



Legislative UPDATE

May 7, 2021
Number 17

25 Days to Go: Where We Stand in the 87th Legislative Session

With 25 days left in the legislative session, the hard work of city officials has been instrumental in promoting policies that will benefit city residents across the state. Beginning next week, important deadlines in the Texas House will significantly reduce the number of bills that are able to continue moving through the process this session.

While the list below in no way represents every city-related bill that is out there, we have attempted to provide updates on some of the bills we commonly receive questions about from city officials. For all of these bills, we strongly encourage interested city officials to continue the dialogue with their elected senators and representatives about the impact of these bills on their communities.

- **Super Preemption:** [H.B. 610](#) by Swanson would prevent cities from regulating occupations that are licensed by state law if the city regulation would have an adverse economic impact on the license holder. The bill opens the door to nearly unlimited litigation against cities regarding the impact of local regulations. The bill was passed by the House Judiciary and Civil Jurisprudence Committee, and is now in House Calendars committee. TML submitted [this letter](#) in opposition to H.B. 610 in House committee.
- **Community Censorship:** [S.B. 10](#) by Bettencourt limits cities' ability to fully participate in the state legislative process. The [committee substitute](#) that passed the Senate contains language that would allow a city or county to provide compensation to a nonprofit state association or organization to advocate for or against or otherwise influence the outcome of legislation, so long as the association or organization does not contract with lobbyists or attempt to influence legislation related to property taxation. The committee substitute is

otherwise nearly the same as the as-filed version, and still contains extremely problematic language that creates liability for a city if city funds are used *in any manner* to directly or indirectly influence or attempt to influence the outcome of any legislation pending before the legislature. The bill prohibits cities from hiring contract lobbyists or government relations staff. S.B. 10 has been referred to the House State Affairs Committee. TML submitted [this letter](#) in opposition to S.B. 10 in Senate committee.

- **Debt Restrictions:** [H.B. 1869](#) by Burrows, as filed, would have modified the definition of “debt” for purposes of the debt service property tax rate calculation to only include debt approved at an election. This change would mean that all non-voter approved debt, such as certificates of obligation and tax notes, would have to be financed from a city’s maintenance and operations property tax rate instead of the debt service tax rate. The [committee substitute](#) adopted by the House Ways and Means Committee modified the as-filed version to give cities the ability to debt finance certain infrastructure and equipment, even if the debt wasn’t first approved by the voters. H.B. 1869 was approved by the full House after [several additional beneficial amendments](#) were added to the bill on the House floor.
- **Law Enforcement Funding:** At the moment, two bills are moving through the legislative process that would penalize cities that “defund” their police departments – S.B. 23 and H.B. 1900. [S.B. 23](#) by Huffman has been approved by the full Senate and heard in the House State Affairs Committee. As approved by the Senate, the bill would require a city to receive voter approval in order to adopt a budget that reduces police funding or the number of officers from the previous year (with exceptions). If a city fails to receive voter approval, a person may file a complaint with the governor’s office, and the comptroller can ultimately make a determination that the city reduced police funding, in which case property tax rate limitations apply to the city. On Thursday morning, a committee substitute for S.B. 23 was heard in House State Affairs committee that applied only to county governments in counties with a population over one million.

[H.B. 1900](#) by Goldman was passed by the House this week. Like S.B. 23, H.B. 1900 would penalize cities for lowering budget appropriations to police departments. Unlike S.B. 23, which, at least initially, was generally applicable to all cities, H.B. 1900 only applies to cities with populations of 250,000 and above. Further, the bill would impose numerous additional penalties on a “defunding” city in addition to a property tax rate limitation, including sales tax withholding, annexation restrictions, and a requirement to pay for and hold disannexation elections in every area annexed by the city over the preceding 30 years.

Both chambers appear to be committed to their own versions of these defunding bills, setting up a potential late session negotiation on compromise language in conference committee. TML submitted [this letter](#) on S.B. 23 in Senate Jurisprudence Committee (and a similar one for H.B. 1900).

- **Partisan City Elections:** [H.B. 2092](#) by Sanford would require candidates for city office to declare a political party affiliation. The bill was voted out of House Elections Committee

on a 5-4 vote. The next stop for the bill is the House Calendars Committee. TML submitted [this letter](#) opposing H.B. 2092 in House Elections Committee.

- **Sales Tax Sourcing:** [H.B. 4072](#) by Meyer would shift city sales tax sourcing from origin-based (where the order is received) to destination-based (where the item is shipped or where customer takes possession of an item). This is a significant shift that has the potential to impact many cities, both positively and negatively. The bill is in the House Calendars Committee. TML, at the direction of our membership, is neutral on the bill because of the city-versus-city nature of city sales tax sourcing changes.
- **Property Tax Rate Calculation During Disaster:** [S.B. 1438](#) by Bettencourt passed both the House and the Senate, though in different forms. The bill, as filed and as it passed the Senate, would modify the tax rate calculation provision for taxing units during a disaster to restrict a city from opting into an 8 percent voter-approval rate calculation during a pandemic or other disaster in which property is not physically damaged. However, two floor amendments were added to the bill in the House that are potentially damaging to city recovery efforts following a disaster.

[One amendment](#), by Murphy, would lower a city's voter-approval property tax rate in the first year following the city's use of a higher voter-approval rate calculation due to a disaster. The [other amendment](#), by Guillen, would make a property tax exemption for property damaged in a disaster a mandatory exemption after the adoption of a city's tax rate. (Note: current law provides that the tax exemption is local option after the adoption of local tax rates in order to provide some budget predictability.) S.B. 1438 returns to the Senate, where Senator Bettencourt can choose to concur in the House amendments, or go to conference committee to negotiate on the differences between the House and Senate versions.

- **COVID Presumption:** [S.B. 22](#) by Springer and [H.B. 541](#) by Patterson would both establish a presumption that first responders that contracted or contract COVID-19 did so while on the job for purposes of certain benefits and compensation. Cities generally support COVID-19 presumption for first responders, and at this point H.B. 541 establishes additional guardrails that are not present in S.B. 22 providing more certainty that COVID-19 was actually contracted on the job. Both bills have been approved by the first chamber and crossed over to the other.

Secretary of State Releases Post-Election Guidance for May Elections

This week, the Secretary of State's Elections Division released the following election advisory memos addressing post-election, canvassing, and recount procedures following the recent May elections:

- [SOS Advisory 2021-04](#) – Canvass and Recount Deadlines for May 1, 2021 Elections
- [SOS Advisory 2021-05](#) – Post Election Procedures and Qualifying for Office.

Comptroller Releases Revised Revenue Estimate

On Monday, Comptroller Glenn Hegar announced a revised the Biennial Revenue Estimate (BRE) increasing his previous estimate from January by \$3 billion. The projected funds available for the 2022-2023 budget is now \$115.64 billion for general-purpose spending. Hegar announced the ending balance in the 2020-2021 General Revenue-Related funds to be \$725 million, an increase from the negative balance projected in January. In his [press release](#), Hegar stated, “Our revised revenue forecast assumes continued economic growth through the next biennium, but uncertainty remains about the ultimate course of the economy and thus state revenue. Texas remains well-positioned to recover from the COVID outbreak and return to its norm of economic growth in excess of the national rate — if we haven’t already.”

Bills on the Move

Significant Committee Action

[H.B. 3 \(Burrows\)](#), relating to the Texas Pandemic Response Act. Voted from House State Affairs.

[H.B. 738 \(Paul\)](#), relating to building codes. Voted from Senate Business and Commerce.

[H.B. 929 \(Sherman\)](#), relating to body worn cameras. Voted from House Homeland Security and Public Safety.

[H.B. 1878 \(Gates\)](#), relating to vacant residential buildings. Voted from House Land and Resource Management.

[H.B. 4447 \(Oliverson\)](#), relating to land development applications. Voted from House Land and Resource Management.

[S.B. 3 \(Schwertner\)](#), relating to utility preparedness. Left pending in House State Affairs.

[S.B. 22 \(Springer\)](#), relating to disease presumption. Voted from House Business and Industry.

[S.B. 23 \(Huffman\)](#), relating to law enforcement funding. Left pending in House State Affairs.

[S.B. 24 \(Huffman\)](#), relating to pre-employment procedures for peace officers. Voted from House Homeland and Security.

[S.B. 68 \(Miles\)](#), relating to duty to intervene. Voted from House Homeland Security and Public Safety.

[S.B. 69 \(Miles\)](#), relating to prohibiting chokeholds. Voted from House Homeland Security and Public Safety.

[S.B. 402 \(Johnson\)](#), relating to the street maintenance sales tax. Voted from Senate Local Government.

[S.B. 877 \(Hancock\)](#), relating to building inspections. Voted from House Urban Affairs.

[S.B. 1486 \(Hughes\)](#), relating to juvenile curfews. TML provided [written testimony](#). Voted from Senate Criminal Justice.

[S.B. 1947 \(Springer\)](#), relating to building permits. TML provided [written testimony](#). Left pending in Senate Local Government.

[S.B. 2212 \(West\)](#), relating to the duty to render aid. Voted from House Homeland Security and Public Safety.

Significant Floor Action

[H.B. 492 \(Wu\)](#), relating to no-knock entries. Passed the House.

[H.B. 652 \(Paul\)](#), relating to animal shelters. Passed the House.

[H.B. 1118 \(Capriglione/Paxton\)](#), relating to cybersecurity. Sent to Governor.

[H.B. 1869 \(Burrows\)](#), relating to debt limitations. Passed the House.

[H.B. 1925 \(Capriglione\)](#), relating to camping in public. Passed the House.

[H.B. 1927 \(Schaefer/Schwertner\)](#), relating to firearm regulation. Passed the Senate.

[H.B. 1973 \(Canales\)](#), relating to investigation of firefighters. Passed the House.

[H.B. 3015 \(Hernandez\)](#), relating to the Public Information Act. Passed the House.

[S.B. 726 \(Schwertner\)](#), relating to eminent domain. Passed the House.

Stay Engaged During the Legislative Session: Grassroots Involvement Program

During this legislative session, Texas cities are facing many challenges and opportunities. TML will need to continue mobilizing our membership at key points in the remaining weeks. 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.

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 participation is a highly effective tool.

We ask that you complete the survey as soon as possible.

City Officials Testify

When the legislature is in session, nothing compares to the effectiveness of city officials testifying at the Capitol. City officials who take the time to attend legislative committee meetings – whether virtually or by traveling to Austin – to speak out on important city issues should be applauded by us all. The League extends its thanks to all those who are vigilantly representing cities during this session. If we missed your testimony, let us know by an email to ford@tml.org, and we will recognize you in next week's edition.

The following officials testified in committee hearings held April 26 through May 1:

- Joe Freeland, San Antonio Water System
- Karen Hunt, Mayor, City of Coppell
- Ronnie Morris, Assistant Chief of Police, City of Grand Prairie
- Daniel Scesney, Chief of Police, City of Grand Prairie
- Paula Blackmon, City of Dallas
- Jerry Bark, Assistant City Manager, City of Harker Heights
- Hilary Shine, Executive Director of Communications, City of Killeen
- David Williams II, Mayor Pro Tem, City of Nolanville
- Sally Bakko, Director of Policy and Government Relations, City of Galveston
- Will Bradshaw, Mayor Pro Tem, City of Leon Valley
- Rey Orozco, Councilmember, City of Leon Valley
- Josh Stevens, Councilmember, City of Leon Valley
- Allison Gray, Building Official, City of Fort Worth
- Aaron Groff, Mayor, City of Fulshear
- Christopher Sparks, Chief Sanitarian, City of Houston Health Department
- David Faaborg, Interim Police Chief, City of Mesquite
- Noel Bernal, Mayor, City of Brownsville
- Calvert Collins-Bratton, Chair, Dallas Parks Board
- Lee Kleinman, Councilmember, City of Dallas
- Jessica Anderson, Commander, City of Houston Police Department
- Cyrus Zafrini, Lieutenant, City of Dallas Police Department
- Brian Redburn, Assistant Chief, City of Irving Police Department

COVID-19 Update (No. 185)

After more than a year in which we've sent [184 email updates](#) and [amassed hundreds of pages of archives](#), the reduced volume of pandemic-related information no longer necessitates that the League send individual email updates.

In the future, all pandemic-related information, including information about the American Rescue Plan's city-related provisions, will be shown here – in the [Legislative Update Newsletter](#).

The following is this week's pandemic-related information:

- **Reminder to Prepare Now to Receive Your American Recovery Plan Act Funds:** *The National League of Cities has reported that American Rescue Plan allocations should be released no later than May 10.* Larger cities will get that allocation directly, but smaller cities will get theirs from the state, which will have 30 days to pass the money through. TML staff have seen nothing thus far from the State of Texas regarding that process.

The U.S. Treasury Department [posted online](#) the steps that metropolitan cities and non-entitlement cities units must take to receive their grants.

NLC has prepared an [allocations estimator](#) showing how much each city could receive. In addition, NLC staff has prepared a [Q&A web page](#) with the information they have obtained thus far.

The U.S. Department of the Treasury now has a [website](#) with information about COVID-19 economic relief. The site includes a sign-up for email updates.

- **Vaccine Guide for Cities as Employers:** NLC worked with the [Health Action Alliance](#), which offers resources on COVID-19 for the business community, to put together a [vaccine guide](#) for cities as employers on how to approach the vaccine with their city workforces.
- **Federal Emergency Rental Assistance:** On March 26, Treasury revised its [FAQs and grantee award terms](#) for emergency rental assistance. Treasury continues to work with stakeholders to provide additional guidance and technical assistance, which will be forthcoming. NLC has developed a [practices guide for cities](#) operating emergency rental assistance programs. (The guide primarily applies to direct recipients of funds, which include cities over 200,000 population and state programs.)
- **Open Meetings Act Suspensions:** On May 5, the governor's office once again, by continuing his [COVID-19 disaster declaration](#) for another 30 days, extended the Open Meetings Act suspensions for another 30 days. His office tells League staff that he should continue doing so for the foreseeable future. (Even if he decides to independently end the suspensions, his staff assures the League that he will give ample notice of that action.)

Reminder: TML Coronavirus Updates are archived by subject [here](#).

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