



# Legislative UPDATE

June 4, 2021  
Number 21

## **Look For Legislative Update “Wrap-Up” Edition Next Week**

With the 87<sup>th</sup> Legislature’s regular session concluding earlier this week, the efforts of League staff are now focused on summarizing the city-related legislation that has passed. Additional detail about that legislation will be included in future *Legislative Update* articles, and the June 11 “wrap-up” edition will contain summaries of every city-related bill that passed.

## **2021 City Tax and Budget Deadline Memos Now Available**

Every year, TML posts a memo containing the annual calendar deadlines for the budget adoption and tax rate setting process. Following the passage of Senate Bill 2 in 2019, the process for adopting a tax rate changed significantly. Because the tax rate adoption procedure varies depending on the size of the city, two memos are available: one for [cities under 30,000 population](#), and the other for [cities with populations of 30,000 or more](#). Further, within each document, there are two sets of deadlines depending on whether the city’s adopted tax rate will exceed the voter-approval tax rate or not. Whatever the case may be, the deadlines in the document represent the

last possible dates for a city to take certain actions related to the budget or tax rate in 2021. Cities should act well in advance of the deadlines in the calendar, if possible.

For more detailed information about S.B. 2, city officials are encouraged to read the [S.B. 2 Explanatory Q&A](#) posted on the TML website.

## **COVID-19 Update (No. 189)**

All pandemic-related updates, including information about the American Rescue Plan's city-related provisions, will be in the [Legislative Update Newsletter](#) from now on.

### **Treasury Issues New Economic Relief and Recovery Program Information**

The U.S. Department of the Treasury added to the FAQs section of the [Coronavirus State and Local Fiscal Recovery Funds](#) page in the [Assistance for State, Local, and Tribal Governments](#). Specifically, [see questions](#) 1.5, 1.6, 2.13, 2.14, 2.15, 3.9, 4.5, 4.6, 10.3, and 10.4.

### **EEOC Updates Its Technical Guidance on COVID-19 Vaccines**

On May 28, 2021, the federal Equal Employment Opportunity Commission (EEOC) updated its [technical guidance](#) to provide new information related to COVID-19 vaccines and the workplace (questions K1-K21). Although the technical guidance answers COVID-19 questions only from the perspective of equal employment opportunity (EEO) laws, other laws, not under the EEOC's jurisdiction, may place additional restrictions on employers. The key updates are summarized below:

- Federal EEO laws do not prevent an employer from requiring all employees physically entering the workplace to be vaccinated for COVID-19, provided that the employer complies with the reasonable accommodation provisions of Title VII of the Civil Rights Act of 1964 and the Americans with Disabilities Act (ADA) and other EEO considerations.
- The ADA requires an employer that chooses to obtain COVID-19 vaccination information from its employees to keep the employee's information, including any documentation or other confirmation of vaccination, confidential, and to store such information separately from the employee's personnel file.
- Federal EEO laws do not prevent or limit employers from offering incentives to employees to voluntarily provide documentation or other confirmation of vaccination obtained from a third party (not the employer) in the community, such as a pharmacy, personal health care provider, or public clinic.
- Employers that are administering vaccines to their employees may offer incentives for employees to be vaccinated, as long as the incentives are not coercive. Because vaccinations require employees to answer pre-vaccination disability-related screening questions, a very large incentive could make employees feel pressured to disclose protected medical information.

- An employer may *not* offer an incentive to an employee in return for an employee's family member being vaccinated by the employer or its agent. Providing such an incentive to an employee because a family member was vaccinated by the employer or its agent would require the vaccinator to ask the family member the pre-vaccination medical screening questions, which include medical questions about the family member. Asking these medical questions would lead to the employer's receipt of genetic information in the form of family medical history of the employee. The regulations implementing Title II of the Genetic Information Nondiscrimination Act (GINA) prohibit employers from providing incentives in exchange for genetic information. However, an employer may still offer an employee's family member the opportunity to be vaccinated by the employer or its agent, if the employer takes certain steps to ensure GINA compliance.

### **National League of Cities Issues Letter on ARPA Clawback**

On May 27, 2021, the National League of Cities, along with the U.S. Conference of Mayors and the National Association of Counties, sent [this letter](#) to Congressional Leadership expressing adamant opposition to any proposal that would detrimentally recoup and repurpose funds allocated to local governments from the American Rescue Plan Act.

As you may have seen in the news, Senate GOP leaders proposed a counter offer on infrastructure. Additionally, there is [this memo](#) on the status of the infrastructure negotiations and how to pay for a package.

While it is unclear at this point if their proposal would clawback COVID funding from the CARES Act or ARPA, or if local government funds are at risk, the letter is a preemptive statement of opposition to any such proposal. In fact, there have been recent proposals in Congress to do so, including a recent [amendment](#) from Senator Rick Scott on an unrelated bill to clawback unobligated ARPA funds. You can see that 47 senators voted in favor of the amendment. This serves as a marker for something that is likely to come up again.

Local officials who oppose any such proposal should call their Senators and Representatives.

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

## **Texas Commission on Environmental Quality Seeks Comment on Amendment to Air Quality Standard Permit for Concrete Batch Plants**

The Texas Commission on Environmental Quality (TCEQ) seeks to amend the air quality standard permit for concrete batch plants to add an exemption from emissions and distance limitations. The Texas Administrative Code allows TCEQ to provide an exemption in a standard permit from emission limitations, including minimum distance requirements, for any project that results in a net increase in emissions of air contaminants from the project or those for which a national ambient

air quality standard has been established. TCEQ has more information [here](#) with an explanation of the history and the proposed standard permit with the exemptions.

TCEQ is providing an opportunity for the public to comment on the proposed amendment to the air quality standard permit. During the comment period, any person may submit written comments on the proposed standard permit amendment. **The comment period closes at midnight on June 29, 2021.**

Written comments may be submitted electronically via the agency's [public comments webpage](#), or via mail to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087. All comments should reference **Non-Rule Project No. 2021-016-OTH-NR.**

Additionally, TCEQ will hold a public meeting on this proposal via telephone conference on June 28, 2021 at 7:00 p.m. TCEQ will not permit open discussion during the meeting, however, TCEQ staff members will be available to discuss the proposal 30 minutes prior to the meeting.

Those interested in registering as participants may email [david.munzenmaier@tceq.texas.gov](mailto:david.munzenmaier@tceq.texas.gov) or leave a voicemail at 512-239-6092 with the following information:

1. Subject: CBP SP Amendment Registration for 2021-016-OTH-NR
2. Your Name
3. Title
4. Whom you represent (self or company/client)
5. Mailing Address
6. Phone Number
7. Whether you wish to provide official testimony

Beginning at 6:30 p.m. on June 28, members of the public may listen in by calling 1-877-820-7831 (International: 1-720-279-0026) and entering access code 181446#. More information is available on the [TCEQ website](#).

## **Texas Commission on Environmental Quality Survey for Water Systems**

A Texas Commission on Environmental Quality (TCEQ) team is currently working on recommendations to: (1) develop new or improve existing state rules and regulations; and (2) determine training and assistance needs to help Texas public water systems be better prepared for future severe weather-related events.

To do this, TCEQ developed a [survey](#) to gather data to assist the agency in drafting the recommendations to enhance critical infrastructure resilience for Texas' public water systems. TCEQ would like water systems, including those that Winter Storm Uri did not impact, to complete the survey. The survey will assist TCEQ to learn about the challenges water systems faced that

week and best practices that helped to mitigate the impact of the storm. The website address for the survey is [www.tceq.texas.gov/goto/survey-uri](http://www.tceq.texas.gov/goto/survey-uri).

If your city has questions about the survey, you can email [Winterstorm\\_PWS@tceq.texas.gov](mailto:Winterstorm_PWS@tceq.texas.gov).

Additionally, TCEQ will have stakeholder meetings this summer on the issue. If you would like to participate in TCEQ's stakeholder meetings, please visit the following TCEQ webpage at [www.tceq.texas.gov/goto/after-uri](http://www.tceq.texas.gov/goto/after-uri) to check for dates and registration information.

## **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. The League extends its thanks to all those who have vigilantly represented cities throughout the 87th legislative session.

The following official provided testimony in one of the last Senate committee hearings held during the regular session:

- Tim Woliver, Assistant to the Director, Office of Veteran and Military Affairs, City of San Antonio.

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