



Legislative UPDATE

December 18, 2020
Number 49

New Protocols Announced for First Day of the 87th Legislature

Texas House Administration Chair Charlie Geren issued a [memo](#) this week to House members-elect of the 87th Legislature outlining the operational plan for the first day of session.

Before official business can be conducted, legislators are sworn into their newly elected positions and that is typically done during an opening ceremony held on the first day of session. The memo states that the ceremony will be shortened and there will be a significant reduction in the number of people admitted to the House floor and gallery.

Members-elect, guests, media, and staff will be required to wear face coverings and are encouraged to self-screen for COVID-19 symptoms. Upon entry to the building, there may be additional temperature and symptomatic screenings. Hand sanitation stations will be placed outside the chamber and on members' desks. Ultraviolet light will be utilized on the floor and in the gallery. Air purification units have also been installed in the HVAC system above the House floor and gallery. In addition, a limited number of seats will be available in the gallery for members of the public. Information on the process for assigning those seats will be announced in advance of opening day.

It is still unclear how the capitol may operate under a pandemic. The lieutenant governor and presumptive speaker-elect Dade Phelan have been in ongoing discussions on specific protocols. Nevertheless, Lt. Governor Dan Patrick has told senators that people wishing to testify would have to register online three days before a committee hearing and take a rapid test 24 hours in advance. For the first 60 days of session, committees may only meet on Tuesday and Wednesday in the Senate. It should be noted that nothing is definite until legislators vote on rules once they convene.

We expect new information will continue to surface on how the Texas Legislature will operate as we approach January.

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.

City-Related Bills Filed

(Editor's Note: You will find all of this session's city-related bill summaries online at <https://www.tml.org/319/Legislative-Information>.)

Property Tax

H.B. 798 (Larson) – Property Tax Appraisal: would provide that: (1) if the appraised value of property in a tax year is lowered as a result of an agreement between the property owner and the appraisal district or as a result of a protest or appeal, the appraised value of the property as specified in the agreement or as finally determined in the protest or appeal is considered to be the appraised value of the property for that tax year; and (2) if the appraised value of property in a tax year is lowered under the circumstances described in (1), above, the chief appraiser generally may not increase the appraised value of the property in the next tax year in which the property is appraised by an amount that exceeds the sum of five percent of the appraised value of the property in the tax year in which the appraised value of the property is lowered and the market value of all new improvements to the property. (See **H.J.R. 44**, below.)

H.J.R. 43 (Wilson) – Delinquent Property Taxes: would amend the Texas Constitution to provide that a residence homestead is not subject to seizure or sale for delinquent property taxes.

H.J.R. 44 (Larson) – Property Tax Appraisal: would amend the Texas Constitution to provide that the legislature may provide that if an owner property owner disputes the appraisal of the property for property tax purposes and the appraised value is lowered as a result, the appraisal district may not increase the appraised value of the property in the next tax year in which the property is appraised by an amount that exceeds five percent, or a greater percentage as specified by the general law, of the appraised value of the property in the tax year in which the appraised value is lowered. (See **H.B. 798**, above.)

Public Safety

H.B. 786 (Oliverson) – CPR Training: would require: (1) a state, county, special district, or municipal agency that employs telecommunicators to require each telecommunicator who provides dispatch for medical emergencies to receive training, including continuing education training, in telecommunicator cardiopulmonary resuscitation (CPR); (2) a telecommunicator to complete initial training not later than the 60th day after the telecommunicator's first date of employment with the entity; and (3) the telecommunicator to complete continuing education training at least as often as recognized standards for telecommunicator CPR training are updated.

H.B. 788 (Geren) – Court Program: would expand the definition of a public safety employee, for the purpose of participating in a public safety employee treatment court program, to include an emergency service dispatcher.

H.B. 791 (Goodwin) – Public Demonstrations: would provide that: (1) a person commits the offense of disorderly conduct if the person intentionally or knowingly displays a firearm while attending or within 500 feet of a public demonstration; and (2) it is a defense to prosecution for an offense described in (1) if the person displays the firearm in discharging the person's official duties as a peace officer, a member of the armed forces, or a security officer.

H.B. 799 (Rosenthal) – Firearm Offense: would provide that it is a Class C misdemeanor offense if a person, while intoxicated, carries on or about his or her person a firearm, including a handgun or long gun, in a public place.

H.B. 809 (J. Johnson) – Medical Marihuana: would: (1) authorize the possession, use, cultivation, distribution, transportation, and delivery of medical cannabis for medical use by patients with post-traumatic stress disorder; (2) authorize the licensing of dispensing organizations; (3) authorize an application fee for licenses to operate a dispensing organization; and (4) prevent cities from enacting, adopting, or enforcing a rule, ordinance, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of medical cannabis as authorized by the bill.

H.B. 810 (Collier) – Coin-Operated Machines: would, in regard to the comptroller's duty to regulate music and skill or pleasure coin-operated machines, require the comptroller to disclose confidential information, including information included in a license or registration certificate application, to a law enforcement agency that submits to the comptroller a written request for the information in connection with an investigation the agency is conducting.

H.B. 821 (White) – Handgun License: would make changes to the: (1) eligibility requirements for a license to carry a handgun; and (2) circumstances under which the Texas Department of Public Safety may revoke or suspend a license to carry a handgun.

H.B. 827 (Huberty) – Disclosure of Vehicle Speed to Law Enforcement: would provide that a toll project entity or a private entity that operates a toll project and collects information on the speed at which a vehicle is operated on the toll project may not disclose the information to a law enforcement agency for the purpose of proving a speeding violation.

H.B. 829 (S. Thompson) – Progressive Disciplinary Matrix: would, with respect to disciplinary procedures for police officers in certain cities: (1) 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: (a) 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; (b) standards for evaluating the level of discipline appropriate for uncommon infractions; and (c) 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; (2) 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 (1), 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; (3) 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 (4) 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 (1), 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.

H.B. 830 (S. Thompson) – Cite and Release: would, with respect to issuing citations in lieu of arrest for misdemeanor offenses, provide that: (1) 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; (2) 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 (1), above; (3) a law enforcement agency may adopt the model policy developed under (1), above; (4) 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; (5) 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; (6) 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; and (7) 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.

H.B. 831 (S. Thompson) – Prohibiting Chokeholds: would provide that the use of any force by any person, including a peace officer or person acting in and at 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 or neck or by blocking the person’s nose or mouth. (Companion bill is **H.B. 268** by **Meza**.)

H.B. 832 (S. Thompson) –Police Officers: would, with respect to the duties and powers of a peace officer: (1) amend current law to provide that a peace officer has the discretion on whether or not, if authorized, to: (a) interfere without a warrant to prevent or suppress a crime; or (b) arrest offenders without warrant so that they may be taken before the proper magistrate or court and be tried; and (2) provide that a peace officer shall: (a) 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; and (b) intervene if the use of force by another peace officer: (i) violates state or federal law or a policy of any entity service by the other officer; (ii) 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 (iii) is not required to apprehend or complete the apprehension of a suspect; and (c) 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.

H.B. 833 (S. Thompson) – Use of Force: would: (1) require each law enforcement agency to adopt a detailed written policy regarding the use of force by peace officers; (2) require the Texas Commission on Law Enforcement (TCOLE) to develop a model use of force policy and associated training, and allow a law enforcement agency to adopt the model policy developed by TCOLE; (3) make changes to the instances in which a peace officer, or a person acting in a peace officer’s presence and at his direction, is justified in using force against another during a search or arrest; and (4) 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.

H.B. 834 (S. Thompson) – Covert Law Enforcement Activity: would provide that a defendant may not be convicted for an offense under the Texas Controlled Substances Act on the testimony of a person who is acting covertly on behalf of a law enforcement agency, regardless of whether that person is a licensed peace officer or special investigator, unless the testimony is corroborated by other evidence.

H.B. 836 (Dutton) – Resisting Arrest: would require the complaint, information, or indictment in the prosecution of a criminal case in which the sole allegation is that a person has resisted arrest to state the underlying offense for which the person was resisting arrest.

H.B. 842 (Moody) – Criminal History Record Information: would allow an attorney representing the state in a criminal case to: (1) disclose to the defendant, or attorney representing the defendant, the criminal history record information (CHRI) of the defendant or potential witness that was obtained from Department of Public Safety or the FBI; and (2) use the CHRI as notice to the defendant, or attorney representing the defendant, of the state’s intention to use the CHRI to introduce evidence of other crimes, wrongs, or acts committed by the defendant, or evidence of the prior criminal record of a potential witness in the case, if timely disclosed to the defendant or attorney representing the defendant.

Sales Tax

No sales tax bills were filed this week.

Community and Economic Development

H.B. 778 (Lozano) – School Property Tax Limitations: would extend the expiration date of the Texas Economic Development Act from December 31, 2022, to December 31, 2032. (Companion bill is **S.B. 144** by **Powell**.)

H.B. 819 (White) – Occupational Licenses: would require the Texas Department of Licensing and Regulation, in cooperation with the secretary of state, the comptroller, the Texas Commission on Environmental Quality, other state agencies, and political subdivisions of the state that provide occupational licenses to establish a pilot program creating special economic zones in eligible counties for the purpose of reducing barriers and costs of entry to occupations and entrepreneurship for residents of, and new and existing businesses located in, or relocating to, a special economic zone.

Elections

H.B. 782 (Swanson) – Recall Elections, Ballot Propositions, and Petitions: with regard to a city’s ballot proposition language, the bill would:

1. require that a ballot proposition substantially submit a question with such definiteness and certainty that the voters are not misled;
2. provide that if a court orders a new election to be held after a contested election is declared void, a person may seek from the court a writ of mandamus to compel the governing body of a city to comply with the requirement that a ballot proposition substantially submit the question with such definiteness and certainty that the voters are not misled;

3. allow a religious organization to circulate or submit a petition in connection with a recall election;
4. provide that, not later than the seventh day after the date that a home rule city publishes ballot proposition language proposing an amendment to the city charter or another city law as requested by petition, a registered voter eligible to vote in the election may submit the proposition for review by the secretary of state (SOS);
5. require the SOS to review the proposition not later than the seventh day after the date the SOS receives the submission to determine whether the proposition is misleading or inaccurate;
6. provide that if the SOS determines that the proposition is misleading or inaccurate, the city shall draft a proposition to cure the defect and give notice of the new proposition;
7. authorize a proposition drafted by a city under (6), above, to be submitted to the SOS under the process outlined in (4), above;
8. provide that if the SOS determines that the city has on its third attempt drafted a proposition that is misleading or inaccurate, the SOS shall draft the ballot proposition;
9. require, in an action in a district court seeking a writ of mandamus to compel the city to comply with the provision described in (1), above, the court to make a determination without delay and authorize the court to: (a) order the city to use ballot proposition language drafted by the court; and (b) award a plaintiff or relator who substantially prevails reasonable attorney's fees, expenses, and court costs;
10. waive and abolish governmental immunity to suit to the extent of the liability created by (9)(b), above;
11. provide that, following a final judgment that a proposition failed to comply with the provision described in (1), above, a city must submit to the SOS any proposition to be voted on at any election held by the city before the fourth anniversary of the court's finding; and
12. require a city to pay fair market value for all legal services relating to a proceeding regarding ballot proposition language enforcement.

In addition, with regard to petitions, the bill would:

1. provide that the illegibility of a signature on a petition submitted to a home-rule city is not a valid basis for invalidating the signature if the information provided with the signature legibly provides enough information to demonstrate that the signer is eligible to sign the petition and signed the petition on or after the 180th day before the date the petition was filed;
2. require the SOS to prescribe the form, content, and procedure for a petition and prohibit a home-rule city that uses a form that is different than the SOS form from invalidating a petition because it doesn't contain information that the petition form failed to provide for or required to be provided;
3. provide that a person who circulates or submits a petition is not required to use a petition form prescribed by the SOS or a home-rule city, but that a petition that does not use an officially prescribed form must contain the substantial elements required to be provided on the officially prescribed form;
4. require that the city secretary determine the validity of a petition, including verifying the petition signatures, not later than the 30th day after the date the city receives the petition;
5. prohibit a city from restricting who may collect petition signatures;

6. provide that the provisions described by (4) and (5), above, preempt home-rule charter procedures requiring the city council to hold an election on receipt of a petition; and
7. in regard to a charter amendment election petition: (a) provide that at least five percent of the registered voters of the city on the date of the most recent election held in the city or 20,000, whichever number is smaller, may submit a petition; and (b) require the notice of election include a substantial copy of the proposed amendment in which language sought to be deleted by the amendment is bracketed and stricken through and language sought to be added by the amendment is underlined.

H.B. 802 (C. Morales) – 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. 844 (Bucy) – Ballots Voted by Mail: would: (1) require election notice posted on a county’s website to include: (a) the location of each polling place that will be open on election day; (b) the location of each polling place that will be open for early voting; and (c) each location that will be available to voters to deliver a marked ballot voted by mail; (2) authorize a voter to deliver a marked ballot voted by mail in person to the early voting clerk’s office or to another designated location while the polls are open on election day or during the early voting period; (3) provide that a voter delivering a marked ballot in person may return only the voter’s own ballot; and (4) authorize the county clerk to designate any of the following locations for delivering marked ballots under (2), above: (a) the early voting clerk’s office; (b) any polling place open for early voting or for election day; or (c) any suitable location that meets criteria prescribed by the secretary of state.

H.B. 845 (Bucy) – Early Voting by Mail: would, among other things, provide that a voter voting by mail based on the ground of absence from the county of residence may elect to receive the balloting materials by electronic transmission on the voter’s application for an early voting ballot to be voted by mail.

H.B. 846 (C. Morales) – Early Voting Period: would extend the starting date of the period for early voting by personal appearance from the 17th day before election day to the 21st day before election day.

Emergency Management

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.

Municipal Courts

H.B. 772 (Bernal) – Municipal Court Costs: would provide that: (1) the credit for time served in jail shall be applied to the amount of the fines and costs at a rate of not less than \$50 for each period served that is not less than eight hours or more than 24 hours, as specified by the justice or judge; (2) a justice or municipal court may not order the confinement of a person, including a child, for the failure to pay all or any part of a fine or costs imposed for the conviction of an offense punishable by fine only or contempt of a judgment entered for the conviction of an offense punishable by fine only; and (3) subject to (2), above, punishment for contempt of a justice court or municipal court is a fine of not more than \$100 or confinement in the county or municipal jail for not more than three days, or both such a fine and confinement in jail.

H.B. 839 (Moody) – Appearance of Arrested Person before Magistrate: would, among other things, provide that when an arrested person appears before a magistrate: (1) if the proceeding is conducted through videoconference, the magistrate shall ensure the arrested person is able to connect to and understand the image and sound of the videoconference; (2) if the magistrate is unable to ensure that the arrested person is able to understand and participate in the proceeding, the magistrate shall: (a) if the magistrate has appointing authority, appoint counsel for the person; or (b) if the magistrate does not have appointing authority, notify the appointing authority of the person's inability to understand and participate in the proceeding; (3) if the magistrate has reasonable cause to believe that the arrested person has a mental illness or is a person with an intellectual disability, the magistrate shall follow the required procedures for early identification of a defendant suspected of having mental illness or intellectual disability; and (4) the record must be retained for at least three years after final judgment is entered in the case or the proceedings are otherwise terminated.

Open Government

S.B. 244 (Bettencourt) – Tax Increment Reinvestment Zone: would make the board of directors of a tax reinvestment zone subject to the Open Meetings Act.

Other Finance and Administration

No finance and administration bills were filed this week.

Personnel

H.B. 792 (Burns) – Dispatcher Alternate Work Schedule: would: (1) allow a city to adopt an alternate work schedule for the police department's dispatchers if a majority of the dispatchers vote in favor; and (2) provide a dispatcher working under an alternate work is entitled to overtime pay if the dispatcher works more hours during a calendar month than the number of hours in the normal work month of the majority of the employees of the city other than fire fighters and police officers.

Purchasing

H.B. 776 (Walle) – Workers’ Compensation Insurance: would require a city that enters into a building or construction contract to require the contractor on the public project to provide a written certificate that any subcontractor on the project provides workers’ compensation insurance for each employee of the subcontractor on the public project.

Transportation

H.B. 795 (Goodwin) – Highway Safety Corridors: would: (1) require the Texas Department of Transportation (TxDOT) to designate as a highway safety corridor a portion of a roadway containing a site with a high number of traffic fatalities, as identified by the city council; (2) require TxDOT to adopt rules regarding the process a city must use to identify a highway safety corridor; and (3) require TxDOT to erect signs along a highway safety corridor reading “Fines double: highway safety corridor.”

Utilities and Environment

H.B. 806 (Gates) – Nonsubmetered Billing: would, among other things, provide that: (1) each municipally owned utility (MOU) that bills for nonsubmetered master metered utility service shall make publicly available for each apartment house, manufactured home rental community, and multiple use facility billed a statement that includes: (a) a current copy of the MOU’s rate structure applicable to the billed service; and (b) a list of fees and charges applicable to the billed service; and (2) a MOU may not charge: (a) a dwelling unit base charge for nonsubmetered master metered utility service if the utility charges a master meter charge for the same apartment house, manufactured home rental community, or multiple use facility; or (b) a master meter charge for nonsubmetered master metered utility service if the charge is based on the number of dwelling units.

H.B. 824 (Bucy) – Municipal Drainage Service Charges: would: (1) authorize a city to exempt property from all or a portion of drainage charges if the property is used as a principle residence of an individual who is a disabled veteran, 65 years of age or older, a veteran of the armed forces of the United States, or a member of the armed services of the United States on active deployment; and (2) authorize a city to impose additional eligibility requirements for an exemption under (1).

H.B. 837 (Lucio) – Certificates of Convenience and Necessity: would provide that the Public Utility Commission (PUC) by rule shall require the municipality or franchised utility to submit a report to the PUC verifying that the municipality or franchised utility has paid all required adequate and just compensation to the retail public utility for obtaining the Certificate of Convenience and Necessity for an annexed area previously served by the retail public utility.

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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