



# Legislative UPDATE

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Number 4

## **Congress to Consider Additional Stimulus Measures**

President Joe Biden is working with the new Congress to pass another economic stimulus and relief package that will include another round of stimulus checks, funding for a nationwide vaccine distribution effort, and aid to states and cities affected by the pandemic. Please join mayors across Texas in [signing this letter](#) urging our Congressional delegation to provide direct and flexible assistance to Texas cities. Mayors interested in signing on to the letter, please email your name, city, and electronic signature to [jj@tml.org](mailto:jj@tml.org) by **3:00 p.m. on Monday, February 1** to be included.

## **Favorable Attorney General Opinion: Subdivision Platting Legislation Clarified**

Last Tuesday, the attorney general's office issued [Opinion No. KP-0349](#), which clarifies some of the comprehensive changes made to the development approval processes by H.B. 3167 (2019). That law required some cities to make changes to their subdivision ordinance, zoning ordinance, and/or unified development code procedures.

League staff has prepared an updated, [comprehensive Q&A](#) on the law, which includes a procedures chart. Essentially, the law requires a city to take action on a plat or development plan submission with a certain time period, and it requires specific justification for a conditional approval or denial.

The opinion approves of a standard city practice: A city “checklist” requirement to ensure completeness of an application. That practice is designed to benefit both an applicant and the city by ensuring that everything required by the law (and a city ordinance) is provided at the time of submission. The opinion cited that process as acceptable:

Nothing in the language of chapters 212...directs local entities to require developers to complete certain prerequisites prior to acceptance of a plan or plat application, but it likewise does not expressly prohibit a municipality or county from requiring applicants to obtain certain approvals before submitting a plat or plan. While sections 212.009(a) and 232.0025(d) establish a thirty-day period in which a local jurisdiction must act on a plan or plat after filing, they do not provide an exhaustive list of what an applicant must include with that filing.

The request also asked whether a city can conditionally approve or deny a plat or plan with generic, instead of specific, reasons. The opinion concludes that the law requires “specific reasons with accompanying citations to law for anything other than full approval of a plan or plat.” It also concludes that, if a city fails to adequately explain the reasoning for a conditional approval or denial, the plat or plan is automatically approved. Those conclusions aren’t controversial – they are based on the plain meaning of the law.

The League filed comments on the request urging the outcome described above.

It is highly likely that legislation will be filed to eliminate the authority for completeness reviews.

## **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 Censorship**: 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.

**H.B. 1030 (Shaheen)** – **Newspaper Notice:** would: (1) allow a political subdivision to satisfy any law that requires notice to be published in a newspaper by publishing the notice in the following locations: (a) social media, free newspapers, school newspapers, a homeowners' association newsletter or magazine, utility bills, direct mailings, or any other form of media authorized by the comptroller; and (b) the internet websites maintained by the political subdivision and the comptroller; (2) provide that before providing notice under (1), a political subdivision must hold a public meeting about the alternative notice under (1)(a) and demonstrate that the circulation will be greater than the circulation of the newspaper with the greatest circulation in the political subdivision; (3) authorize the comptroller to grant a city's request for a waiver from (1)(b) if the city provides sufficient proof that Internet access is limited in the city, and if the comptroller grants the waiver, the city must provide additional notice on a public agenda board within the city; (4) require a city using alternative media described in (1)(a) to submit notice to the comptroller describing the alternative notice method in (1)(a) and certain other information; (5) authorize the comptroller to require a political subdivision to provide notice in a newspaper if the comptroller determines that the means under (1)(a) do not have greater circulation than a newspaper with the greatest circulation in the political subdivision; and (6) require the comptroller to prepare a report identifying and comparing the effectiveness of different methods of notice publication used by

political subdivisions and provide the report to the governor, lieutenant governor, and the speaker of the house.

**H.B. 1241 (Shine)** – **Annexation of Rights-of-Way**: would provide that: (1) a city annexing an area on request of the owners, an area with less than 200 population by petition, an area with at least 200 population by election, or certain special districts may also annex with the area: (a) the right-of-way of a street, highway, alley or other public way or of a railway line spur, or roadbed that is contiguous to the city’s boundaries and the area being annexed or a right-of-way described in (b); or (b) the right-of-way of a public road or highway connecting the area being annexed to the city by the most direct route; (2) a city may only annex a right-of-way described under (1) if the city: (a) provides written notice of the annexation to the owner of the right-of-way not later than the 61st day before the date of the proposed annexation; and (b) the owner of the right-of-way does not submit a written objection to the city before the date of the proposed annexation; and (3) certain width requirements do not apply to the annexation of a right-of-way under (1). (Companion bill is **S.B. 374** by Seliger.)

**S.B. 402 (Johnson)** – **Street Maintenance Sales Tax**: would, among other things, provide that: (1) for a city in which a majority of the voters voting in each of the last two consecutive elections concerning the adoption or reauthorization of the street maintenance sales tax favored adoption or reauthorization and in which the tax has not expired since the first of those two consecutive elections, the city may call an election to reauthorize the tax for a period of eight or ten years, instead of four years; and (2) revenue from the street maintenance sales tax may be used to maintain and repair: (a) a city street or sidewalk; and (b) a city water, wastewater, or stormwater system located in the width of a way of a city street.

## **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.

## **Applications for Financial Assistance from the Texas Water Development Board's State Water Implementation Fund for Texas Program Are Due February 1**

The application period for the 2021 funding cycle of the State Water Implementation Fund for Texas (SWIFT) program will close at **midnight on Monday, February 1**. Funding is available to political subdivisions in the state, which includes cities.

The SWIFT program, managed by the Texas Water Development Board (TWDB), helps communities develop and optimize water supplies at cost-effective rates. The program provides low-interest financing, extended repayment terms, deferral of repayments, and incremental repurchase terms for projects with state ownership aspects. It also includes additional interest rate subsidies for rural and agricultural projects.

Abridged applications may be submitted via the TWDB's [online application system](#) or by [paper copy](#). More information on the SWIFT program is available on [TWDB's website](#).

### **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 **Monday, 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](mailto:transparency@cpa.texas.gov) or (844) 519-5676.

### **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](mailto:transparency@cpa.texas.gov) or (844) 519-5676.

## **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. 1166 (Metcalf) – Appraisal District:** would, among other things, require the chief appraiser of an appraisal district to be elected at the general election for state and county officers every two years.

**H.B. 1167 (Metcalf) – Appraisal Review Boards:** would, among other things, provide that: (1) an appraisal review board consists of five members elected by the voters of the county in which the appraisal district is established at the general election for state and county officers; and (2) the members of the appraisal review board serve two-year terms, beginning on January 1<sup>st</sup> of odd-numbered years.

**H.B. 1168 (Metcalf) – Appraisal District:** would, among other things, provide that: (1) an appraisal district is governed by a board of five directors; (2) one director is elected from each of the four commissioners precincts of the county for which the appraisal district is established; and (3) one director is elected at large from the county; and (4) the directors other than the county assessor-collector, who is a non-voting director, are elected at the general election for state and county officers and serve two-year terms beginning on January 1 of odd-numbered years.

**H.B. 1197 (Metcalf) – Property Tax Exemption:** would extend from six years to ten years the amount of time that a tract of land that is contiguous to the tract of land on which a religious organization's place of regular religious worship is located may be exempted from property taxes when the religious organization is expanding or constructing a new place of religious worship.

**H.B. 1279 (Kacal) – Property Tax Exemption:** would provide that an individual is entitled to a local option property tax exemption by a taxing unit of a percentage, not to exceed five percent, of the appraised value of the individual’s residence homestead if: (1) the individual is a qualifying volunteer first responder; and (2) the exemption is adopted by the governing body of the taxing unit. (See **H.J.R. 70**, below.)

**H.B. 1283 (Wilson) – Property Tax Freeze:** would expand the existing law authorizing cities to adopt a property tax freeze on the residence homestead of individuals who are elderly or disabled and their surviving spouses to all taxing units other than school districts. (See **H.J.R. 71**, below.)

**H.J.R. 70 (Kacal) – Property Tax Exemption:** would amend the Texas Constitution to authorize the governing body of a political subdivision to exempt from property taxation a percentage, not to exceed five percent, of the appraised value of the residence homestead of a volunteer first responder. (See **H.B. 1279**, above.)

**H.J.R. 71 (Wilson) – Property Tax Freeze:** would amend the Texas Constitution to authorize a political subdivision other than a school district to adopt a property tax freeze on the residence homestead of individuals who are elderly or disabled and their surviving spouses. (Note: Cities already have this authority. H.J.R. 71 would expand the authority to additional political subdivisions that levy property taxes.) (See **H.B. 1283**, above.)

## **Public Safety**

**H.B. 1172 (Howard) – Sexual Assault Victims:** would, among other things: (1) amend current law to provide that a peace officer or an attorney representing the state may not require, request, or take a polygraph examination of a person who charges or seeks to charge, in a complaint, the commission of certain sexual offenses; (2) repeal current law, which provides that a law enforcement agency that receives a report of a sexual assault within 96 hours of the assault may decline to request a forensic medical examination of the victim of the assault for use in the investigation or prosecution of the offense if: (a) the person reporting the sexual assault has made one or more false reports of sexual assault to any law enforcement agency; and (b) there is no other evidence to corroborate the current allegations of sexual assault; (3) provide that, before conducting an interview with a victim reporting a sexual assault, the peace officer conducting the interview shall offer the victim the opportunity to have an advocate from a sexual assault program be present with the victim during the interview, if the advocate is available at the time; (4) provide that if the advocate described in (3), above, is not available at the time of the interview, the peace officer conducting the interview shall offer the victim the opportunity to have a crime victim liaison from the law enforcement agency or a victim’s assistance counselor from a state or local agency or other entity be present with the victim during the interview; and (5) provide that a peace officer or law enforcement agency that provides an advocate, liaison, or counselor with access to a victim reporting a sexual assault is not subject to civil or criminal liability for providing that access.

**H.B. 1178 (Crockett) – Possession of Drug Paraphernalia:** would repeal sections of the Texas Controlled Substances Act that make it a Class C misdemeanor if the person knowingly or intentionally uses or possesses with intent to use drug paraphernalia to plant, propagate, cultivate, grow, harvest, manufacture, compound, convert, produce, process, prepare, test, analyze, pack, repack, store, contain, or conceal a controlled substance or to inject, ingest, inhale, or otherwise introduce into the human body a controlled substance.

**H.B. 1194 (Wu) – Reporting of School Incidents:** would, among other things, provide that: (1) a school district that enters into a memorandum of understanding (MOU) with a local law enforcement agency for the provision of a regular police presence on campus shall designate in the MOU which entity shall be responsible for collecting the following data, which shall be reported to the Texas Education Agency by the school superintendent not later than the 60<sup>th</sup> day after the last day of classes for the academic year: (a) restraints administered to the student; (b) complaints filed against a student; and (c) certain incidents that occur on school property that result from a district employee’s request for intervention by a law enforcement agency, district peace officer, or school resource officer, including citations issued to a student and arrests made of a student; and (2) the report described in (1), above, shall not include information that identifies the peace officer who issued the citation, and the identity of such officer is confidential and not subject to disclosure under the Texas Public Information Act.

**H.B. 1212 (Toth) – Disposition of Abandoned or Unclaimed Personal Property:** would, among other things, provide that: (1) for purposes of any unclaimed or abandoned personal property, a person designated by the city to dispose of the property may, instead of sending a notice to the last known address of the owner of the property by certified mail, place a one-time notice on the internet website and social networking website of the law enforcement agency that seized the property; and (2) the notice described in (1), above, shall state that if the owner does not claim the property before the 90th day after the date of the notice, the property shall be disposed of, and the proceeds placed in the city treasury.

**H.B. 1233 (Crockett) – Low-THC Cannabis:** would: (1) provide that a physician is qualified to prescribe low-THC cannabis to alleviate the symptoms of a patient’s medical condition or the symptoms caused by other treatments for that medical condition if, among other things, the physician dedicates a significant portion of clinical practice to the evaluation and treatment of the patient’s particular medical condition, and the treatment of symptoms caused by that medical condition and symptoms caused by other treatments for that medical condition; (2) remove the current limited list of diagnoses for which a patient may receive low-THC cannabis; (3) provide that a physician may prescribe low-THC cannabis if the physician certifies that the patient is diagnosed with a medical condition that produces symptoms, or the treatment of which produces symptoms, that are alleviated by medical use of low-THC cannabis; and (4) remove the definitions of incurable neurodegenerative disease and terminal cancer from the state law governing the use of low-THC cannabis.

**H.B. 1236 (Anchia) – Immigration:** 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. (Companion bill is **S.B. 92** by **Menéndez**.)

**H.B. 1238 (Biederman) – Firearms:** would provide, among other things that: (1) a person who is not otherwise prohibited from possessing a firearm under federal or state law may, without a license, openly or concealed carry a handgun; (2) a city may not regulate the carrying of a firearm at a public park or parade, rally, or political meeting in the city; and (3) the mere possession or carrying of a handgun shall not constitute reasonable belief for a peace officer to disarm or detain a person.

**H.B. 1253 (Moody) – Firearms Task Force:** would: (1) require each county commissioners court to establish a task force to develop policy recommendations, model forms, and best practice guidelines for the surrender, transfer, or other disposition of a firearm with regard to a person who is under a court order related to family violence; and (2) provide that the chief of police of the largest city in each county will serve on the task force in (1).

**H.B. 1254 (Shaheen) – Mental Health:** would modify current law to provide that: (1) a peace officer may, without a warrant, take a person into custody, regardless of the age of the person, if the officer: (a) has reason to believe and does believe that the person has a cognitive disability, including autism, down syndrome, traumatic brain injury, and dementia, and because of the cognitive disability there is a substantial risk of serious harm to the person or to others unless the person is immediately restrained; and (b) believes that there is not sufficient time to obtain a warrant before taking the person into custody; (2) a peace officer who takes a person with a cognitive disability into custody as described in (1), above, shall make a good faith effort to: (a) use the least restrictive available and appropriate means of transport; and (b) include in transporting the person the person's parent, appointed guardian, managing conservator, or possessory conservator, as applicable; (3) the peace officer shall transport the individual to the nearest appropriate inpatient mental health facility, or if not available, a mental health facility deemed suitable by the local mental health authority; (4) a judge or magistrate that issues a warrant for emergency detention shall notify the applicable law enforcement agency of the warrant by: (a) e-mail, with the warrant attached as a secure document in PDF; or (b) secure electronic means, including satellite transmission, closed-circuit television transmission, or any other method of two-way electronic communication that is secure, available to the judge or magistrate, and provides for a simultaneous, compressed full-motion video and interactive communication of image and sound between the judge or magistrate and the agency; (5) a law enforcement agency that receives a warrant issued under (4), above, shall serve the warrant no later than 48 hours after the agency receives the warrant; (6) if a law enforcement agency that has a memorandum of understanding with a mental health authority to use telehealth service, a peace officer who apprehends a person under the provisions (4), above, may arrange to have a physician conduct a telehealth appointment with the apprehended person to determine whether emergency detention is necessary before transporting a person to mental health facility; (7) if a physician conducting the telehealth appointment described in (6), above, determines that emergency detention is not required, the peace officer shall release the person; (8) if a peace officer releases an apprehended person as described in (7), above, the peace officer shall notify the judge or magistrate who issued the warrant not later than 24 hours after the peace officer released the person; and (9) if a peace officer is contacted to locate a person who has left a facility before the earlier of the time a preliminary examination is completed or the expiration of a 48-hour period, the peace officer must make a good faith effort to locate the person, and if located, the peace officer must: (a) reevaluate whether

the person meets the criteria for apprehension as described in (1), above; and (b) if the person meets the criteria for apprehension, transport the person to an appropriate mental health facility.

**H.B. 1262 (Bowers) – Trauma-Informed Training:** would provide that: (1) as part of the minimum curriculum requirements, the Texas Commission on Law Enforcement shall establish and require a peace officer to complete a statewide comprehensive education and training program on trauma-informed techniques to facilitate interactions with homeless youth and adults and on the resources available to those individuals; and (2) a peace officer shall complete the program not later than the last day of the first full continuing education training period after the date the officer is licensed or the date the officer applies for an intermediate proficiency certificate, whichever date is later.

**H.B. 1265 (Price) – Criminal Offense for Obstructing or Interfering:** would: (1) provide that a person commits a state jail felony if the person recklessly obstructs or interferes with: (a) a first responder's ability to render aid to a person who is suffering serious bodily injury; or (b) the passage of an authorized emergency vehicle that is operating the vehicle's siren or emergency lighting system to or from the scene of an emergency where a person is suffering serious bodily injury; and (2) provide for an enhancement to a third degree felony for an offense described in (1), above, if shown that a person died as a result of the offense.

**H.B. 1272 (Crockett) – No-Knock Entries:** would prohibit a magistrate, including a municipal judge, from issuing an arrest or search warrant that authorizes a peace officer from entering, for the purpose of executing a warrant, into a building or other place without giving notice of the officer's authority or purpose before entering (a no-knock entry). (This bill is identical to **H.B. 492** by **Wu** and the companion bill is **S.B. 175** by **Miles**.)

**H.B. 1275 (Crockett) – Prostitution:** would: (1) provide that a child may not be referred to juvenile court for 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. (This bill is identical to **H.B. 162** by **Thierry**.)

**H.B. 1287 (Meza) – DWI Blood Draws:** this bill, known as "Colten's Law," would provide that: (1) a peace officer shall require the taking a specimen of a person's blood if: (a) the officer arrests the person for operating a motor vehicle while intoxicated; (b) the person refuses the officer's request to submit to the taking of a specimen voluntarily; (c) the person was the operator of a motor vehicle involved in an accident involving a pedestrian; (d) the officer reasonably believes that the accident occurred as a result of the offense; and (e) at the time of the arrest, the officer reasonably believes that as a direct result of the accident the pedestrian died, will die, or has suffered a serious bodily injury.

**H.B. 1326 (Geren) –Expunction:** would, among other things, modify current law to provide that a peace officer, firefighter, detention officer, county jailer, or emergency medical services employee is eligible for an expunction of arrest records and files if: (1) such person has completed a public safety employees treatment court program; (2) the person has not previously received an expunction of arrest records and files for completion of a public safety employees treatment court program; and (3) the person submits an affidavit to the court attesting to the fact described in (2), above.

**H.B. 1331 (Canales) – Asset Forfeiture Proceedings:** would: (1) provide that contraband is not subject to seizure and forfeiture if the property is not otherwise unlawful to possess and the admissibility of the property as evidence would be prohibited in the prosecution of the underlying offense; and (2) limit the admissibility of evidence in an asset forfeiture proceeding.

**H.B. 1349 (Crockett) – Murder Offense:** would make the offense of murder committed by a peace officer acting under the authority of the state or a political subdivision of the state a felony of the first degree with a minimum term of imprisonment of 15 years.

**H.B. 1352 (Crockett) – Release of Defendant:** would reduce the amount of time a defendant may be detained in jail, before the defendant must be released on personal bond or by reducing the amount of bail, if the state is not ready for the trial of the criminal action: (1) from 90 days to 60 days from the commencement of the detention if the defendant is accused of a felony; (2) from 30 days to 10 days from the commencement of the detention if the defendant is accused of a misdemeanor punishable by a sentence of imprisonment in jail for more than 180 days; (3) from 15 days to five days from the commencement of the detention if the defendant is accused of a misdemeanor punishable by a sentence of imprisonment for 180 days or less; and (4) from five days to three days from the commencement of the detention if the defendant is accused of a misdemeanor punishable by a fine only.

**S.B. 375 (Perry) – 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 CPR training not later than the 60th day after the telecommunicator’s first date of employment with the entity; and (3) a telecommunicator to complete continuing education training at least as often as recognized standards for telecommunicator CPR training are updated. (Companion bill is **H.B. 786** by **Oliverson**.)

**S.B. 380 (West) – 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. (This bill is identical to **H.B. 929** by **Sherman**.)

**S.B. 404 (N. Johnson) – Missing Child:** would, among other things: (1) amend the definition of a "missing child" to include the child voluntarily leaving the child's home without the consent of the custodian for a substantial length of time or without intent to return, by repealing the prior definition that included engaging in conduct indicating a need for supervision; (2) add the definition of "status offense" to include certain conduct committed by a child that would not be considered a crime if committed by an adult; (3) provide the place and conditions of detainment if the child is accused only of a status offense; (4) require that a child not be detained at a place of non-secure custody for longer than six hours, or at a non-secure correctional facility for longer than 24 hours, after the time the child arrived at the place of detention; (5) provide that if the child is not released before the sixth hour after the time the child arrived at the place of detention, the child is entitled to a detention hearing that must be held before the 24<sup>th</sup> hour after the time the child arrived at the place of detention, excluding weekends and holidays; and (6) repeal current law authorizing a law enforcement officer to fingerprint or photograph the child to establish the child's identity under certain circumstances.

### **Sales Tax**

**S.B. 402 (Johnson) – Street Maintenance Sales Tax:** would, among other things, provide that: (1) for a city in which a majority of the voters voting in each of the last two consecutive elections concerning the adoption or reauthorization of the street maintenance sales tax favored adoption or reauthorization and in which the tax has not expired since the first of those two consecutive elections, the city may call an election to reauthorize the tax for a period of eight or ten years, instead of four years; and (2) revenue from the street maintenance sales tax may be used to

maintain and repair: (a) a city street or sidewalk; and (b) a city water, wastewater, or stormwater system located in the width of a way of a city street.

### **Community and Economic Development**

**H.B. 1196 (Hinojosa) – Homelessness:** would require: (1) a state registrar, a local registrar, or a county clerk to issue a homeless individual’s birth record to the homeless individual without a fee; (2) the Department of State Health Services to adopt a process to verify a person’s status as a homeless individual and prescribe the documentation necessary for the issuance of a certified copy of a birth record; (3) the Department of Public Safety (DPS) to adopt a process to verify a person is a homeless individual; and (4) DPS to exempt a homeless individual from the payment of fees for the issuance of a driver’s license or personal identification certificate only if there is a sufficient amount in the identification fee exemption account to waive the fees.

**H.B. 1200 (C. Morales) – Historic Districts:** would provide that a city that has not established a process to designate historic landmarks may adopt and enforce an ordinance, order, or other regulation the primary purpose of which is to protect or maintain historic or culturally significant structures, objects, sites, or districts.

**H.B. 1219 (Gates) – Municipal Management Districts:** would, among other things, provide that the board of a municipal management district shall dissolve the district on written petition filed with the board by: (1) in a district created on or after September 1, 2017, the owners of at least two-thirds of the assessed value of the property subject to assessment or taxation by the district based on the most recent certified county property tax rolls; and (2) in a district created before September 1, 2017, the owners of at least 55 percent of the assessed value of the property subject to assessment or taxation by the district based on the most recent certified county property tax rolls.

**H.B. 1226 (Campos) – Homelessness:** would, among other things: (1) provide that the Department of Housing and Community Affairs may implement and administer a pilot program to solicit donations made by text message for the benefit of local programs that provide services to homeless individuals and families in municipalities with a population of 285,000 or more; and (2) provide that of any money donated under the program, the department shall allocate: (a) not less than 65 percent for costs associated with housing homeless individuals and families; (b) not less than 20 percent for transportation costs; (c) not less than five percent for the promotion of the program; and (d) not more than 10 percent for overhead and administrative costs.

**H.B. 1260 (Bowers) – Homelessness Study:** would: (1) require the Texas Interagency Council for the Homeless to conduct a study on the feasibility of establishing a centralized homelessness crisis response data system through which state agencies, local governmental entities including law enforcement agencies, court systems, school districts, and emergency service providers, and other relevant persons are able to share and access information related to individuals who experience chronic homelessness in order to connect or refer those individuals to services, including affordable housing opportunities; (2) provide that, when conducting the study in (1), above, the council shall: (a) consult with representatives of the entities described by (1), above, to

determine the challenges faced by those entities in addressing chronic homelessness and how best to improve the responses to those challenges; and (b) assess the feasibility of the centralized homelessness crisis response data system described by (1), above, to collect data from other homelessness crisis response data systems maintained or operated by a state agency, local law enforcement agency, or other entity of this state; and (c) collect, aggregate, analyze, and share homelessness information with entities that have access to the system; and (3) require the council to prepare and submit a report to the Texas Department of Housing and Community Affairs that summarizes the results of the study required by the bill by November 1, 2022.

**H.B. 1277 (Campos) – Homelessness:** would, among other things: (1) provide that the Texas Department of Housing and Community Affairs (TDHCA) may: (a) operate the transitional housing pilot program in coordination with one or more cities or counties; and (b) provide a grant from the Ending Homelessness fund to a city or county with which TDHCA coordinates to operate the program; and (2) require TDHCA to give priority in issuing grants from the Ending Homelessness fund to cities and counties that coordinate with TDHCA in the operation of the transitional housing pilot program.

**H.B. 1278 (Campos) – Homelessness:** would require the Interagency Council for the Homeless to hold annual public hearings in at least one county located in a rural area of Texas and one county located in an urban area of Texas.

**H.B. 1286 (Rosenthal) – Public Facility Corporations:** would, among other things: (1) provide for beneficial tax treatment relating to a leasehold or other possessory interest in a public facility only if the local government sponsoring a public facility corporation, the public facility corporation, the public facility user, and the housing development meet certain requirements; (2) require a sponsoring local government, including a city, to identify goals for public facilities used for housing developments and establish selection criteria based on the goals to be used by public facility corporations for scoring proposals from developers of housing developments; and (3) require a sponsoring local government that leases a public facility used as a housing development to a public facility user to submit an annual report to the Texas Department of Housing and Community Affairs and the comptroller that includes: (a) a copy of all contracts and other agreements between the public facility user and the sponsor of the public facility corporation relating to the housing development; and (b) statistics describing the demographics of the residents of the housing development, including incomes and family sizes.

**H.B. 1295 (Rodriguez) – Housing Tax Credits:** would authorize the Texas Department of Housing and Community Affairs to allocate housing tax credits to more than one development in a single community only if: (1) one of the developments will be located wholly within a census tract in which the median value of owner-occupied homes has increased by 15 percent or more within the five years preceding the date of the application; (2) the governing body of the municipality containing the development or, if located outside a municipality, the county containing the development, adopts a resolution that authorizes an allocation of housing tax credits for the development; and (3) the applicant for the development includes in the application a copy of the resolution adopted under (2), above. (Companion bill is **S.B. 400** by **Zaffirini**.)

**H.B. 1335 (Dutton) – Tax Preferences:** would: (1) require a select commission to review all state and local “tax preferences” and develop a review schedule under which tax preferences are reviewed once during each six-year period; (2) require the commission in (1) to file a final report on tax preferences to the governor and the presiding officers of the Senate Finance Committee and the House Ways and Means Committee not later than September 1 of each even-numbered year; (3) provide that a tax preference included in a final report under (2) expires on the second anniversary of the date the final report is filed, unless reauthorized by law; and (4) provide that each tax preference enacted by the legislature that becomes law on or after September 1, 2022, expires six years after the date it takes effect, unless the legislature provides an earlier or later expiration date.

**H.B. 1347 (Goodwin) – Linkage Fees:** would repeal the prohibition against linkage fees.

**H.B. 1348 (Deshotel) – Charter Schools:** would: (1) require a city to consider an open-enrollment charter school a school district for purposes of zoning, permitting, code compliance, and development, including land development standards in territory that a city has annexed for limited purposes; (2) prohibit a city from enacting or enforcing an ordinance or regulation that prohibits an open-enrollment charter school from operating at any location or within a zoning district in the city; (3) provide that an open-enrollment charter school is not required to pay impact fees unless the school’s governing body consents to the payment; and (4) provide that an open-enrollment charter school may be exempt from utility drainage ordinances and regulations, and that any such exemption granted to a school district before the effective date of the bill automatically extends to all open-enrollment charter schools located in a city.

**S.B. 386 (Powell) – Economic Development Corporations:** would provide that, for an economic development corporation in a city wholly or partly located in an area subject to a state of disaster declared by the governor, an authorized economic development corporation project includes expenditures found by the board of directors of the corporation to be required or suitable for use to support businesses and retain jobs during the period the area is subject to the disaster declaration.

**S.B. 400 (Zaffirini) – Housing Tax Credits:** would authorize the Texas Department of Housing and Community Affairs to allocate housing tax credits to more than one development in a single community only if: (1) one of the developments will be located wholly within a census tract in which the median value of owner-occupied homes has increased by 15 percent or more within the five years preceding the date of the application; (2) the governing body of the municipality containing the development or, if located outside a municipality, the county containing the development adopts a resolution that authorizes an allocation of housing tax credits for the development; and (3) the applicant for the development includes in the application a copy of the resolution adopted under (2), above. (Companion bill is **H.B. 1295** by **Rodriguez**.)

**S.B. 416 (Miles) – Historic Districts:** would provide that a city that has not established a process to designate historic landmarks may adopt and enforce an ordinance, order, or other regulation the primary purpose of which is to protect or maintain historic or culturally significant structures, objects, sites, or districts.

## Elections

**H.B. 1170 (Rosenthal) – Elections:** would provide that a person occupying a voting station may use a mechanical or electronic device to access ballot or candidate information that was downloaded or created before the person entered the polling place.

**H.B. 1179 (Pacheco) – Polling Places:** would prohibit electioneering, loitering, wearing certain badges and insignia, and posting campaign materials within 300 feet of a polling place (Note: the current distance is 100 feet).

**H.B. 1183 (Dutton) – Eligibility for Public Office:** would require a candidate to provide a certified copy of the candidate's pardon or other documentation evidencing removal of the disability to holding public office.

**H.B. 1184 (Dutton) – Final Convictions:** would provide that, in order to be eligible to be a candidate for, or elected or appointed to, a public elective office, a person must have not been finally convicted of a felony from which the person has not been pardoned or otherwise released from the resulting disabilities by a court of competent jurisdiction.

**H.B. 1232 (Crockett) – 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. 1242 (Cole) – Early Voting:** would provide that the period for early voting by personal appearance would begin on the first business day after the last day a voter registration becomes effective.

**H.B. 1243 (Cole) – Early Voting:** would, among other things, provide that: (1) the authority ordering an election may order early voting by personal appearance at the main early voting polling place to be conducted during an extended early voting period continuing for any number of consecutive days up to and including the day before election day; and (2) an authority that extends early voting under (1), above, shall order personal appearance voting at the main early voting polling place to be conducted for at least 12 hours on any weekday or Saturday and for at least five hours on any Sunday of the extended early voting period.

**H.B. 1244 (Cole) – Voter Registration:** would, among other things: (1) provide that the voter registrar shall appoint at least one election officer serving each polling place for early voting by personal appearance or on election day as a regular deputy registrar; (2) provide that a person who would be eligible to vote in an election but for the requirement to be a registered voter must be accepted during voting by personal appearance for voting the ballot for the precinct of the person's residence as shown by the identification presented if the person: (a) submits a voter registration application that complies with state law to an election officer at the polling place; and (b) presents as proof of identification a form of photo identification that complies with state law and states the person's current address, or another form of identification along with proof of residency that complies with state law; and (3) require persons voting under this section to be processed

separately at the polling place from persons who are voting under regular procedures.

**H.B. 1245 (Cole) – 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. (Companion bill is **H.B. 844** by **Bucy**.)

**H.B. 1300 (Guillen) – Voter Assistance:** would provide that a child under 18 years of age may accompany the child’s parent to a voting station and may read or mark the ballot at the direction of the parent.

**H.B. 1314 (Hefner) – Voting System:** would provide that, beginning, September 1, 2021, for a voting system or voting system equipment to be approved for use in an election, the voting system must have all components of the voting system, including equipment, individual component pieces, and data storage manufactured, stored, and held in the United States and sold by a company whose: (1) headquarters are located in the United States; and (2) parent company’s headquarters, if applicable, are located in the United States.

**H.B. 1316 (J. Johnson) – Qualifications for Public Office:** would, in relation to the eligibility to hold public office, provide that: (1) in order to be eligible to a be a candidate for, or elected or appointed to, a public office in this state, a person must (among other things) have not been finally convicted of a felony or, if so convicted: (a) been fully discharged of the sentence, including any term of incarceration, parole, or supervision, or completed a period of probation ordered by any court; or (b) been pardoned or otherwise released from the resulting disabilities; and (2) a person is not considered to have been finally convicted of an offense for which the criminal proceedings are deferred without an adjudication of guilt.

**S.B. 377 (West) – 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. (Companion bill is **H.B. 844** by **Bucy**.)

**S.B. 378 (West) – 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. (Companion bill is **H.B. 845** by **Bucy**.)

**S.B. 379 (West) – Voting by Mail:** would, among other things: (1) provide that a qualified voter is eligible for early voting by mail if the voter submits an application for a ballot to vote by mail during a statewide public health disaster; and (2) provide an opportunity to correct a signature defect on the carrier envelope certificate, the ballot application, or a mismatched name on the carrier envelope certificate if the voter submits the following: (a) identification or a document proving identity that complies with state law; and (b) a signed affidavit curing the defect.

**S.B. 381 (West) – 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. (Companion bill is **H.B. 857** by **Bucy**.)

**S.B. 426 (Miles) – Return of Mail Ballots:** would authorize: (1) a voter to deliver a marked mail ballot 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; and (2) the early voting clerk to designate any number of suitable locations for in-person delivery of ballots.

### **Emergency Management**

**H.B. 1239 (Sanford) – 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 or in a geographic area of Texas. (Companion bill is **S.B. 251** by **Paxton**.)

**S.B. 422 (Springer) – Emergency Powers Board:** would, among other things: (1) establish the Emergency Powers Board (Board) consisting of the governor, the lieutenant governor, the speaker, the senate committee chair with primary jurisdiction over state affairs, and the house committee

chair with primary jurisdiction over state affairs to provide oversight during a declared state of disaster, including a declared public health disaster; (2) provide that on or after the eighth day after the date the governor issues the executive order, proclamation or regulation, the Board, by majority vote, may set an expiration date for the order, proclamation or regulation; and (3) provide that 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 within 22 days after the date the order, proclamation or regulation is issued, the governor shall convene a special legislative session to implement, modify or repeal the order, proclamation or regulation.

**S.J.R. 29 (Springer) – Special Legislative Session:** would amend the Texas Constitution to provide that: (1) the governor shall convene a special legislative session: (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 state of disaster or emergency declared by the governor if the petition is signed by at least two-thirds of the members of the house and two-thirds of the members of the senate; and (2) a special session convened under (1), above, shall be for the following purposes: (a) review an order, proclamation or other instrument issued by the governor during the 90 days before the special session begins: (i) declaring a state of disaster or emergency in the state; or (ii) in response to a state of disaster or emergency in the state declared by any federal, state or local official or entity; (b) terminate or modify an order, proclamation or instrument described by (2)(a), above, by passage of a resolution approved by a majority vote of the members present in each house of the legislature; (c) respond to the state of disaster or emergency; and (d) consider any other subjects stated in the governor’s proclamation convening the special session.

### **Municipal Courts**

**H.B. 1177 (Crockett) – Court Costs:** would require the judge of any court, including municipal court, who finds that the defendant or plaintiff in the proceeding is indigent to waive all court costs, including costs on conviction, and all filing fees and other fees imposed by law on the indigent defendant or plaintiff.

**S.B. 417 (Miles) – Municipal Court Reporting:** would: (1) require each justice and municipal court annually to report to the Office of Court Administration for each criminal case filed with the court during the reporting year: (a) the offense charged; (b) the final disposition of the case; and (c) the defendant's race or ethnicity, as reported in the citation, affidavit establishing probable cause, or offense report filed with the case; and (2) provide that a report made under (1), above, is confidential and not subject to disclosure under the Texas Public Information Act.

### **Open Government**

No Open Government bills were filed this week.

### **Other Finance and Administration**

**H.B. 1173 (Noble) – Abortion:** would: (1) provide that a governmental entity may not enter into a taxpayer resource transaction, appropriate money, or spend money to provide to any person logistical support for the express purpose of assisting a woman with procuring an abortion or the services of an abortion provider; and (2) authorize the attorney general to enjoin a violation of the prohibition in (1).

**H.B. 1215 (C. Bell) – Federal Action:** would: (1) establish a joint legislative committee to review any federal action to determine whether such action is unconstitutional; (2) provide that any federal action found by the joint legislative committee to be unconstitutional be sent to the legislature for a determination, and then on to the governor for approval or disapproval; (3) provide that any federal action declared to be unconstitutional has no legal effect in Texas; (4) prohibit the state or a political subdivision of the state from spending money to implement a federal action declared unconstitutional; (5) authorize the attorney general (and others) to prosecute a person who attempts to implement or enforce an unconstitutional federal action for official oppression, as well as other provisions of law; and (6) entitle a person to seek a declaratory judgment that a federal action is unconstitutional and give all courts original jurisdiction over such a proceeding.

**H.B. 1241 (Shine) – Annexation of Rights-of-Way:** would provide that: (1) a city annexing an area on request of the owners, an area with less than 200 population by petition, an area with at least 200 population by election, or certain special districts may also annex with the area: (a) the right-of-way of a street, highway, alley or other public way or of a railway line spur, or roadbed that is contiguous to the city's boundaries and the area being annexed or a right-of-way described in (b); or (b) the right-of-way of a public road or highway connecting the area being annexed to the city by the most direct route; (2) a city may only annex a right-of-way described under (1) if the city: (a) provides written notice of the annexation to the owner of the right-of-way not later than the 61st day before the date of the proposed annexation; and (b) the owner of the right-of-way does not submit a written objection to the city before the date of the proposed annexation; and (3) certain width requirements do not apply to the annexation of a right-of-way under (1). (Companion bill is **S.B. 374** by Seliger.)

**H.B. 1256 (Ashby) – Specialty Court Funding:** would require the comptroller to deposit one percent of both the mixed beverage gross receipts tax and the mixed beverage sales tax to the credit of the specialty court account.

**H.B. 1264 (K. Bell) – Deceased Resident Report:** would, among other things, require the local registrar of deaths to file each abstract with the voter registrar of the decedent's county of residence and the secretary of state as soon as possible, but not later than one day after the abstract is prepared. (Note: current law authorizes the local registrar to file the abstract with the voter registrar not later than the 10th day after the abstract is prepared.)

**H.B. 1276 (Parker) – Food Service Establishments:** would allow a licensed food service establishment (i.e., a place where food is prepared for individual portion service) to sell directly to an individual consumer food, other than prepared food, that: (1) is in its original condition or packaging as received by the establishment; (2) is labeled with the name and source of the food

and the date the food is sold; (3) bears an official mark of USDA inspection, if the food is meat or poultry; (4) does not exceed the shelf life as displayed on the packaging; and (5) has been properly refrigerated, if applicable.

**H.B. 1290 (Reynolds) – County Assistance Districts:** would provide that a county assistance district may perform functions outside the district for the benefit of the district in a location that is not more than five miles from the district in Texas, including the following functions: (1) the construction, maintenance, or improvement of roads or highways; (2) the provision of law enforcement and detention services; (3) the maintenance or improvement of libraries, museums, parks, or other recreational facilities; (4) the provision of services that benefit the public health or welfare, including the provision of firefighting and fire prevention services; or (5) the promotion of economic development and tourism.

**H.B. 1310 (Guillen) – Tuition and Fees for Paramedics:** would: (1) require the governing board of an institution of higher education to exempt from the payment of tuition and laboratory fees any student enrolled in one or more courses offered as part of fire science curriculum who is employed as a paramedic by a political subdivision; (2) provide that the governing board of an institution of higher education may, in accordance with Texas Higher Education Coordinating Board rule, exclude a course that is offered through distance education from the exemption that provides a firefighter or paramedic employed by a political subdivision and certain members of volunteer fire departments are exempt from paying tuition or laboratory fees for courses offered as part of a fire science curriculum; and (3) require the Texas Higher Education Coordinating Board to adopt rules governing the granting or denial of an exemption from paying tuition or laboratory fees, including rules: (a) prescribing the educational attainment or level of certification necessary to qualify for an exemption as a paramedic; and (b) relating to the exclusion from the exemption under (2), above, of a distance education course, including prescribing the maximum number of distance education courses that maybe excluded from the exemption. (Companion bill is **S.B. 384** by **Powell**.)

**H.B. 1341 (Leach) – First Responder Admission to State Parks:** would: (1) provide that the Texas Parks and Wildlife Department shall waive the park entrance fees and certain license fees for an individual who is a first responder; and (2) define “first responder” as, among others: (a) a firefighter certified by the Texas Commission on Fire Protection or by the State Firefighters’ and Fire Marshals’ Association of Texas; (b) an individual certified as emergency medical services personnel by the Department of State Health Services; or (c) a municipal police officer.

**H.J.R. 72 (Leach) – Religious Services:** would amend the Texas Constitution to prohibit the state or a political subdivision of the state from enacting, adopting, or issuing a statute, order, proclamation, decision, or rule that prohibits or limits religious services by a religious organization established to support and serve the propagation of a sincerely held religious belief. (Companion resolution is **S.J.R. 27** by **Hancock**.)

**S.B. 374 (Seliger) – Annexation of Rights-of-Way:** would provide that: (1) a city annexing an area on request of the owners, an area with less than 200 population by petition, an area with at least 200 population by election, or certain special districts may also annex with the area: (a) the right-of-way of a street, highway, alley or other public way or of a railway line spur, or roadbed

that is contiguous to the city's boundaries and the area being annexed or a right-of-way described in (b); or (b) the right-of-way of a public road or highway connecting the area being annexed to the city by the most direct route; (2) a city may only annex a right-of-way described under (1) if the city: (a) provides written notice of the annexation to the owner of the right-of-way not later than the 61st day before the date of the proposed annexation; and (b) the owner of the right-of-way does not submit a written objection to the city before the date of the proposed annexation; and (3) certain width requirements do not apply to the annexation of a right-of-way under (1). (Companion bill is **H.B. 1241** by **Shine**.)

**S.B. 376 (Nichols) – Governmental Self-Insurance Funds:** would require a governmental unit that establishes a self-insurance fund to: (1) register the fund with the Texas Department of Insurance (TDI) on a form prescribed by the commissioner of insurance; and (2) annually file with TDI the fund's annual financial statements, the fund's articles of incorporation, and any other information requested by TDI.

**S.B. 384 (Powell) – Tuition and Fees for Paramedics:** would: (1) require the governing board of an institution of higher education to exempt from the payment of tuition and laboratory fees any student enrolled in one or more courses offered as part of fire science curriculum who is employed as a paramedic by a political subdivision; (2) provide that the governing board of an institution of higher education may, in accordance with Texas Higher Education Coordinating Board rule, exclude a course that is offered through distance education from the exemption that provides a firefighter or paramedic employed by a political subdivision and certain members of volunteer fire departments are exempt from paying tuition or laboratory fees for courses offered as part of a fire science curriculum; and (3) require the Texas Higher Education Coordinating Board to adopt rules governing the granting or denial of an exemption from paying tuition or laboratory fees, including rules: (a) prescribing the educational attainment or level of certification necessary to qualify for an exemption as a paramedic; and (b) relating to the exclusion from the exemption under (2), above, of a distance education course, including prescribing the maximum number of distance education courses that maybe excluded from the exemption. (Companion bill is **H.B. 1310** by **Guillen**.)

**S.J.R. 27 (Hancock) – Religious Services:** would amend the Texas Constitution to prohibit the state or a political subdivision of the state from enacting, adopting, or issuing a statute, order, proclamation, decision, or rule that prohibits or limits religious services by a religious organization established to support and serve the propagation of a sincerely held religious belief. (Companion resolution is **H.J.R. 72** by **Leach**.)

## **Personnel**

**H.B. 1216 (Hinojosa) – Civil Service Commission Hearings:** would, among other things, modify current law to provide that:

1. for purposes of appeals to the civil service commission by a police officer:
  - a. an appeal by a police officer of a charge for an incident that involves a member of the public must also include the name and address of each individual involved;

- b. not later than the 30<sup>th</sup> day before the date of the civil service commission hearing, the commission shall notify each individual listed in an appeal by the police officer of the date and time of the hearing, the individual's right to attend, and instructions for exercising the individual's rights related to the hearing;
  - c. not later than the fifth day before the date of the hearing, a member of the public, whether listed in the appeal or not, may provide evidence to the commission, including documentation in support of an allegation against a police officer that is the basis of a disciplinary action;
  - d. an individual named by the police officer as directly involved in the incident that is the basis of the disciplinary action may request the commission to subpoena any books, records, documents, papers, accounts, or witnesses that the individual considers pertinent to the case, and such request must be made before the 10<sup>th</sup> day before the date the commission hearing will be held;
  - e. if the commission does not subpoena the material as described in (1)(d), above, the commission shall, before the third day before the date the hearing will be held, make a written report to the individual stating the reason it will not subpoena the requested material; and
  - f. the commission may consider, if applicable, any evidence submitted by a member of the public under (1)(c), above, and any evidence provided in response to that evidence;
2. for purposes of a request to the civil service commission by a police chief to demote a police officer:
- a. before the commission may refuse to grant a request for demotion of a police officer, the commission shall request from the police department the contact information for any individual involved in any incident leading the department to recommend demotion, including a member of the public or another police officer, and shall notify such individual that the individual may request a public hearing and present reasons why the commission should grant the department's request for demotion of the police officer;
  - b. if there are no involved individuals as described in (2)(a), above, or the commission does not receive a request for a public hearing from an involved individual before the 10<sup>th</sup> day after the date notice was given to the individual, the commission may refuse to grant the request for demotion; and
  - c. before the 10<sup>th</sup> day before the date the public hearing is held, the commission shall give an individual who is a member of the public with knowledge of a specific incident that is the basis of the recommendation of demotion of a police officer, notice of the time and place of the hearing and of the individual's right to testify;
3. if a city has adopted civil service, a meet and confer agreement between a city and a police labor union may not conflict or supersede the provisions described in (1) and (2), above; and
4. a collective bargaining agreement affecting police officers may not conflict with the provisions described in (1) and (2), above, and must implement those provisions.

**H.B. 1251 (Ramos) – Whistleblower:** would provide that: (1) it is a Class C misdemeanor for a person to disclose the identity of a public employee who makes a good faith report of a violation of law by the employing state or local governmental entity or another public employee to an

appropriate law enforcement authority if the disclosure is made to a person who is not assisting in the investigation or prosecution of the violation of law reported by the public employee; and (2) it is an affirmative defense to prosecution if the public employee who reported the violation of law consented to the disclosure of the employee's identity.

**H.B. 1292 (Sherman) – Pay Equity Task Force:** would: (1) establish the Texas Pay Equity Task Force (Task Force) to assess whether a disparity exists on the basis of gender, disability or race in compensation paid to employees of state agencies, counties, and cities; (2) provide that the Task Force be comprised of nine members, including one city representative appointed by the lieutenant governor and another city representative appointed by the speaker of the house; and (3) provide that the Task Force may request payroll information, including the gender, disability status, and race of each employee from a state agency, county, or city.

**H.B. 1330 (Canales) – Credit Reports:** would prohibit an employer, including a city, from taking an adverse employment action against an employee or applicant based wholly or partly on a credit report unless the employer provides a copy of the report along with instructions regarding how the employee or applicant may provide additional information about the report.

**H.B. 1336 (Pacheco) – E-Verify:** would, among other things: (1) require a political subdivision to register and participate in the federal electronic verification of employment authorization program in order to verify the information of all new employees; and (2) provide that an employee of a political subdivision who is responsible for verifying information of new employees is subject to immediate termination for failure to comply with the requirement in (1).

**H.B. 1350 (Minjarez) – Police Arbitration Hearing Rulings:** would provide that: (1) an arbitrator selected to hear an appeal of the disciplinary suspension or dismissal of a city police officer, deputy sheriff, deputy constable, or other police officer, including an appeal under civil service rules, collective bargaining, meet and confer or other similar agreement, shall report to the Department of Public Safety (DPS), for each hearing arbitrated: (a) the ruling in the hearing; (b) the date of the ruling; (c) the sources of the arbitrator's payment; and (d) amounts paid to the paid to the police officer as a result of the ruling; and (2) DPS shall publish on DPS's internet website, the information reported under (1), above.

**H.B. 1351 (Minjarez) – Eligibility Requirements for Arbitrators:** would provide that: (1) an arbitrator selected to hear an appeal of the disciplinary suspension or dismissal of a city police officer, deputy sheriff, deputy constable, or other police officer, including an appeal under civil service rules, collective bargaining, meet and confer or other similar agreement must be a resident of, and an attorney licensed to practice in, Texas; and (2) notwithstanding any other law, a collective bargaining agreement, meet and confer agreement, or other similar agreement may not conflict with the provisions of (1), above.

**S.B. 389 (Eckhardt) – Local Minimum Wage:** would, among other things, allow: (1) a city to adopt a minimum wage that exceeds the federal minimum wage to be paid by an employer to each of its employees for services performed in the city; and (2) a county to adopt a minimum wage that exceeds the federal minimum wage to be paid by an employer to each of its employees for services

performed in the unincorporated areas of the county, including areas located within the extraterritorial jurisdiction of a city. (The companion bill is **H.B. 224** by **Ortega**.)

### **Purchasing**

No Purchasing bills were filed this week.

### **Transportation**

**H.B. 1199 (Metcalf) – License Plates:** would provide that a person may operate a passenger car or light truck on a public highway with only one rear license plate displayed. (Companion bill is **H.B. 1274** by **Crockett**.)

**H.B. 1209 (Cortez) – Red Light Cameras:** would provide that photographic traffic signal enforcement contracts, including those executed before May 17, 2019, are void.

**H.B. 1257 (Ashby) – Property in Right-of-Way:** would authorize a law enforcement agency to remove an unattended manufactured home from a roadway or right-of-way without consent of the owner if the agency determines that the home blocks the roadway or endangers public safety.

**H.B. 1274 (Crockett) – License Plates:** would provide that a person may operate a passenger car or light truck on a public highway with only one rear license plate displayed. (Companion bill is **H.B. 1199** by **Metcalf**.)

**H.B. 1281 (Wilson) – Golf Carts:** would: (1) allow a neighborhood electric vehicle and golf cart to be operated in a master planned community: (a) that is a residential subdivision or has in place a uniform set of restrictive covenants; and (b) for which a county or city has approved one or more plats; (2) provide that a person may operate a golf cart in a master planned community described in (1) without a golf cart license plate; and (3) allow a city to prohibit the operation of a golf cart on a highway in the following areas if the city council determines the prohibition is necessary in the interest of safety: (a) in a master planned community described in (1); (b) on a public or private beach that is open to vehicular traffic; or (c) on a highway for which the posted speed limit is not more than 35 miles per hour. (Companion bill is **S.B. 206** by **Schwertner**.)

### **Utilities and Environment**

**H.B. 1191 (Goodwin) – Environmental Justice Commission:** would, among other things: (1) define “permitting facility” as a facility required to obtain a permit from the Texas Commission on Environmental Quality for wastewater discharge, injection wells, and under the Solid Waste Disposal Act and Clean Air Act; (2) define “environmental justice community” as a United States census block group, as determined in accordance with the most recent United States census, for which: (a) 30 percent or more of the noninstitutionalized population consists of persons who have an income below 200 percent of the federal poverty level; or (b) 50 percent or more of the

population consists of members of racial minority or ethnic minority groups; (3) create the Office of Environmental Justice (OEJ) within TCEQ to protect the public health, general welfare, and physical property of environmental justice communities in regard to issuance of permits; (4) provide that when TCEQ is considering a permit within three miles of an environmental justice community, that the OEJ shall provide a recommendation not later than the 7th day after the last day of the public comment period applicable to the permit to TCEQ on whether the permit should be issued and shall, in making its recommendation, consider: (a) whether the cumulative effects of pollution from the proposed permitted facility or change to an existing facility on the affected environmental justice community exceed the statewide average; and (b) any existing or anticipated vulnerabilities in the affected environmental justice community; and (5) provide that TCEQ shall consider the recommendation of the OEJ in making its determination about whether to issue a permit in addition to other factors required by law.

**H.B. 1267 (Walle) – Concrete Plants:** 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 concrete plant may request a public hearing prior to the construction or permitting of the concrete plant.

**H.B. 1282 (Deshotel) – Restriction on Regulation of Utility Services:** would: (1) define “regulatory authority” as the Public Utility Commission, Railroad Commission, or the governing body of a municipality, in accordance with the context; (2) define “utility” as a person, company, or corporation engaged in furnishing water, gas, telephone, light, power, or sewage service to the public; (3) prohibit a regulatory authority, planning authority, or political subdivision of this state from adopting or enforcing an ordinance, resolution, regulation, code, order, policy, or other measure that has the purpose, intent, or effect of directly or indirectly banning, limiting, restricting, discriminating against, or prohibiting the connection or reconnection of a utility service or the construction, maintenance, or installation of residential, commercial, or other public or private infrastructure for a utility service based on the type or source of energy to be delivered to the end-use customer; (4) prohibit an entity, including a regulatory authority, planning authority, political subdivision, or utility, from imposing any additional charge or pricing difference on a development or building permit applicant for utility infrastructure that: (a) encourages those constructing homes, buildings, or other structural improvements to connect to a utility service based on the type or source of energy to be delivered to the end-use customer; or (b) discourages the installation of facilities for the delivery of or use of a utility service based on the type or source of energy to be delivered to the end-use customer; and (5) provide that the bill does not limit the ability of a regulatory authority or political subdivision to choose utility services for properties owned by the regulatory authority or political subdivision.

**H.B. 1289 (Reynolds) – Notice of Accidental Spills:** would require the Texas Commission on Environmental Quality to notify the appropriate local government officials of a discharge or spill as soon as possible after TCEQ receives mandatory notice from the individual operating, in charge of, or responsible for the activity or facility where an accidental discharge or spill occurs.

**S.B. 387 (Schwertner) – Appeal Water Service Rates in ETJ:** would provide that:

1. a ratepayer for water or sewer service in the extraterritorial jurisdiction of a municipality may appeal the rates for that service to the Public Utility Commission (PUC) if the rates

for the service increase when a new service provider takes over the provision of the service, and the retail public utility that is the new service provider is:

- a. subject to the appellate jurisdiction of the PUC for the service area as:
    - i. a nonprofit water supply or sewer service corporation;
    - ii. an utility under the jurisdiction of a municipality inside the corporate limits of the municipality;
    - iii. a municipally owned utility, if the ratepayers reside outside the corporate limits of the municipality;
    - iv. a certain type of district or authority that provides water or sewer service to household users; and
    - v. an utility owned by an affected county, if the ratepayer's rates are actually or may be adversely affected; or
  - b. the utility is a municipality or utility or water supply corporation rendering retail water service without a certificate of public convenience and necessity;
2. a ratepayer may appeal the increased rates by filing a petition for review with the PUC and the service provider not later than the 90th day after the effective date of the increased rates;
  3. the petition in (2), above, must be signed by the lesser of 10,000 or 10 percent of the ratepayers whose rates have been increased due to the takeover by the new service provider;
  4. among other things, the PUC shall hear the appeal de novo and shall fix in its final order the rates the governing body of the provider should have fixed and may consider only:
    - a. the information that was available to the governing body that approved the increased rates at the time the governing body approved the rates; and
    - b. evidence of reasonable expenses incurred by the service provider in the appeal proceedings;
  5. the rates established by the PUC remain in effect until the first anniversary of the effective date proposed by the service provider for the rates being appealed or until changed by the service provider, whichever date is later, unless the PUC determines that a financial hardship exists;
  6. provide that the PUC may, on a motion by the PUC or by the appellant, establish interim rates to be in effect until a final decision is made under (4), above;
  7. in an appeal under the bill, the PUC shall use a methodology that preserves the financial integrity of the service provider and ensure that every rate made, demanded, or received by the service provider is just and reasonable and that rates may not be unreasonably preferential, prejudicial, or discriminatory but must be sufficient, equitable, and consistent in application to each class of customers; and
  8. a ratepayer described by (1), above, may use the appeal process in the bill to appeal increased rates charged to the ratepayer by a new service provider by filing a petition for review with the PUC and the service provider not later than December 1, 2021, if the new service provider began providing service to the ratepayer on or after September 1, 2016.

**S.B. 398 (Menéndez) – Distributed Renewal Generation Resources:** would: (1) provide that “distributed renewable energy” means electric generation with a capacity of not more than 2,000 kilowatts provided by a renewable energy technology that is installed on a retail electric customer’s

side of the meter; (2) provide that “small commercial customer” means a commercial customer having a peak demand of 1,000 kilowatts or less; (3) preempt a city from prohibiting or restricting the installation of a solar energy device by a residential or small commercial customer except to the extent: (a) a property owner’s association may prohibit the installation; or (b) the interconnection guidelines and interconnection agreement of a municipally owned utility serving the customer’s service area, the rules of the Public Utility Commission of Texas, or the protocols of an independent organization, limit the installation of solar energy devices due to reliability, power quality, or safety of the distribution system; and (4) provide that the bill does not apply to: (a) transaction involving the sale or transfer of the real property on which a distributed renewable generation resource is located; (b) a person, including a person acting through the person’s officers, employees, brokers, or agents, who markets, sells, solicits, negotiates, or enters into an agreement for the sale or financing of a distributed renewable generation resource as part of a transaction involving the sale or transfer of the real property on which the distributed renewable generation resource is or will be affixed; or (c) a third party that enters into an agreement for the financing of a distributed renewable generation resource.

## **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](mailto:legalinfo@tml.org); Rachael Pitts for membership support at [RPitts@tml.org](mailto:RPitts@tml.org); and the training team for questions about conferences and workshops at [training@tml.org](mailto: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 with information on new developments. The email updates are our primary means of communication during the pandemic. Those emails are archived [chronologically](#) as well as by [subject matter](#).

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