



Legislative UPDATE

May 21, 2021
Number 19

Final Days. Bills to Watch.

With only 10 days left in the 87th Legislative Session, a few critical measures continue to make their way through the process. We ask that you continue to dialogue with your legislative delegations on these critical issues. Only a few more days before legislative [deadlines](#) give a clearer indication of what will finally pass and what will have to wait until next legislative session.

- **Community Censorship:** [S.B. 10](#) by Bettencourt has passed the House State Affairs Committee and waits to be set on one of the few remaining House floor calendars. S.B. 10 now applies to all taxing jurisdictions and requires a vote of the governing body to authorize a contract with a person required to register as a lobbyist. The bill requires a taxing entity to post a copy of the contract on its website including amounts spent on contract lobbyists and membership fees or dues to nonprofit state associations or organizations. The bill prohibits a city from reimbursing a lobbyist for expenditures on food, drink, and entertainment and prohibits lobbyists who contract with a taxing entity from advocating on tax rates.
- **Debt Restrictions:** [H.B. 1869](#) by Burrows has passed the House and has received a hearing in the Senate Local Government Committee. As filed, this bill 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. The House improved the bill by giving cities the ability to debt finance certain infrastructure and equipment. HB 1869 has received a hearing in the Senate Local Government Committee and by all indications from Chairman Bettencourt, the committee will likely vote out a similar measure in the days ahead.

- **Law Enforcement Funding:** Two bills that would penalize cities that “defund” their police departments are moving through the process in these final days. [S.B. 23](#) by Huffman was amended to apply to only county governments with populations over one million. [H.B. 1900](#) by Goldman has passed the House and was heard in the Senate Jurisprudence Committee yesterday. 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 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.
- **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. As we reported in our [May 7th Legislative Update](#), two floor amendments were added to the bill in the House that are potentially damaging to city recovery efforts following a disaster. S.B. 1438 is currently being considered in a conference committee that will reconcile the differences between the two chambers.

Bills on the Move

Significant Floor Action

[H.B. 54 \(Talarico/Whitmire\)](#), relating to police reality TV shows. Sent to the Governor.

[H.B. 545 \(Thompson\)](#), relating to annexation of portions of a highway system. Passed the House.

[H.B. 738 \(Paul/Nichols\)](#), relating to building codes. Passed the Senate.

[H.B. 929 \(Sherman\)](#), relating to body worn cameras. Passed the House.

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

[H.B. 2404 \(Meyer/Zaffirini\)](#), relating to Chapter 380 Economic Development Agreements. Sent to the Governor.

[S.B. 22 \(Springer/Patterson\)](#), relating to disease presumption. Passed the House.

[S.B. 877 \(Hancock/Morrison\)](#), relating to building inspections. Passed to third reading in House.

[S.B. 1486 \(Hughes\)](#), relating to juvenile curfews. Passed the Senate.

[S.B. 1947 \(Springer\)](#), relating to building permits. Passed the Senate.

Significant Committee Action

[S.B. 10 \(Bettencourt/Paddie\)](#), relating to community censorship. Voted from House State Affairs.

[H.B. 1869 \(Burrows/Bettencourt\)](#), relating to debt financing. Left pending in Senate Local Government.

[H.B. 2073 \(Burrows/Springer\)](#), relating to quarantine leave for fire fighters, peace officers, and emergency technicians. Voted from Senate Local Government.

[S.B. 3 \(Schwertner/Paddie\)](#), relating to utility preparedness. Voted from House State Affairs.

[S.B. 1430 \(Bettencourt\)](#), relating to petitions and ballot propositions. Voted from Senate State Affairs.

Don't Forget: Mandated Cybersecurity Training and Reporting **Due in June**

Texas Government Code Section 2054.5191 requires city employees and officials who have access to a local government computer system or database to complete a Texas Department of Information Resources (DIR) certified training program. Training must be completed by **June 14, 2021** and cities must certify their training compliance by **June 15, 2021**, using the [Cybersecurity Training Certification for State and Local Governments](#) form.

The Texas Municipal League Intergovernmental Risk Pool (TML IRP) has three DIR-certified options available free of charge. TML IRP's free cybersecurity training program can be accessed on TML IRP's cybersecurity training [web page](#), through its [YouTube Channel](#), or the [online learning center](#).

Information about other DIR-certified training programs is available on the agency's [web page](#). Once your employees and officials complete the training, your city may choose any method to track the compliance of individual employees and officials. DIR has an optional tool, Texas by Texas (TxT), for cities to track the training compliance of their employees and officials. For cities using TxT, employees will self-report their training completion, and DIR will send a report from the TxT application to each city to verify training compliance. Cities that wish to use TxT should indicate their interest by submitting the [Texas by Texas Self-Reporting form](#).

Note: [H.B. 1118](#), as passed by the 87th Texas Legislature and signed by the governor, will amend cybersecurity training requirements for city employees and for elected and appointed officials. The bill has an immediate effective date.

This bill: (1) requires training for those employees and officials who have access to a local government computer system or database and use a computer to perform at *least 25 percent* of the employee's or official's required duties; (2) gives cities authority to deny access to a city's

computer system or database to those individuals who have not completed the required training; (3) requires cities to report the percentage of employee and official completion; and (4) penalizes cities that do not comply with the cybersecurity training requirements of Government Code Section 2054.5191 by impacting a city's ability to apply for or keep certain grants administered by the state (note: this penalty applies to grant applications submitted on or after September 1, 2021).

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 May 10 through May 14:

- Maria Irshad, Assistant Director – ParkHouston, City of Houston
- Hope Wells, Corporate Counsel, San Antonio Water System
- Robert Campise, Fire Chief, City of Beach City
- Marla Roe, Executive Director- Visit Frisco, City of Frisco
- Tammy Embrey, Director of Intergovernmental Relations, City of Corpus Christi

COVID-19 Update (No. 187)

After more than a year in which we have [amassed hundreds of pages of archives](#), the reduced volume of pandemic-related information no longer necessitates that the League send individual email updates. All pandemic-related information, including information about the American Rescue Plan's city-related provisions, will be in the [Legislative Update Newsletter](#).

Governor Prohibits Cities from Requiring Mask Wearing

The governor issued an [executive order](#) “prohibiting governmental entities in Texas – including counties, cities, school districts, public health authorities, or government officials – from requiring or mandating mask wearing.”

League attorneys interpret the order to prohibit a city from requiring: (1) citizens to wear masks anywhere, including on city property; and (2) its employees to wear masks. As always, each city should consult local legal counsel on these issues.

According to the press release, “beginning May 21, local governments or officials that attempt to impose a mask mandate or impose a limitation inconsistent or conflicting with the executive order can be subject to a fine of up to \$1,000.”

“Public schools may continue to follow current mask-wearing guidelines through June 4. After June 4, no student, teacher, parent, or other staff member or visitor can be required to wear a mask while on campus. Exempt from the executive order are state-supported living centers, government-owned or operated hospitals, Texas Department of Criminal Justice facilities, Texas Juvenile Justice Department facilities, and county and municipal jails.”

What about a Municipal Judge’s Authority over Masks in the Courtroom?

Item 4 in the governor’s order mentioned above states that “...*legal proceedings are free to proceed without COVID-19-related limitations* imposed by local governmental entities or officials, in all counties not in an area of high hospitalizations as defined in that executive order.”

The State Office of Court Administration seems to disagree with that statement, and it issued the following statement on May 18:

As the Supreme Court's [36th Emergency Order](#) states, courts may take any reasonable action to avoid exposing court proceedings to the threat of COVID-19, including requiring compliance with social distancing protocols and face coverings worn over the nose and mouth. As stated in Attorney General Opinion [KP-0322](#), “judges possess broad inherent authority to control orderly proceedings in their courtrooms, and pursuant to that authority, they can require individuals in the courtroom to wear facial coverings” and “may require any person entering the courthouse in which they preside to wear a facial covering while in the courthouse.”

The executive order issued today does not alter the Supreme Court’s current emergency order, the ability of a judge to control his or her courtroom, or requirements for those entering a court building who will be attending a court proceeding. As the Supreme Court's 36th Emergency Order expires on June 1, a new order is expected in the coming days.

While OCA will issue a full set of updated best practices in the coming days, OCA plans to alter its best practices recommendations to be consistent with CDC Guidance for face coverings and social distancing. Fully vaccinated persons should not be required but encouraged to wear a face covering, and fully vaccinated individuals should not be required to socially distance. Otherwise, courts should encourage all court participants and individuals in the courtroom to wear a face covering and socially distance, especially those who are unvaccinated. This may require designating certain parts of a court facility and courtrooms as a face-covering and/or socially-distanced zone while others are not. Courts should not inquire about vaccination status, as this information is private information.

As always, if you have questions or concerns, please do not hesitate to reach out to coronavirus@txcourts.gov.

Open Meetings Act Suspensions

We reported two weeks ago that, 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, if he decides to independently end the suspensions, they will give ample notice of that action.

Legislation that would make videoconference meetings easier permanently has stalled at the Texas Capitol. Given that fact, along with the continued decline of COVID-19 hospitalization and infection numbers, city officials may want to start thinking about in-person meetings sooner, rather than later.

Coronavirus State and Local Fiscal Recovery Funds

Nothing new has been reported from Treasury or the Texas Division of Emergency Management regarding stimulus funds. You can look to archived editions of the [Legislative Update](#) for what has been reported so far.

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

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