



Legislative UPDATE

January 8, 2021
Number 1

87th Legislative Session Bills to Watch

The Legislature has until March 12 to file bills to be considered during the 140-day legislative session. We will continue to summarize all city-related bills filed and you can find a comprehensive list of those bills [here](#). However, here are a few bills worth noting. We ask all city officials to begin conversations with your state representative and state senator on these important issues.

H.B. 749 (Middleton) – Community Advocacy: would: (1) prohibit a political subdivision from spending public funds to: (a) hire an individual required to register as a lobbyist for the purpose of lobbying a member of the Texas legislature; or (b) pay a nonprofit state association or organization that: (i) primarily represents political subdivisions; and (ii) hires or contracts with an individual required to register as a lobbyist; (2) provide that if a political subdivision engages in activity prohibited by (1), above, a taxpayer or resident of the political subdivision is entitled to injunctive relief to prevent any further prohibited activity or any further payments of public funds; and (3) provide that a taxpayer or resident who prevails in an action under (2), above, is entitled to recover reasonable attorney’s fees and costs from the political subdivision. (Companion bill is **S.B. 234** by **Hall**.)

H.B. 233 (Murr) – Building Materials and Methods: would provide that the prohibition on city regulation of building products, materials, or methods passed by H.B. 2439 in 2019 does not apply to a city with a population of less than 25,000.

H.B. 425 (K. King) – Rural Broadband: would, among other things: (1) create a rural broadband service program; and (2) require the Public Utility Commission to provide financial assistance

from the universal service fund for broadband service providers who elect to participate in the rural broadband service program for the purpose of offering retail broadband service in underserved rural areas of the state at rates comparable to the benchmark rates established by the Federal Communications Commission.

S.B. 154 (Perry) – **Broadband Office**: would, among other things: (1) establish the broadband office within the Texas Public Utility Commission to: (a) facilitate and coordinate the efforts of state agencies and local units of government, including regional planning commissions, in connection with the planning and deployment of broadband projects; (b) develop broadband investment and deployment strategies for rural communities and other areas of this state that are underserved and unserved with respect to broadband; (c) promote and coordinate public sector and private sector broadband solutions in support of statewide broadband development goals; (d) assist and promote local and regional broadband planning; (e) pursue and obtain federal sources of broadband funding; (f) develop a framework to measure broadband access in and designate areas of this state that are underserved and unserved with respect to broadband; (g) develop statewide goals for broadband deployment in rural communities and other underserved and unserved areas; (h) manage and award funds allocated to the broadband office for broadband projects; and (i) serve as an information clearinghouse in relation to federal programs providing assistance to local entities with respect to broadband; and (2) provide that the broadband office shall establish a program to provide grants to private sector broadband providers for projects to provide broadband service in an unserved area.

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.

Don't Forget: Mandatory Hotel Occupancy Tax Reporting

The 50-day window for reporting local hotel occupancy tax information opened January 1, 2021. The reporting deadline is February 20, 2021.

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

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

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

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

Don't Forget: Mandatory Eminent Domain Reporting

Legislation passed in 2015 requires cities to annually fill out a [web-based form](#) with the comptroller relating to each city's statutory eminent domain authority. The three-month reporting period began on November 1, 2020 and closes on February 1, 2021. However, reports may be updated at any time throughout the year. The failure to fill out the form could result in a \$2,000 penalty against a city.

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

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

President's Commission on Law Enforcement and the Administration of Justice Releases Report

In October 2020, President Trump signed the [Executive Order on the Commission on Law Enforcement and the Administration of Justice](#). The Executive Order tasked the Commission to study key issues related to law enforcement and the administration of justice and to make recommendations to the attorney general. The full report can be found [here](#).

The Commission's recommendations are listed below.

PART I: THE RULE OF LAW

1. Prosecutorial authorities who adopt non-enforcement policies should publish such policies and report data on declined cases.
2. States should enact legislation that requires law enforcement agencies to have an independent, external agency that has met minimum training and accreditation standards conduct the criminal investigation of use-of-force incidents that result in death or serious bodily injury.

PART II: THE COMPLEMENTS TO LAW ENFORCEMENT

3. State and local governments should implement or enhance co-located, comprehensive, one-stop-shop systems of care to screen, assess, and treat people with mental illness and substance use disorders that meets the demand of the community, including criminal defendants.
4. Any jurisdiction that eliminates cash bail should first establish a comprehensive pre-trial release program that addresses public and victim safety and flight risk.

PART III: CRIME REDUCTION

5. Congress should provide additional funding to the Department of Justice to increase the number of National Integrated Ballistic Information Network (NIBIN) sites, and the Department of Justice should provide additional grant funding to the Local Law Enforcement Crime Gun Intelligence Centers Integration Initiative.
6. Congress should permanently schedule the entire class of fentanyl and related analogues.

PART IV: INNOVATIONS

7. Congress should pass legislation mandating communications and electronic data services manage encrypted data in a manner that allows court-ordered access by law enforcement.
8. The Department of Justice should fund an expansion of real time crime centers (RTCCs) along with the development of technology tools that provide RTCCs the ability to identify and disseminate crime intelligence, analyze crime patterns, and develop strategies for reducing crime.

PART V: LAW ENFORCEMENT RESOURCES

9. Congress should establish and fund a national law enforcement crisis hotline.

10. The federal government should establish a comprehensive educational benefit for individuals who commit to a law enforcement career.

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. 951 (Raymond) – Property Appraisal: would require the chief appraiser to exclude from the market value of real property any improvement, or feature incorporated into an improvement, made to a property if the primary purpose of the improvement or feature is compliance with the requirements of the 2010 Americans with Disabilities Act Standards for Accessible Design or any successor standards. (See **H.J.R. 50**, below.)

H.B. 952 (Raymond) – Property Tax Appraisal: would provide that land qualifies for appraisal as qualified open-space land if it: (1) is currently devoted principally to agricultural use to the degree of intensity generally accepted in the area; and (2) was acquired by a person who owns land that is: (a) appraised as qualified open-space land; and (b) adjacent to the land acquired.

H.J.R. 50 (Raymond) – Property Tax Exemption: would amend the Texas Constitution to authorize the legislature to exclude from the market value of real property any improvement, or feature incorporated into an improvement, made to a property if the primary purpose of the improvement or feature is compliance with the requirements of the 2010 Americans with Disabilities Act Standards for Accessible Design or any successor standards. (See **H.B. 951**, above.)

Public Safety

H.B. 919 (Leman) – Federal Firearms Regulations: would: (1) prohibit a city council or an officer, employee, or other body that is part of a city (including a police department) from adopting a rule, order, ordinance, or policy under which the city enforces, or allows the enforcement of, a federal statute, order, rule, or regulation enacted on or after September 1, 2021, that purports to regulate a firearm, a firearm accessory, or firearm ammunition if the statute, order, rule, or regulation imposes a prohibition, restriction, or other regulation, such as a capacity or size limitation, a registration requirement, or a background check, that does not exist under Texas law; and (2) provide that a violation of the prohibition in (1) may be enforced: (a) by denying state grant funds to the city; and (b) through court action by the attorney general.

H.B. 929 (Sherman) – Body Worn Cameras: This bill known as the “Botham Jean Act,” would, among things: (1) require a body worn camera policy include provisions related to collection of a body worn camera, including the applicable video and audio recorded by the camera, as evidence; (2) amend current law to provide that, other than in a non-confrontational encounter with a person, a peace officer who participates in an investigation of the offense of intentionally or knowingly deactivating a recording device being used in the investigation shall keep a body worn camera activated for the entirety of the investigation unless the camera has been collected as evidence by another peace officer in accordance with a body worn camera policy or applicable law; (3) provide that body worn camera recording is confidential and not subject to disclosure under the Public Information Act if: (a) the recording documents a victim of a crime expressing a clear and unambiguous desire to not be recorded or allow the recording to be made available to the public; (b) the recording documents a person providing assistance to a law enforcement investigation and expressing a clear and unambiguous desire to not be recorded or provide the assistance in an anonymous manner; (c) the recording documents a child younger than 17 years of age; or (d) the recording was made: (i) on the grounds of any public or private primary or secondary school; or (ii) inside a home by a peace officer who entered the home with either a warrant, with consent or under lawfully authorized exigent circumstances; (4) provide that a person commits a felony of the third degree if the person knows that an investigation (defined as an inquiry conducted by a law enforcement agency to determine whether a person has committed an offense or an employee of a law enforcement agency has violated policy, order, rule or other regulation of the agency) is ongoing and intentionally or knowingly deactivates, orders the deactivation of, or causes to be deactivated a recording device, including a dash cam, a body worn camera, and an alarm system, being used in the investigation; and (5) provide that it is an affirmative defense to prosecution for an offense defined in (4), above, that: (a) a peace officer, other than the peace officer to whom the body worn camera was issued, deactivated the camera in accordance with any policy adopted by the employing law enforcement agency regarding collection of evidence and applicable law; or (b) a non-peace officer deactivated the recording device at the request or command of a peace officer and such request or command was made in accordance with any policy adopted by the employing law enforcement agency regarding collection of evidence and applicable law.

H.B. 957 (Oliveron) – Federal Firearm Regulations: would: (1) prohibit a city council or an officer, employee, or other body that is part of a city (including a police department) from adopting a rule, order, ordinance, or policy under which the city enforces, or allows the enforcement of, a federal statute, order, rule, or regulation that purports to regulate a firearm suppressor if the statute, order, rule, or regulation imposes a prohibition, restriction, or other regulation that does not exist under Texas law; and (2) provide that a violation of the prohibition in (1) may be enforced: (a) by denying state grant funds to the city; and (b) through court action by the attorney general.

H.B. 959 (Reynolds) – Civilian Complaint Board: would create, in a city with a population of 500,000 or more, a civilian complaint review board with, among other things, the authority to: (1) investigate complaints alleging peace officer misconduct that involve: (a) excessive use of force; (b) improper use of power to threaten, intimidate, or otherwise mistreat a member of the public; (c) a threat of force; (d) an unlawful act, search, or seizure; or (e) other abuses of authority; and (2) issue subpoenas.

S.B. 250 (Alvarado) – Medical Marihuana: would: (1) authorize the possession, use, cultivation, distribution, transportation, and delivery of medical cannabis for medical use by patients for whom a physician determines medical use is the best available treatment for the patient’s medical condition or symptoms; (2) authorize the licensing of dispensing organizations; (3) authorize an application fee for licenses to operate a dispensing organization; and (4) prevent political subdivisions 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.

S.B. 269 (West) – Marihuana: would: (1) authorize the cultivation, manufacture, processing, distribution, sale, testing, transportation, delivery, transfer, possession, and use of cannabis and cannabis products; (2) allocate tax revenue derived from cannabis and cannabis products as follows: (a) 33 percent to the cannabis regulation account, (b) 33 percent to the cannabis testing and quality control account, and (c) the remainder the Public School Teacher Salary Support Account; (3) authorize the imposition of licensing and application fees; (4) require an occupational license; (5) create a criminal offense relating to distribution of cannabis to a minor; (6) prevent political subdivisions from enacting, adopting, or enforcing a rule, ordinance, resolution, or other regulation that prohibits or unreasonably restricts the cultivation, production, processing, dispensing, transportation or possession of cannabis or cannabis products or the operation of a cannabis grower, cannabis establishment, cannabis secure transporter, or cannabis testing facility as authorized by the bill; and (7) allow a political subdivision to adopt regulations consistent with the bill governing the hours of operation, location manner of conducting business, and number of cannabis growers, cannabis establishments, or cannabis testing facilities.

Sales Tax

H.B. 940 (Raymond) – Sales Tax Exemption: would exempt the sale of malt beverages on July 4 from sales taxes if the seller holds a wine and malt beverage retailer’s off-premise permit.

H.B. 950 (Raymond) – Sales Tax Elections: would: (1) authorize cities that have adopted sales taxes to support venue projects and that have outstanding bonded indebtedness relating to those projects to hold elections to convert all or a portion of their sales taxes dedicated to the venue project to a Type A or Type B economic development corporation; and (2) provide that a conversion under (1), above, takes effect on the first day after the date all bonds in support of the venue project, including refunding bonds, have been paid in full or the full amount of money, exclusive of guaranteed interest, necessary to pay the bonds in full has been set aside in a trust account dedicated to the payment of the bonds.

Community and Economic Development

H.B. 861 (Thierry) – Homelessness: would require the Texas Interagency Council for the Homeless to conduct a study to evaluate the feasibility, methods, and costs of establishing and implementing a program that provides financial assistance to property owners who offer housing to veterans at risk of homelessness.

H.B. 875 (Lopez) – Housing Discrimination: would: (1) prohibit housing discrimination under the Texas Fair Housing Act on the basis of age or housing needs; and (2) prohibit the Texas Workforce Commission from deferring proceedings and referring a complaint about discrimination described in (1) to a city if the city does not have laws prohibiting the alleged discrimination.

H.B. 891 (Bernal) – Homelessness: would provide that upon request of a homeless individual, the state registrar, a local registrar, or a county clerk must issue, without fee, a certified copy of the individual's birth record.

S.B. 265 (West) – Housing Discrimination: would: (1) prohibit housing discrimination under the Texas Fair Housing Act on the basis of source of income; and (2) prohibit the Texas Workforce Commission from deferring proceedings and referring a complaint about discrimination described in (1) to a city if the city does not have laws prohibiting the alleged discrimination.

Elections

H.B. 856 (Bucy) – 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 a polling place at which the person would be allowed to vote if the person submits a voter registration application, presents adequate proof of identification, and submits an affidavit stating the person is eligible to vote and voting only once in the election on the day the person offers to vote.

H.B. 4167 (Bucy) – Changing Residence: would, among other things: (1) provide that an election officer serving a polling place shall be a deputy voter registrar and shall have the same authority as a regular deputy registrar; (2) provide that, after changing residence to another county, a person must be accepted for provisional voting if: (a) the person would have been eligible to vote in the county the person formerly resided in on election day if the person was still residing in that county; (b) the person is registered to vote in the county the person formerly resided in at the time the person offers to vote in the county the person currently resides in or submitted a voter registration application in the county the person currently resides in; (c) the person's voter registration for the county the person currently resides in is not effective on or before election day; and (d) in the county the person currently resides in, the person offers to vote: (i) at any polling place during the early voting period; (ii) at any polling place on election day if the county participates in the countywide polling place program; or (iii) at the polling place of the precinct in which the person resides on election day if the county does not participate in the countywide polling place program; and (3) require the form for a provisional voting affidavit to include a space for entering the precinct number of the precinct in which the voter voted and the name of the county in which the voter is registered to vote.

H.B. 895 (Swanson) – Voter Identification: would: (1) authorize an election officer to copy identifying documentation presented by a voter or record information from the identifying documentation; (2) authorize an election officer to photograph the entire face of a voter who is

accepted for voting if: (a) the identifying documentation presented by a voter is not documentation issued by the Department of Public Safety containing the person's photograph; or (b) the election official questions the authenticity of the identifying documentation presented by a voter, regardless of whether the documentation is issued by the Department of Public Safety and contains the person's photograph; (3) provide that a voter may be photographed under (2), above, only while being accepted for voting and may not be photographed while the voter is occupying a voting station; (4) make information copied or recorded under (1) or (2), above, confidential except for use in a criminal investigation or prosecution or a civil court proceeding; and (5) require all information collected under (1) and (2), above, to be provided to the secretary of state for election-related purposes.

S.B. 246 (Alvarado) – Voter Registration: would require the secretary of state to implement a program to allow a person who has an unexpired Texas driver's license or personal identification card to complete an electronic voter registration application over the Internet.

S.B. 268 (West) – 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. (Companion bill is **H.B. 160** by **Zwiener**.)

Emergency Management

H.B. 888 (Patterson) – Communicable Disease Contact Tracing: would: (1) allow the Department of State Health Services (Department) or a health authority to employ or contract for contact tracers if it is necessary to perform a public health duty required by law; (2) require the executive director of the Department to adopt rules regarding the qualification and training requirements for contact tracers; (3) prohibit a contact tracer from disclosing to a contact the identity of an infected individual; (4) prohibit the Department, a health authority, or a contact tracer from producing contact tracing data under a subpoena, unless the subpoena is issued by a court and accompanied by a protective order preventing further disclosure of the data; (5) require the Department, a health authority, or a contact tracer to: (a) use contact data only for contact tracing purposes; and (b) ensure contact data remains confidential; (6) prohibit the Department, a health authority, or a contact tracer from releasing or disclosing contact data unless it is necessary to conduct contact tracing and meets certain other requirements, and require the data be safely and securely destroyed when no longer necessary for contact tracing; (7) prohibit the Department, a health authority, or a contract tracer from either requiring or prohibiting an individual from participating in contact tracing; (8) prohibit the Department, a health authority, or a contract tracer from using location data obtained from a cell phone, or other device through which personal wireless services are transmitted, to identify or track the movement of individuals for contact tracing purposes, unless the individual elects to authorize the location data for that purpose; (9) allow a contact tracer to obtain contact data collected and maintained by a third-party only with the consent of the infected individual or contact whose information is disclosed, or if the data is provided pursuant to a valid warrant; (10) require the Department or a health authority to implement procedures to protect from unlawful use or disclosure any contact data collected, and

require that contact data be destroyed if the information is not required to be retained; (11) provide that, for purposes of the Tort Claims Act, a contact tracer employed by, contracted by, or otherwise providing services to the Department or a health authority is considered an employee; and (12) provide for criminal and civil enforcement of the requirements in (1)-(10).

H.B. 899 (Middleton) – Violation of Emergency Order: would provide that a state department, commission, board, officer or other state agency that issues a license may not revoke, suspend or refuse to renew a license, reprimand a license holder, impose an administrative penalty on a license holder, or take any other disciplinary action against a license holder based on the license holder's failure to comply with a state, local or interjurisdictional emergency management plan or with a rule, order or ordinance adopted under the plan.

H.B. 905 (Krause) – Limitation on Compensation: would provide, among other things, that if the presiding officer of the governing body of a city or county or the chief administrative officer of a joint board declares a local state of disaster, other than an order to evacuate all or part of a population from a stricken or threatened area, and under that order or proclamation restricts or prohibits the regular business operations of any private business, the city, county or joint board, as applicable, shall: (1) withhold the officer's regular compensation during the period that the restrictions or prohibitions are in effect; and (2) reduce the officer's compensation for the appropriate fiscal year by the total amount withheld under (1), above.

H.B. 906 (Krause) – Prohibited Orders: would prohibit the governor or the presiding officer of the governing body of a political subdivision, including a city, from issuing an order during a declared state of disaster or local state of disaster that restricts: (1) the operation of a business or industry; or (2) the activities of an individual by distinguishing between essential and nonessential services provided or obtained by the business, industry or individual.

H.J.R. 47 (Krause) – Special Legislative Session: would amend the Texas Constitution to provide that: (1) the governor shall convene a special legislative session when the governor proposes to renew an order or proclamation declaring a state of disaster or emergency; (2) in a special session convened under (1), above, the legislature may: (a) renew or extend the state of disaster or emergency; (b) respond to the state of disaster or emergency, including by: (i) passing laws and resolutions the legislature determines are related to the state of disaster or emergency; and (ii) exercising the powers reserved to the legislature by the Texas Constitution; and (c) consider any other subjects stated in the governor's proclamation convening the special session; and (3) a state of disaster or emergency declared by the governor may not continue for more than 30 days unless it is renewed or extended by the legislature in such convened special legislative session.

S.B. 251 (Paxton) – Religious Freedom: would provide that: (1) for purposes of a disaster, the Texas Religious Freedom Restoration Act is not considered a regulatory statute and may not be suspended; and (2) a government agency or public official may not issue an order that closes or has the effect of closing places of worship in the state or in a geographic area of the state.

Municipal Courts

H.B. 859 (Collier) – Deferred Adjudication: would provide that a person who has been placed under a custodial or noncustodial arrest for an offense is entitled to the expunction of all records and files related to the arrest in certain circumstances, including if the person is placed on deferred adjudication community supervision.

H.B. 970 (Dutton) – Prosecutorial Transparency: would, among other things: (1) require a prosecutor's office to: (a) collect and disclose certain information for each case prosecuted by the office; (b) maintain the information in (1)(a) until at least the 10th anniversary of the date of the alleged offense that is subject of the case; (c) collect and publish all office policies, including specified policies, and affirmatively disclose if the prosecutor's office does not have some of the specified policies; (d) collect and publish certain information for each attorney employed in the office, redacting the names and other personally identifying information or otherwise ensuring the anonymity of each attorney; (e) collect and publish the number of employees by titles and number of cases handled by an attorney each year, among other things; (f) make the information mentioned above publicly available by posting the information on the office's Internet website and making the information available on request; and (g) report the information in (1)(a) to the Office of Court Administration of the Texas Judicial System (OCA); (2) require the OCA to implement a schedule and plan for all prosecutor's offices in the state to report the information in (1)(a); (3) establish an advisory board to advise the OCA concerning prosecutorial transparency; (4) make a prosecutor's office ineligible to receive funding from the state's general revenue fund or other fund or any state grant program administered by the attorney general or other entity controlling grants to prosecutors if OCA determines the prosecutor's office is in noncompliance with the bill; (5) require OCA to report noncompliant prosecutor's offices to comptroller and the Legislative Budget Board; and (6) allow prosecutor's offices to refer requestors under the Public Information Act (PIA) to the website containing the information in response to a PIA request.

S.B. 281 (Hinojosa) – Hypnotically Induced Testimony: would provide that the testimony of a person obtained by hypnotizing the person is not admissible against a defendant in a criminal trial, whether offered in the guilt or innocence phase or the punishment phase of the trial.

Open Government

No Open Government bills were filed this week.

Other Finance and Administration

H.B. 873 (Collier) – Unlawful Restraint of Dog: would: (1) prohibit and create a criminal offense for the unlawful restraint of a dog; and (2) provide that the prohibition in (1) does not preempt a local regulation relating to the restraint of a dog or affect the authority of a political subdivision to adopt or enforce an ordinance or requirement relating to the restraint of a dog if the regulation, ordinance, or requirement: (a) is compatible with and equal to, or more stringent than, the

prohibition; or (b) relates to an issue not specifically addressed by the prohibition. (Companion bill is **H.B. 386** by **Pacheco**.)

H.B. 874 (Lopez) – Birth Records of Homeless Person: would require a state registrar, a local registrar, or a counter clerk to issue a homeless individual’s birth record to the homeless individual without a fee.

H.B. 886 (Rosenthal) – Rental Housing: would repeal the provisions in current law that generally prohibit a city or county from adopting or enforcing an ordinance or regulation that prohibits an owner, lessee, sublessee, assignee, managing agent, or other person having the right to lease, sublease, or rent a housing accommodation from refusing to lease or rent the housing accommodation to a person because the person’s lawful source of income to pay rent includes funding from a federal housing assistance program.

H.B. 901 (Burns) – Eminent Domain: would: (1) provide that a private entity is subject to numerous additional processes and remedies throughout the eminent domain process; (2) for any eminent domain proceeding, require the judge of a court in which a condemnation petition is filed or to which an eminent domain case is assigned to, not later than the 30th day after the date the property owner received notice that the petition was filed, appoint three special commissioners and two alternate special commissioners; (3) require the judge appointing the special commissioners under (2), above, to give preference to any persons agreed on by the parties before the court appoints the special commissioners; and (4) provide that each party shall have 15 days after the date the property owner received notice of the appointment of the special commissioners to strike one of the three special commissioners, in which case an alternate special commissioner shall serve as a replacement for the special commissioner based on the order that the alternate special commissioners are listed in the initial order of appointment.

H.B. 902 (Burns) – Eminent Domain: would make several changes to the eminent domain process. Of primary importance to cities, the bill would:

1. Require the attorney general to establish an ombudsman office for the purpose of providing information to landowners whose real property may be acquired by a governmental or private entity through the use of the entity’s eminent domain authority;
2. Require the attorney general to make available on the attorney general’s website a landowner’s bill of rights that is written in plain language designated to be easily understood by the average property owner, and include the required language in statute;
3. Provide that a person may not receive state certification to buy, sell, lease, or transfer an easement or right-of-way for another for compensation in connection with telecommunication, utility, railroad, or pipeline service unless the person successfully completes at least 16 classroom hours of coursework every two years approved by the Texas Real Estate Commission in:
 - a. the law of eminent domain, including the rights of property owners;
 - b. appropriate standards of professionalism in contacting and conducting negotiations with property owners; and
 - c. ethical considerations in the performance of right-of-way acquisition services;

4. Provide that an entity with eminent domain authority must provide a copy of the landowner's bill of rights statement to a landowner at or before the first in-person contact unless the entity expressly states, at that time, it will not seek to file a condemnation petition;
5. Provide that an entity with eminent domain authority makes a bona fide offer when the entity's initial offer is made in writing and includes:
 - a. a copy of the landowner's bill of rights, unless the entity has previously provided a copy of the statement to the property owner;
 - b. an offer of compensation in an amount equal to or greater than one of the following:
 - i. the market value of the property rights sought to be acquired, based on an appraisal of the property prepared by a certified general appraiser;
 - ii. the estimated price or market value of the property rights sought to be acquired based on data for at least three comparable arm's-length sales of a property;
 - iii. the estimated price or market value of the property rights sought to be acquired based on a comparative market analysis prepared by a licensed real estate broker or certified general appraiser;
 - iv. the estimated price of the property rights sought to be acquired based on a broker price opinion prepared by a licensed real estate broker;
 - v. the estimated market value of the property rights sought to be acquired based on a market study prepared by a licensed real estate broker or a certified general appraiser; or
 - vi. 150 percent of the per acre value for each acre or part of an acre sought to be acquired, based on the total land value for the whole property out of which the property rights are sought to be acquired, as reflected in the most recent tax rolls.
 - c. as applicable, the complete written report, or a brief written summary, that forms the basis of the amount of the offer of compensation in 5b above;
 - d. an instrument of conveyance, as applicable; and
 - e. the name and telephone number of a representative of the entity;
6. Specify the exact terms that must be included in an instrument of conveyance of an easement associated with the exercise of eminent domain authority;
7. Require the judge of a court in which a condemnation petition is filed or to which an eminent domain case is assigned to, not later than the 15th calendar day after the date the petition is filed, appoint three special commissioners and two alternate special commissioners;
8. Provide that each party shall have seven calendar days after the date of the order appointing the special commissioners to strike one of the three special commissioners, in which case an alternate special commissioner shall serve as a replacement for the special commissioner based on the order that the alternate special commissioners are listed in the initial order of appointment;
9. Require the special commissioners in an eminent domain proceeding to schedule a hearing to occur not earlier than the 20th day or later than the 40th day after the date the special commissioners were appointed, unless otherwise agreed to by the parties; and
10. Authorize a special commissioners hearing to be held by videoconference at the request of either party.

H.B. 904 (Bucy) – Election Day Holiday: would designate the first Tuesday after the first Monday in November of an even-numbered year as a state holiday. (Companion bill is **H.B. 596** by **Sherman**.)

H.B. 914 (Hernandez) – Vehicle Parking: would: (1) in order to aid in the enforcement of an ordinance regulating the operation of vehicles for hire, allow a home rule city to authorize an employee to initiate the removal and storage of a vehicle operated in violation of its ordinance without authorization by a peace officer; and (2) in order to aid in the enforcement of an ordinance regulating parking, allow a city to authorize an employee to initiate the removal and storage of a vehicle in an area where on-street parking is regulated and that: (a) is parked illegally; or (b) is parked legally, but has been unattended for more than 48 hours and is reasonably believed to be abandoned.

H.B. 928 (Sherman) – Sale and Marketing of Catfish: would: (1) define “catfish” as any species of the scientific family Ictaluridae and not any species of the scientific genus Pangasius, family Claridae or family Siluridae, including Swai fish; (2) require a food service establishment that offers a food product for sale to: (a) represent and identify a product as catfish only if the product contains catfish; and (b) conspicuously identify the type of fish contained in the product description on the menu if the item does not contain catfish but a fish similar to catfish; (3) provide that a public health district, the Department of State Health Services, or a county that requires a food service establishment to hold a permit may impose an administrative and/or civil penalty against a food service establishment that violates the bill; and (4) provide that the attorney general, district or county attorney for the county, or the municipal attorney of the municipality in which the violation is alleged to have occurred may bring an action to recover a civil penalty under the bill.

S.B. 252 (Bettencourt) – Abuse of Official Capacity: would: (1) provide that a public servant commits an offense if, with intent to obtain or bestow a benefit or with intent to harm or defraud another, the public servant intentionally or knowingly misuses non-government personal property or any other thing of value, including art work, that has come into the public servant's custody or possession by virtue of the public servant's office or employment by storing or refurbishing the personal property at government expense, without public benefit; and (2) give the attorney general concurrent jurisdiction with a local prosecutor to prosecute any abuse of office offense (i.e., any offense under Chapter 39, Texas Penal Code).

S.B. 276 (Hinojosa) – Animal Shelters: would require an animal shelter to: (1) quarantine an animal with an infectious disease until the animal is no longer infectious; and (2) provide notice to a person who leaves an animal with the shelter to receive veterinary care of: (a) any animal at the shelter with an infectious disease at the time the person’s animal is brought to or picked up from the shelter; and (b) an animal at the shelter diagnosed with an infectious disease during the time the person’s animal is under the care of the shelter.

S.B. 275 (Hinojosa) – Falsely Implying Governmental Affiliation: would provide that: (1) a governmental unit is entitled to injunctive relief if another person’s use of an entity name might falsely imply governmental affiliation with the governmental unit; and (2) if a court finds that the

person against whom injunctive relief is sought willfully intended to imply governmental affiliation with the governmental unit, the court has discretion to enter judgment in an amount not to exceed three times the amount of the entity's profits and the governmental unit's damages and award reasonable attorney's fees to the governmental unit.

S.B. 278 (Hinojosa) – Navigation Districts: would, among other things, authorize a navigation district to act to prevent, detect, and fight a fire or explosion or hazardous material incident that occurs on, or adjacent to, a waterway, channel, or turning basin that is located in the district's territory, regardless of whether the waterway, channel, or turning basin is located in the corporate limits of a city.

Personnel

S.B. 255 (Menéndez) – Unemployment Compensation: would: (1) provide that a person who has received unemployment compensation benefits to which the person was not entitled solely due to Texas Workforce Commission error is not liable for the amount of those benefits; and (2) prohibit the Texas Workforce Commission from seeking to recover the benefits described in (1).

Purchasing

H.B. 863 (Romero) – Public Works Contracts: would: (1) prohibit a contractor who is awarded a public works contract by a public body (including a city) or such contractor's subcontractor from improperly classifying a worker employed by said contractor or subcontractor as an independent contractor for the purpose of avoiding to pay the worker the prevailing wage rate; (2) impose a penalty of \$90 to each contractor or subcontractor for each worker misclassified as an independent contractor for each calendar day or part of the day that the worker is misclassified; (3) require that the public body include the penalty described under (2) in the contract; (4) require an audit, by the public body, of the public work contract for compliance with the provisions of (2) throughout the term of the contract and not later than the 30th day before the date the work is scheduled to be completed on the contract; and (5) provide that payment of wages for a public work may only be satisfied by payment to the employee in the form of per diem wages.

H.B. 923 (Reynolds) – Professional Services: would add attorneys to the list of professionals that must be procured according to the Professional Services Procurement Act.

Transportation

H.B. 934 (Raymond) – Motor-Assisted Scooters: would: (1) provide that a person may operate a motor-assisted scooter (scooter) on a street or highway only: (a) in a bicycle lane; or (b) on a street or highway without a bicycle lane if the posted speed limit is 30 miles per hour or less and the operator complies with certain other requirements; (2) authorize a city to: (a) further restrict the speed at which and locations a person may operate a scooter; (b) impose a minimum age requirement for the operator of a scooter; (c) impose higher penalties for a violation of a traffic

law by an operator of a scooter; (d) restrict the locations a person may park a scooter; and (e) require the operator of a scooter to wear a safety helmet; (3) prohibit a person from using a scooter to carry more than one person; (4) limit the speed of a scooter to 15 miles per hour if the person is standing, or 20 miles per hour if the person is seated; and (5) require a person operating a scooter to yield the right-of-way to a pedestrian.

Utilities and Environment

H.B. 872 (Bernal) – Confidentiality of Government-Operated Utility Customer Information: would: (1) provide that information is excepted from disclosure under the Public Information Act if it is information maintained by a government-operated utility that: (a) discloses whether services have been discontinued or are eligible for disconnection by the government-operated utility; or (b) is collected as part of an advanced metering system for usage, services, and billing, including amounts billed or collected for utility usage, except that all such information is to be made available to that customer or their designated representative; (2) amend the existing confidentiality provision for personal and utility usage information for government-operated utility customers by making that information confidential unless the customer requests that the government-operated utility disclose such information on an appropriately marked form or other written request for disclosure (Note: current law makes personal information and utility usage information confidential only if the customer elects to keep the information confidential on a form provided by the government-operated utility); and (3) provide that a government-operated utility may post notice of the customer's right to request disclosure of personal and utility usage information, along with the form to elect for disclosure, on the government-operated utility's website in lieu of sending the notice and form with each customer's utility bill.

H.B. 884 (Harris) – Local Government Regulations based on Utility Service Type: would: (1) prohibit a political subdivision from issuing a building permit based on the type of utility service provided to the project; (2) require a political subdivision issuing a building permit to ensure that all applicable permits and fees contain requirements and amounts that do not: (a) exceed the requirements and amounts for the use of other types of utility services; or (b) have the effect of restricting a permit applicant's ability to use a specific type of utility service from a provider that is authorized to provide service; (3) provide that an ordinance, order, or other regulation adopted by a political subdivision may not restrict a person's ability to use a specific type of utility service from a provider that is authorized to provide service; and (4) prohibit a political subdivision from imposing a fine, penalty, or other requirement based on type of utility service that has the effect of restricting a utility provider's authority to operate or serve customers.

H.B. 889 (Dutton) – Concrete Plant Permitting: would provide that a representative of a school, place of worship, licensed day-care center, hospital, medical facility, or a person residing within 440 yards of a proposed wet batching, dry batching, or central mixing concrete plant may request a public hearing prior to the construction or permitting of the concrete plant.

H.B. 960 (Allen) – Texas Commission on Environmental Quality Public Meetings: would require a public meeting for certain permits issued by the Texas Commission on Environmental

Quality that are held on the request of a member of the legislature to be held in the house district in which the facility or proposed facility is located or proposed to be located.

H.B. 963 (Lozano) – Natural Gas Vehicle Grant Program: would expand the natural gas vehicle grant program to fund a used natural gas vehicle of model year 2017 or later that is proposed to replace an on-road heavy-duty or medium-duty motor vehicle, provided that the model year may not be more than six years older than the current model year at the time of the submission of the grant application.

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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