which early voting by personal appearance is conducted in the district; and (b) allow for early voting by personal appearance to be conducted during the same days and hours as voting is conducted at the main early voting polling place; (4) require an election authorizing the issuance of bonds or a tax increase by a political subdivision to be held as a joint election, and provide that a single ballot containing all the offices or propositions stating measures to be voted on at a particular polling place must be used in a joint election; (5) require a political subdivision to hold an election prior to issuing all bonds, including revenue bonds; and (6) provide that refunding bonds and bonds issued in an amount less than \$2,000 to repair a building or structure that may be built using the proceeds of bonds are subject to the election and notice requirements applicable to other bond issuances.

H.B. 36 (J. Johnson) – Abolish Confederate Heroes Day: would abolish Confederate Heroes Day as a state holiday. (Companion bill is **H.B. 219** by **Thierry**.)

H.B. 66 (Fierro) – Election Day Holiday: would designate every day on which a statewide election, including a primary election, is held as a state holiday.

H.B. 67 (Toth) – Restrictive Covenants: would prevent a property owners' association from enforcing a restrictive covenant prohibiting a property owner from installing a swimming pool enclosure that conforms to applicable state or local requirements.

H.B. 83 (Toth) – Firework Sales: would extend the ending date when a retail fireworks permit holder may sell fireworks to the public for the 4th of July holiday from midnight on July 4 to midnight on July 5.

H.B. 112 (Toth) – Firearm Regulation: would: (1) prohibit a city from adopting a rule, order, ordinance, or policy under which the city enforces certain federal provisions enacted after January 1, 2021, that regulate a firearm, a firearm accessory, or firearm ammunition; and (2) provide that a violation of the prohibition in (1) may be enforced: (a) by denying state grant funds to the city; (b) through court action by the attorney general; and (c) by imposing criminal penalties against officials, employees, and persons acting under control of the city.

H.B. 167 (Ortega) – Common Nuisance: would authorize a court to issue a temporary restraining order in a suit to abate certain common nuisances.

H.B. 188 (Bernal) – Discrimination: would, among other things: (1) prohibit a person, other than certain religious organization, from denying an individual full and equal accommodation in any place of public accommodation or otherwise discriminating against or segregating the person because of or based on the individual's sexual orientation or gender identity or expression; (2) allow a person described in (1), above, who is aggrieved to file a civil cause of action in district court to recover actual and punitive damages, attorney's fees, and injunctive relief, provided that such action is brought not later than the second anniversary of the occurrence or termination of the alleged discriminatory practice; (3) prohibit discrimination in employment on the basis of an individual's sexual orientation or gender identity or expression; and (4) prohibit a person from

refusing to sell or rent a dwelling to an individual because of such individual's sexual orientation or gender identity or expression.

H.J.R. 12 (Meza) – Constitutional Amendments: would amend the Texas Constitution to provide that an election on a proposed amendment to the Texas Constitution must be held in November of even-numbered years.

S.B. 61 (Zaffirini) – Unfunded Mandates: would establish an unfunded mandate interagency workgroup and require the group to, among other things, publish an advisory list of mandates for which the legislature has not provided reimbursement following each regular or special session of the legislature.

S.B. 65 (Miles) – Official Oppression: would make the offense of official oppression a second degree felony if the public servant, at the time of the offense, is a licensed peace officer and: (1) causes bodily injury to another or threatens another with imminent bodily injury; and (2) while engaging in the conduct described in (1), causes serious bodily injury to another, or uses or exhibits a deadly weapon.

S.B. 73 (Miles) – Local Health Departments: would provide that the executive commissioner of Health and Human Services Commission shall establish a separate provider type for local health departments, including health service regional offices acting in the capacity of local health departments, for purposes of enrollment as a provider for and reimbursement under the medical assistance program.

Personnel

H.B. 21 (Neave) – Sexual Harassment: would expand the deadline by which an employee must file a complaint alleging sexual harassment with the Texas Workforce Commission from not later than the 180th day of the date the unlawful employment practice occurred to not later than the 300th day after the date the alleged sexual harassment occurred.

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. 48 (Zwiener) – Sexual Harassment: would provide that an employer, including a city or a person who acts directly in the interests of an employer in relation to an employee, commits an unlawful employment practice if sexual harassment of an employee occurs and the employer or the employer's agents or supervisors: (1) know or should have known that the conduct constituting sexual harassment was occurring; and (2) fail to take immediate and appropriate corrective action. (Companion bill is **S.B. 45** by **Zaffirini**.)

H.B. 60 (Reynolds) – Minimum Wage: would increase the minimum wage to not less than the greater of \$15 an hour or the federal minimum wage (currently at \$7.25).

H.B. 87 (Reynolds) – Paid Sick Leave: would: (1) require certain employers to provide annual paid sick leave to each employee, accruing on the date the employee is hired at a rate of one hour paid sick leave for each 30 hours worked by the employee; and (2) provide that an employee may use such leave for specific reasons, including to attend: (a) to the employee’s or the employee’s family member’s health condition; (b) to family violence related matters; and (c) a meeting at a child family member’s school.

H.B. 145 (Rodriguez) – Unemployment Benefits: would, among other things, eliminate the requirement that an individual have been totally or partially unemployed for a waiting period of at least seven consecutive days before being eligible for unemployment benefits.

S.B. 32 (Zaffirini) – Student Loan Repayment: would direct the Texas Higher Education Coordinating Board to establish a student loan repayment assistance program for certain eligible frontline workers (including peace officers, fire fighters, and emergency medical technicians) for exceptional service to the State of Texas during the pandemic.

S.B. 45 (Zaffirini) – Sexual Harassment: would provide that an employer, including a city or a person who acts directly in the interests of an employer in relation to an employee, commits an unlawful employment practice if sexual harassment of an employee occurs and the employer or the employer’s agents or supervisors: (1) know or should have known that the conduct constituting sexual harassment was occurring; and (2) fail to take immediate and appropriate corrective action. (Companion bill is **H.B. 48** by **Zwiener**.)

Purchasing

S.B. 58 (Zaffirini) – Cloud Computing Services: would add cloud computing services to the definition of the term “personal property” for purposes of the Public Property Finance Act.

S.B. 59 (Zaffirini) – Comptroller Purchasing Program: would authorize the comptroller to advertise its state purchasing program for local governments in any available media or otherwise promote the purchasing program.

Transportation

H.B. 114 (Toth) – High-Speed Rail: would restrict certain state agency actions in relation to high-speed rail projects.

Utilities and Environment

H.B. 37 (Zwiener) – Oil and Gas Pipeline Routing: would, among other things: (1) provide that, with certain exceptions, a person may not begin construction of a pipeline before the person obtains a permit from the Public Utility Commission (PUC) that authorizes the route of the pipeline; (2) provide that the PUC may only approve an application and grant a permit if the PUC determines that the route of the pipeline moderates negative effects on the affected community and landowners after the consideration of: (a) community values; (b) recreational and park areas; (c) historical and aesthetic values; (d) environmental integrity; (e) public safety; and (f) economic development; (3)

require the PUC to grant or deny a permit not later than the first anniversary of the date the application for the permit is filed; (4) provide that the PUC and the attorney general may enforce the routing permit requirements through judicial review and by imposing administrative penalties; and (5) authorize a procedure for a person to complain to the PUC of a claimed violation of the pipeline routing process.

H.B. 50 (J. Johnson) – Concrete Plants: would limit the state law under which the Texas Commission on Environmental Quality may issue an air quality permit for a concrete plant located in an area of a city not subject to zoning regulations, and require that such a plant comply with certain notice and hearing requirements.

H.B. 56 (J. Johnson) – Concrete Plants: would extend the distance within which a concrete plant or crushing facility must be from a single- or multi-family residence, school, or place of worship from 440 yards to 880 yards.

H.B. 65 (J. Johnson) – Concrete Plants: would require that an applicant for a standard permit for certain concrete plants mail notice of the application to each household within 880 yards of the proposed plant.

H.B. 176 (Zwiener) – Plastic Bag Regulation: would delete the provision in the Texas Health and Safety Code that the Texas Supreme Court held preempts city plastic bag regulations.

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 the legal department for legal assistance at legalinfo@tml.org; Rachael Pitts for membership support at RPitts@tml.org; and the training team for questions about conferences and workshops at training@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 an email update each Tuesday and Thursday with information on new developments. The 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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