



Legislative UPDATE

August 13, 2021
Number 31

Quorum Still in Question

As the governor called the second special session late last week, questions remained as to whether the House would obtain a quorum of members. As of the printing of this article, a quorum has not been convened in the Texas House. Earlier this week, the House voted for a “Call of the House”, a procedural vote to compel absent members to return to the chamber. On Tuesday, the House voted to authorize law enforcement to track down lawmakers absent from the chamber and Speaker Dade Phelan signed civil arrest warrants for 52 House Democrats to be brought back to the House chamber.

The Senate has passed several bills including 2S.B. 14 (Creighton) relating to prohibiting city regulation of certain employment practices this week. Due to House rules, no business can be conducted in the House during a lack of quorum except to compel the attendance of absent members, halting Senate legislation from being considered in the House and continuing a now month-long standstill.

Bills on the Move

[2S.B. 1 \(Hughes\)](#), relating to election integrity and security. Passed the Senate.

[2S.B. 8 \(Bettencourt\)](#), relating to homestead exemptions. Passed the Senate.

[2S.B. 14 \(Creighton\)](#), relating to employment practices. Passed the Senate.

Last Call: Resolutions for 2021 Annual Conference

The TML Constitution states that resolutions for consideration at the Annual Conference must be submitted to the TML headquarters 45 calendar days prior to the first day of the Annual Conference. For 2021, this provision means that resolutions from any member city, TML region, or TML affiliate must arrive at the TML headquarters no later than 5:00 p.m. on **August 23, 2021**. Details on the submission process can be found [here](#).

Post-Session Update: Statewide Public Camping Ban Proposed Rules and Open Public Comment Period

Starting September 1, [H.B. 1925](#) makes it a Class C misdemeanor for a person to camp on public city property without first obtaining effective consent from the city. This bill makes changes to the Texas Penal Code, Government Code, and Local Government Code, defines what it means to “camp,” establishes the process by which a city may give “effective consent,” and establishes rules for enforcement.

What is “camping?”

Under H.B. 1925 to “camp” is “to reside temporarily in a place, with shelter.” For purposes of this bill, “shelter” includes the following: a tent, tarpaulin, lean-to, sleeping bag, bedroll, blankets or any form of temporary or permanent shelter designed to protect a person from bad weather, other than clothing or handheld devices, i.e., items like raincoats and umbrellas.

Is this a Camping Ban?

Not for nothing, the bill defines itself as a “camping ban,” yet the bill allows cities to consent to a person camping on public property for an array of purposes, including:

1. Recreational purposes
2. Sheltering homeless individuals
3. Beach access
4. Providing emergency shelter during a declared disaster

How does a city give “effective consent” to camping? This is where the bill gets a little tricky, because the process for giving effective consent *depends on the purpose* (from the list above) for which the person wishes to camp.

Purpose: Recreational or Emergency Camping. To allow camping for recreational purposes or for emergency shelter during a disaster, the bill gives no guidance. Presumably, a city would approve a process by which a person who wishes to camp for these purposes would apply for a permit, and that permit is evidence of the city's consent. Speak to your city attorney regarding specifics of adopting such a policy.

Purpose: Camping on the beach: To consent to beach camping, a city with authority over a public beach must have a "beach access plan" approved pursuant to Section 61.015 of the Natural Resources Code. This law has been in place since the 1970s. One assumes that beach towns would have adopted such plans years ago, but given this new camping ban, an update to the beach access plan might be advisable. Consult your city attorney before taking specific action.

Purpose: Sheltering Homeless Individuals. This is where most of the action in H.B. 1925 is happening. A city may only give effective consent for a homeless person to camp on public property for the purpose of shelter, if the Texas Department of Housing and Community Affairs (TDHCA) approves a plan covering a defined area identified for camping by the city that complies with Subchapter PP, Chapter 2306, Texas Government Code, which was a new subchapter created by this bill. For a plan to be approved, it must include information related to the following five areas:

1. Local Health Care: The availability of local health care for the homeless campers, including access to Medicaid and mental health services.
2. Indigent Services: The availability of indigent services for proposed homeless campers.
3. Public Transportation: The availability of reasonably affordable public transportation.
4. Law Enforcement: Local law enforcement in the area.
5. Mental Health Authority Coordination: Steps the city has taken in coordination with local mental health authority related to homeless campers.

No Homeless Camping in Parks: Under no circumstances, can TDHCA approve a plan that would allow a park to be used for camping by homeless individuals.

TDHCA Proposed Rules and Comment Period: The TDHCA has proposed rules fleshing out the process for plan submission, review, and adoption related to consenting to homeless camping. The proposed rules can be found [here](#). The period for public comment on these rules is currently open. The proposed rules flesh out the information the TDHCA will require with regard to the five categories listed above.

The public comment period will be open until August 23, 2021, to receive input on the proposed rule. Written comments may be submitted to the Texas Department of Housing and Community Affairs, Attn: Brooke Boston, Rule Comments, P.O. Box 13941, Austin, Texas 78711-3941, or email brooke.boston@tdhca.state.tx.us. All comments must be received by 5:00 P.M. August 23, 2021.

Additional Duties for Law Enforcement: The bill puts a number of duties on a law enforcement officer that is issuing a citation under this section including the following:

1. The officer must advise the person of an alternative place where they may camp;
2. If appropriate, the officer must contact an appropriate city official or nonprofit organization to provide the person with: (1) information regarding the prevention of human trafficking; or (2) any service that would reduce the likelihood of the person continuing to camp in public; and
3. If a person is arrested or detained solely for a camping offense, the arresting officer shall ensure that the person's personal property is preserved.

Cities Can Be More Stringent, but not Less: This bill does not preempt existing city regulations which are compatible with and equal to or more stringent than the bill. It also prohibits a city from adopting a policy prohibiting or discouraging the enforcement of a public camping ban. If a court determines that a city has adopted a prohibited policy, that city would be barred from receiving state grant funds for the fiscal year following that determination.

Texas Joins \$21 Billion Opioid Settlement

Attorney General Ken Paxton recently [announced](#) that Texas joined the \$21 billion distributor opioid settlement. Texas, along with a broad coalition of states and subdivisions, reached final agreements with four companies to resolve legal claims for their role in the opioid crisis. One agreement is with opioid manufacturer Johnson & Johnson. The other is with three major pharmaceutical distributors: AmerisourceBergen, Cardinal Health, and McKesson. The settlement includes up to \$1.1 billion awarded to Texas and its political subdivisions, including cities.

Local governments need to join the settlement by **January 2, 2022**, in order to maximize the benefits of the settlement. Funding received under the settlement will be used to support opioid abatement strategies. More information, including the steps necessary to formally join the settlement, can be found [here](#).

State Office of Risk Management Resumes the Continuity Council

The State Office of Risk Management provides a statewide Continuity Council as a forum of federal, state, local, tribal, and private entities to share ideas on continuity. The Council will resume its meetings [next month](#) in Austin. The meetings will consist of presentations from agencies, roundtable discussions and practice exercises. The Continuity Council will be comprised of volunteer committee members representing various types and sizes of organizations to support a whole community perspective. Additional information on the meeting and council can be found [here](#).

City-Related Bills

Property Tax

2H.B. 4 (Meyer) – **Homestead Exemption**: would, among other things, provide that a person who acquires property after January 1 of a tax year may receive certain homestead exemptions for the applicable portion of that tax year immediately on qualification for the exemption if the preceding owner did not receive the same exemption for that year. (Companion bill is **2S.B. 8** by **Bettencourt**.)

2H.B. 109 (Vasut) – **Appraisal Cap**: would establish a 3.5 percent appraisal cap on all real property. (See **2H.J.R. 11** below.)

2H.B. 120 (Slaton) – **Border Security Tax Credit**: would: (1) entitle an owner of property to a credit against the taxes imposed in a tax year on that property by a taxing unit if the owner: (a) is a United States citizen residing in the state or a business entity whose principal office is located in the state; and (b) donates money to the state in support of border security efforts; (2) provide that the amount of the credit to which a property owner is entitled is equal to the lesser of: (a) the total amount of money the property owner donated to the state in support of border security efforts during the preceding 12-month period; or (b) the total amount of taxes imposed on the property by all of the taxing units that tax the property; (3) provide that the amount of the credit must first be applied against the taxes imposed on the property by the school district in which the property is located, with any remaining credit being applied proportionally against the taxes imposed by each other taxing unit in which the property is located; and (4) entitle a taxing unit to a border security tax credit reimbursement payment from the state for a tax year for which the chief appraiser of the appraisal district in which the taxing unit participates approves an application for a credit. (See **2H.J.R. 13**, below.)

2H.B. 124 (Schofield) – **Property Tax Appraisal**: would repeal the additional property taxes imposed as a result of the sale or change in the use of land appraised as agricultural land, timber land, recreational, park, and scenic land, and public access airport property. (See **2H.J.R. 12**, below.)

2H.B. 126 (Schofield) – **Property Tax Limitation**: would establish a mandatory property tax freeze for all taxing units on the residence homesteads of individuals who are disabled or over 65 and their surviving spouses. (See **2H.J.R. 8**, below.)

2H.B. 152 (Middleton) – **Homestead Exemption**: would increase the maximum percentage of a local option homestead exemption from 20 percent of the appraised value of an individual's residence homestead to 100 percent of an individual's residence homestead. (See **2H.J.R. 17**, below.)

2H.J.R. 8 (Schofield) – **Property Tax Limitation**: would amend the Texas Constitution to establish a mandatory property tax freeze for all taxing units on the residence homesteads of individuals who are disabled or over 65 and their surviving spouses. (See **2H.B. 126**, above.)

2H.J.R. 11 (Vasut) – **Appraisal Cap**: would amend the Texas Constitution to authorize the legislature to limit increases in the appraised value of real property for property tax purposes to 3.5 percent per year. (See **2H.B. 109**, above.)

2H.J.R. 12 (Schofield) – **Property Tax Appraisal**: would amend the Texas Constitution to repeal the additional property taxes imposed as a result of the sale or change in the use of land appraised as agricultural land, timber land, recreational, park, and scenic land, and public access airport property. (See **2H.B. 124**, above.)

2H.J.R. 13 (Slaton) – **Border Security Tax Credit**: would amend the Texas Constitution to, among other things: (1) authorize the legislature to provide that a person who makes a donation to the state for the purpose of border security is entitled to a credit against the property taxes imposed on property that the person owns in an amount equal to the lesser of the amount of the donation or the amount of taxes imposed; and (2) provide that the legislature may authorize the use of state money to reimburse a political subdivision for the revenue loss incurred as a result of the tax credit authorized in (1), above, and shall provide a procedure for distributing the money appropriated for that purpose. (See **2H.B. 120**, above.)

2H.J.R. 17 (Middleton) – **Property Tax Exemption**: would amend the Texas Constitution to authorize the governing body of a political subdivision to exempt up to 100 percent of the market value of a residence homestead. (See **2H.B. 152**, above.)

2H.J.R. 18 (Wilson) – **Delinquent Property Taxes**: would amend the Texas Constitution to provide that a residence homestead is not subject to seizure or sale for delinquent property taxes.

2S.B. 8 (Bettencourt) – **Homestead Exemption**: would, among other things, provide that a person who acquires property after January 1 of a tax year may receive certain homestead exemptions for the applicable portion of that tax year immediately on qualification for the exemption if the preceding owner did not receive the same exemption for that year. (Companion bill is **2H.B. 4** by Meyer.)

2S.B. 32 (Hall) – **Property Tax Freeze**: would, among other things, for a city that has adopted a property tax freeze for the elderly or disabled, repeal the provision authorizing the city to increase the amount of taxes on the homestead in the first year the value of the homestead is increased on the appraisal roll because of the enhancement of value by improvements made to the property. (See **2S.J.R. 6**, below.)

2S.B. 35 (Hall) – **Property Tax Appraisal**: would repeal the additional property taxes imposed as a result of the sale or change in the use of land appraised as agricultural land, timber land, recreational, park, and scenic land, and public access airport property. (See **2S.J.R. 7**, below.)

2S.J.R. 6 (Hall) – **Property Tax Freeze**: would amend the Texas Constitution to repeal the provision authorizing a city that has adopted a property tax freeze for homesteads of elderly or disabled property owners to increase the amount of taxes on the homestead in the first year the

value of the homestead is increased on the appraisal roll because of the enhancement of value by improvements made to the property. (See **2S.B. 32**, above.)

2S.J.R. 7 (Hall) – **Property Tax Appraisal**: would amend the Texas Constitution to repeal the additional property taxes imposed as a result of the sale or change in the use of land appraised as agricultural land, timber land, recreational, park, and scenic land, and public access airport property. (See **2S.B. 35**, above.)

Public Safety

2H.B. 12 (Smith) – **Bail**: would provide, among other things, that: (1) the Office of Court Administration of the Texas Judicial System (Office) shall develop and maintain a public safety report system that is available for use for purposes of setting the amount of bail; (2) the Office shall provide access to the public safety report system to the appropriate officials in each county and each municipality at no cost; (3) as soon as practicable but not later than the next business day after the date a magistrate issues an order imposing a condition of release on bond for a defendant or modifying or removing a condition previously imposed, the clerk of the court shall send a copy of the order to: (a) the appropriate attorney representing the state; and (b) the sheriff of the county where the defendant resides; (4) a clerk of the court may delay sending a copy of the order under (3) only if the clerk lacks information necessary to ensure service and enforcement; (5) if an order described by (3) prohibits a defendant from going to or near a child care facility or school, the clerk of the court shall send a copy of the order to the child care facility or school; (6) a copy of the order described in (3) and any related information may be sent electronically or in another manner that can be accessed by the recipient; (7) a chief of police or sheriff who receives a copy of an order described by (3), or the chief's or sheriff's designee, shall, as soon as practicable but not later than the 10th day after the date the copy is received, enter information relating to the condition of release into the appropriate database of the statewide law enforcement information system maintained by the Department of Public Safety or modify or remove information, as appropriate; and (8) the clerk of each court setting bail in criminal cases shall report: (a) the number of defendants for whom bail was set, including: (i) the number for each category of offense; (ii) the number of personal bonds; and (iii) the number of surety or cash bonds; (b) the number of defendants released on bail who subsequently failed to appear; (c) the number of defendants released on bail who subsequently violated a condition of release; and (d) the number of defendants who committed an offense while released on bail or community supervision. (Companion bill is **2S.B. 6** by **Huffman**.)

2H.B. 52 (Reynolds) – **Bail Release**: would, among other things: (1) provide that the Office of Court Administration shall develop an automated pretrial risk assessment system for use in setting bail and make the system available to judges and other magistrates in this state at no cost to a county, municipality, or magistrate; and (2) require the Office to also make available nonautomated pretrial risk assessment instruments to judges and other magistrates in this state at no cost to a county, municipality, or magistrate.

2H.B. 56 (Reynolds) – **Extreme Risk Protective Orders**: would, among other things: (1) provide that, in certain circumstances, a court may issue an extreme risk protective order against a person exhibiting dangerous behavior or conduct, including any behavior or conduct related to the

person's use of firearms, requiring the person to relinquish his or her firearms; (2) require local law enforcement agencies to: (a) take possession of a person's firearms when a court issues an extreme risk protective order against that person and to immediately provide the person a written copy of the receipt for the firearm and written notice of the procedure for return of the firearm; (b) if applicable, notify the court that issued the extreme risk protective order that the person who is the subject of the order has relinquished the firearm not later than seven days after the law enforcement agency receives the firearm; (c) conduct a check of state and national criminal history record information to verify whether the person may lawfully possess a firearm not later than 30 days after receiving notice from the court that the extreme risk protective order has expired; and (d) if the check described in (2)(c) verifies that the person may lawfully possess a firearm, provide written notice to the person by certified mail stating that the firearm may be returned to the person if the person submits a written request before the 121st day after the date of the notice; (3) provide that a local law enforcement agency in possession of a firearm relinquished because of an extreme risk protective order may not destroy the firearm but may sell the firearm to a licensed firearms dealer if the check in (2)(c) shows that the person may not lawfully possess a firearm or the person does not submit a written request as required by (2)(d); and (4) provide that the proceeds from the sale of a firearm in (3) shall be paid to the owner of the seized firearm, less the cost of administering the bill with respect to the firearm.

2H.B. 61 (Reynolds) – **Office of Law Enforcement Oversight**: would, among other things: (1) create the Office of Law Enforcement Oversight (Office) as a state agency for the purpose of monitoring the operations of law enforcement agencies in Texas and the use of force practices of those agencies; (2) provide that if the director of the Office determines that, based on complaints and other evidence, there is a pattern of excessive force at a law enforcement agency, conduct an investigation into the agency's use of force practices; (3) if the investigation described by (2) substantiates the alleged pattern of excessive force, request the appropriate district or county attorney to bring an action to institute reforms to the agency's use of force practices; (4) the Office may inspect or review without notice any part of a facility of a law enforcement agency under investigation or any operation, policy, procedure, record, or log of the agency relating to: (a) a complaint received by the Office; (b) the use of force against an individual; (c) the internal investigations process of the agency; and (d) employee or officer recruitment, training, supervision, or discipline; and (5) waive sovereign or governmental immunity to the extent necessary to enforce the provisions of the bill.

2H.B. 62 (Reynolds) – **Civilian Complaint Review Boards**: would, among other things, create in a city with a population of 500,000 or more, a municipal civilian complaint review board to investigate complaints alleging peace officer misconduct involving: (1) excessive use of force; (2) improper use of power to threaten, intimidate, or otherwise mistreat a member of the public; (3) a threat of force; (4) an unlawful act, search, or seizure; or (5) other abuses of authority.

2H.B. 65 (Reynolds) – **Law Enforcement Agencies**: would provide, among other things, that: (1) a law enforcement agency of a city or county shall adopt a policy requiring a peace officer to participate in at least eight hours of community events in the city or county not later than the 60th day after the date the peace officer begins employment with the agency; (2) a law enforcement agency may grant an extension of the period described in (1) based on reasonable grounds; (3) the Texas Commission on Law Enforcement (TCOLE) shall establish and administer a grant program

through which eligible cities and counties may apply for a grant to provide increased compensation to peace officers employed by a law enforcement agency based on the extent to which the peace officers employed by the law enforcement agency of the applicant city or county: (a) hold a bachelor's degrees or higher; (b) reside in the applicable city or county; and (c) have received certificates of distinction for certain achievements, including performing more than 40 hours of community service, completing more than 50 hours of continuing education programs, or providing more than 25 hours of instruction in continuing education programs; (4) TCOLE shall annually evaluate each law enforcement agency of a city or county for professionalism based on the following criteria and any additional criteria TCOLE adopts by rule: (a) whether at least half of the peace officers of the agency reside in the applicable city or county; (b) whether the peace officers of the agency in supervisory positions hold bachelor's degrees or higher; (c) the peace officers of the agency each perform 30 or more hours of community service annually; (d) the agency has a citizens academy or youth enrichment program; and (e) the peace officers of the agency are certified as special officers for offenders with mental impairments; (5) TCOLE may establish and administer a grant program to award grants to agencies that receive positive evaluations; (6) as part of the minimum curriculum requirements, TCOLE shall require an officer to complete a training program on implicit bias that consists of not less than eight hours of training; and (7) as part of the continuing education programs, a peace officer must complete a training and education program developed by TCOLE that includes not less than: (a) four hours of training on implicit bias; and (b) eight hours of training on de-escalation and crisis intervention techniques.

2S.B. 6 (Huffman) – **Bail**: would provide, among other things, that: (1) the Office of Court Administration of the Texas Judicial System (Office) shall develop and maintain a public safety report system that is available for use for purposes of setting the amount of bail; (2) the Office shall provide access to the public safety report system to the appropriate officials in each county and each municipality at no cost; (3) as soon as practicable but not later than the next business day after the date a magistrate issues an order imposing a condition of release on bond for a defendant or modifying or removing a condition previously imposed, the clerk of the court shall send a copy of the order to: (a) the appropriate attorney representing the state; and (b) the sheriff of the county where the defendant resides; (4) a clerk of the court may delay sending a copy of the order under (3) only if the clerk lacks information necessary to ensure service and enforcement; (5) if an order described by (3) prohibits a defendant from going to or near a child care facility or school, the clerk of the court shall send a copy of the order to the child care facility or school; (6) a copy of the order described in (3) and any related information may be sent electronically or in another manner that can be accessed by the recipient; (7) a chief of police or sheriff who receives a copy of an order described by (3), or the chief's or sheriff's designee, shall, as soon as practicable but not later than the 10th day after the date the copy is received, enter information relating to the condition of release into the appropriate database of the statewide law enforcement information system maintained by the Department of Public Safety or modify or remove information, as appropriate; and (8) the clerk of each court setting bail in criminal cases shall report: (a) the number of defendants for whom bail was set, including: (i) the number for each category of offense; (ii) the number of personal bonds; and (iii) the number of surety or cash bonds; (b) the number of defendants released on bail who subsequently failed to appear; (c) the number of defendants released on bail who subsequently violated a condition of release; and (d) the number of defendants who committed an offense while released on bail or community supervision. (Companion bill is **2H.B. 12 by Smith**.)

Community and Economic Development

2H.B. 94 (Murphy) – **Affordable Housing:** would establish a partial tax exemption for a leasehold or other possessory interest in a housing facility granted to a housing facility user only if the housing facility user does not: (1) refuse to rent a residential unit in the housing facility to an individual or family because the individual or family participates in the housing choice voucher program; or (2) use a financial or minimum income standard that requires an individual or family participating in the housing choice voucher program to have a monthly income of more than 250 percent of the individual's or family's share of the total monthly rent payable for a residential unit.

2H.B. 113 (Shine) – **Economic Development Corporations:** would provide that property owned by an economic development corporation is exempt from taxation if the property is used for a public purpose.

Elections

2H.B. 3 (Murr) – **Election Integrity:** this bill, known as the Election Integrity Protection Act of 2021, would make numerous changes to election law. Of significance to cities and city elections, the bill would, among other things:

1. require the governing body of a political subdivision to declare each unopposed candidate elected to office upon receipt of the certification of unopposed status;
2. provide that, for elections in which the city secretary is the early voting clerk, early voting by personal appearance at the main early voting polling place shall be conducted at least nine hours each weekday of the early voting period that is not a legal state holiday, unless the territory covered by the election has fewer than 1,000 registered voters, in which case the voting shall be conducted at least four hours each day;
3. provide that a voter who has not voted before the scheduled time for closing a polling place is entitled to vote after that time if the voter is in line at the polling place by closing time;
4. prohibit a presiding election judge from having an election watcher removed from the polling place for violating any law related to the conduct of elections unless the violation was observed by an election judge or clerk after the watcher was previously warned that the watcher's conduct violated the law;
5. provide that an election officer commits an offense if the officer intentionally or knowingly refuses to accept a watcher for service when acceptance of the watcher is required by the Election Code;
6. authorize an election watcher to observe all election activities relating to closing the polling place, including the sealing and transfer of a memory card, flash drive, hard drive, data storage device, or other medium now existing or later developed used by the voting system equipment;
7. entitle an election watcher to follow the transfer of election materials from the polling place at which the watcher was accepted to a regional tabulating center, central counting station, or any other location designated to process election materials;
8. provide that an in-person delivery of a marked early voting mail ballot must be received by an election official at the time of delivery, and the election official shall record the

voter's name, signature, and type of identification provided on a roster prescribed by the secretary of state;

9. for an early voting mail ballot that is not timely returned, require the election clerk to enter the time of receipt on the carrier envelope and retain it in a locked container for the period for preserving the precinct election records;
10. impose requirements on the signature verification committee and early voting ballot board to give would-be voters an opportunity to cure certain defects regarding an early voting mail ballot;
11. require ballots voted by mail to be tabulated and stored separately from the ballots voted by personal appearance and to be separately reported on the returns;
12. require the early voting electronic system ballots counted at a central counting station, the ballots cast at precinct polling places, and the ballots voted by mail to be tabulated separately and be separately reported on the returns;
13. provide that a person commits a Class C misdemeanor if, with respect to another person over whom the person has authority in the scope of employment, the person knowingly:
(a) refuses to permit the other person to be absent from work on election day or while early voting is in progress for the purpose of attending the polls to vote; or (b) subjects or threatens to subject the other person to a penalty for attending the polls on election day or while early voting is in progress to vote;
14. provide that a public official commits a state jail felony if the official, while acting in an official capacity, knowingly:
(a) solicits the submission of an application to vote by mail from a person who did not request an application; (b) distributes an application to vote by mail to a person who did not request the application unless the distribution is expressly authorized by another provision of the Election Code; (c) authorizes or approves the expenditure of public funds to facilitate third-party distribution of an application to vote by mail to a person who did not request the application; or (d) completes any portion of an application to vote by mail and distributes the application to an applicant; and
15. provide that an early voting clerk or other election official commits a Class A misdemeanor if the clerk or official knowingly mails or otherwise provides an early voting ballot by mail or other early voting by mail ballot materials to a person who the clerk or official knows did not submit an application for a ballot to be voted by mail.

2H.B. 16 (Klick) – **Voting Procedures:** would, among other things: (1) provide that a voter who has not voted before the time for closing an early voting polling place is entitled to vote after that time if the voter is inside or waiting to enter the polling place at closing time; and (2) require the presiding judge to take precautions necessary to prevent voting after closing time by persons who are not entitled to do so.

2H.B. 19 (Schofield) – **Inapplicability of Federal Law to State and Local Elections:** would, among other things, provide that a federal election is a separate election from any other election in Texas, and that, to the extent feasible, a federal election and a state or local election shall be held separately and concurrently using the same precincts and polling locations.

2H.B. 21 (Noble) – **Cancelled Ballots by Mail:** would, among other things: (1) provide that a person: (a) may cancel an application to vote by mail by returning the person's ballot and then voting by personal appearance; or (b) whose ballot is cancelled in any other manner may cast a

provisional ballot; (2) require the early voting clerk and presiding election judge to keep a log of returned ballots and provide a copy of the list to the early voting ballot board to ensure that the cancelled ballot is not counted in the election; and (3) require the election officer to electronically submit a record to the secretary of state of each application canceled in a primary, a runoff primary, a general election, or any special election ordered by the governor on the day the application is canceled.

2H.B. 22 (Jetton) – **Election Judges:** would: (1) require a presiding judge and an alternate presiding judge in each election precinct to appoint the election clerks to assist the presiding judge and alternate presiding judge in the conduct of an election at the polling place served by the presiding judge and alternate presiding judge; (2) require the presiding judge and alternate presiding judge to each appoint the same number of clerks to the extent possible given the total number of clerks to be appointed; (3) authorize an alternate presiding judge to have access to the voting area at all times the polling place is open for voting; (4) prohibit a presiding judge from assigning any duty to an alternate presiding judge that prevents continuous access to that area; (5) authorize the alternate presiding judge to assume the responsibilities of the presiding judge if the presiding judge is not present at the polling place; and (6) repeal any nepotism regulations applicable to the appointment of an election clerk.

2H.B. 23 (Jetton) – **Fiscal Notes for City Ballot Propositions:** would: (1) for an election on a city ballot proposition stating a measure, require the city secretary to prepare a fiscal note outlining the fiscal implications and projected cost of the measure; (2) require the city secretary to include in the fiscal note a projection of the annual cost of the measure for the five-year period that begins on the effective date of the measure; (3) allow an estimate of benefits or cost savings to be described separately in the fiscal note; (4) require the city secretary to include in the fiscal note the projected annual cost of the measure per resident, calculated by dividing the average annual cost determined under (2) by the number of adult residents of the city according to the most recent decennial census; (5) require, not later than the 14th day before the date the ballots are printed, the city secretary to make available in the city secretary's office and on the city's Internet website, a document that includes the details of the projection described by (2) and the methodology used to calculate the projection; (6) require the projected annual cost per resident to be printed on the ballot immediately following the text of the applicable ballot proposition in a specific format; (7) authorize a qualified voter in the city or the attorney general to file a civil action in district court to compel the city secretary to comply with the fiscal note requirements above; (8) provide that a plaintiff who substantially prevails in an action under (7), through judgment or through a change in behavior resulting from the litigation, is entitled to court costs, reasonable attorney's fees, and a penalty equal to the greater of: (a) 2.5 times the party's attorney's fees; or (b) \$10,000; and (9) waive and abolish sovereign and governmental immunity from suit and liability to the extent of liability created under (7), above.

2H.B. 27 (Schofield) – **Voting Standards and Procedures:** would prohibit an election official of the state or of a political subdivision from creating, altering, or suspending any voting standard, practice, or procedure in a manner not expressly authorized by the Texas Election Code.

2H.B. 31 (Noble) – **Early Voting by Mail:** would, among other things: (1) require that an application for an early voting ballot to be voted by mail be signed by the applicant using ink on paper; and (2) provide that an electronic signature or photocopied signature is not permitted.

2H.B. 36 (Noble) – **Ballot by Mail:** would require: (1) the early voting clerk to deliver to the early voting ballot board: (a) copies of the applications for ballots to be voted by mail for each ballot voted by mail received; and (b) copies of the voter's signature from the voter's application for voter registration; (2) before reviewing a carrier envelope certificate, the early voting ballot board to review each application for a ballot to be voted by mail that correlates with the carrier envelope to determine if the signature on the ballot application was executed by a person other than the voter, unless the application was signed by a witness; (3) the early voting clerk to make available for review signatures for each applicant for a ballot to be voted by mail from the previous six years; and (4) the early voting clerk to have software available to display all electronically available signatures together.

2H.B. 37 (Toth) – **Early Voting Ballots:** would require, among other things: (1) an early voting ballot voted by mail to include a unique code readable by an electronic device that may be used to verify the authenticity of the ballot; (2) the early voting ballot board to identify the unique code included on each ballot with an electronic device and compare the code on the ballot to the codes recorded by the early voting clerk; and (3) rejection of the ballot if the recorded code on the ballot does not match that recorded by the early voting clerk.

2H.B. 46 (Reynolds) – **Voter Registration:** would, among other things: (1) provide that an election officer serving a polling place for early voting by personal appearance is a deputy voter registrar and has the same authority as a regular deputy registrar; (2) require two voter registrars to be present at each polling place while the polls are open; (3) 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 residence a form of photo identification that complies with state law and states the person's current address; (4) require the election officer to return the original proof of residence to the voter; and (5) require a person voting under (3), above, to vote a provisional ballot in accordance with state law, except that the person is not required to submit an affidavit stating the person is a registered voter and is eligible to vote in the election.

2H.B. 50 (Reynolds) – **Voter Identification:** would, among other things, eliminate the photo identification requirement and expand the types of documentation that are considered acceptable forms of identification for purposes of voting.

2H.B. 75 (Paul) – **Poll Watchers:** would repeal: (1) the minimum hours of continuous service a watcher may serve at the polling place; and (2) current law that states a watcher is considered to have served continuously if the watcher leaves the polling place for the purpose of using a wireless communication device prohibited from use in the polling place and the watcher promptly returns.

2H.B. 76 (Paul) – Early Voting by Mail: would, among other things: (1) move the deadline for a voter to submit an application for a mail ballot from the 11th day before election day to the 15th day before election day; (2) generally provide that a marked ballot voted by mail must arrive at the address on the carrier envelope not later than 5 p.m. on the day before election day and be placed for delivery on or before the fourth day before election day; (3) require the early voting clerk to post notice of each delivery of balloting materials for ballots voted by personal appearance and for early voting ballots voted by mail on the Internet website of the entity conducting the election continuously for at least 24 hours immediately preceding the delivery; (4) require the notice in (3), above, to include the dates and times that the early voting ballot board will convene to review or count ballots, if that information is known at the time the early voting clerk posts the notice; and (5) provide the early voting ballot board or officer of a central counting station may not accumulate the results of early voting ballots until: (a) 12 p.m. on election day, if the entity conducting the election will count the ballots by hand; (b) 3 p.m. on election day, if the entity conducting the election will not count the ballots by hand and has a population of 150,000 or more; or (c) 6 p.m. on election day, if the entity conducting the election will not count the ballots by hand and has a population of less than 150,000.

2H.B. 86 (Zwiener) – Voter Identification: would provide that an identification card issued by a public institution of higher education of this state that contains the person’s photograph, full legal name, and a date of expiration that has not expired or that expired no earlier than four years before the date of presentation, is an acceptable form of identification for voting.

2H.B. 91 (Fierro) – Vote by Mail Application: would: (1) provide that the officially prescribed application form for an early voting ballot must include, among other things, a space for entering an applicant’s email address; (2) require the early voting clerk, before rejecting an application for a ballot to be voted by mail, to make a reasonable effort to contact the applicant by telephone or e-mail to notify the applicant of the error; (3) authorize the applicant to appear at the early voting clerk's office to make clerical corrections to the application or submit a new application after receiving notice; and (4) provide that if the applicant does not appear at the early voting clerk's office before the fourth day after the date the early voting clerk contacted the applicant at the telephone number or e-mail address provided on the application, the clerk may reject the application.

2H.B. 92 (Fierro) – Temporary Branch Polling Places: would provide that early voting by personal appearance at certain temporary branch polling places may be conducted on any one or more days and during any hours of the period for early voting by personal appearance, as determined by the authority establishing the branch.

2H.B. 93 (Fierro) – Polling Place: would provide at the voter's request, that an election officer deliver a ballot to the voter at the polling place entrance or curb if the voter is: (a) physically unable to enter the polling place without personal assistance or likelihood of injuring the voter's health; or (b) a caregiver or family member accompanying a voter described by the aforementioned if that voter is not also a driver providing a digitally prearranged ride between points chosen by the passenger that is prearranged through a digital network.

2H.B. 95 (Jetton) – **Auditable Voting System:** would, among other things, move up the requirement for election authorities to comply with auditable voting system requirements, including the conduct of a risk-limiting audit, the ability to seek reimbursement for the conversion to an auditable voting system, and the prohibition on the system being connected to an external or external communications network or having the capability of wireless communication, from November 2026 to November 2024.

2H.B. 99 (Israel) – **Unopposed Candidates:** would, among other things, require the governing body of a political subdivision to declare each unopposed candidate elected to office upon receipt of the certification of unopposed status.

2H.B. 112 (Vasut) – **Early Voting by Mail:** would, among many other things: (1) require the early voting ballot board to inspect and open each jacket envelope and carrier envelope for an early voting ballot voted by mail and determine whether to accept the voter’s ballot for counting based on certain specified criteria, including signature verification; (2) require the early voting ballot board to reject and may not open the carrier envelope if the aforementioned criteria is not met; (3) prohibit the early voting ballot board and the signature verification committee from opening the official ballot envelope of an accepted ballot which must be processed separately; and (4) authorize a poll watcher to observe: (a) the acceptance of early voting ballots voted by mail, including the work of the early voting ballot board and any signature verification committee; (b) how the ballots are opened and distributed and how the early voting ballot board and any signature verification committee are making decisions about the acceptance of ballots, if applicable; (c) the work of the central counting station, including the counting of ballots; and (d) how the presiding and alternate judges of the central counting station are making decisions about the acceptance of ballots, if applicable.

2H.B. 137 (Parker) – **Voting System:** would require the custodian of election records to maintain a maintenance log signed by the individuals and containing the serial number or other unique identifier of the medium.

2H.B. 144 (Thompson) – **Postponed Election:** would: (1) only during a state of disaster or emergency declared by the president of the United States or governor, authorize the governing body of a political subdivision, other than a county, that holds an election on a date other than the November uniform election date to postpone the election to the third Saturday in August; (2) require a governing body postponing an election to adjust the terms of office to conform to the new election date; and (3) authorize a change authorized adopted in a resolution by a home-rule city to supersede a city charter provision to the extent of any conflict.

2H.B. 145 (Swanson) – **Polling Place Parking:** would: (1) require an election officer to designate a clearly-marked parking space at each polling place for voters that are unable to enter the polling place; and (2) provide that an election officer must ensure that a voter has the ability to request assistance from an election officer at the polling place from inside a vehicle parked in the space designated for such use, through use of: (a) a telephone number displayed on the sign in large font readable from the vehicle that the voter may text or call; or (b) a button the voter may use to access an intercom.

2S.B. 1 (Hughes) – **Election Integrity**: would make numerous changes to election law. Of significance to cities and city elections, the bill would, among other things:

1. prohibit a polling place from being located in a tent or similar temporary moveable structure or in a facility primarily designed for motor vehicles, with exceptions;
2. prohibit a voter from casting a vote from inside a motor vehicle, unless the voter is physically unable to enter a polling place;
3. require, immediately before opening the polls for voting on the first day of early voting and on election day, the presiding election judge or alternate judge to confirm that each voting machine has any public counter reset to zero and must print the tape that shows the counter was set to zero for each candidate and measure on the ballot;
4. require, immediately after closing the polls for voting on the last day of the election period, the presiding election judge or alternate judge to print the tape to show the number of votes cast for each candidate or ballot measure for each voting machine;
5. beginning January 1, 2024, provide that equipment to tabulate votes may not be used if any wireless connectivity capability of the equipment has not been disabled or removed;
6. provide that, for elections in which the city secretary is the early voting clerk, early voting by personal appearance at the main early voting polling place shall be conducted at least nine hours each weekday of the early voting period that is not a legal state holiday, unless the territory covered by the election has fewer than 1,000 registered voters, in which case the voting shall be conducted at least four hours each day;
7. provide that a voter who has not voted before the scheduled time for closing a polling place is entitled to vote after that time if the voter is in line at the polling place by closing time;
8. provide that an election officer commits a Class B misdemeanor if the officer intentionally or knowingly refuses to accept a watcher for service when acceptance of the watcher is required by the Election Code;
9. authorize an election watcher to observe all election activities relating to closing the polling place, including the sealing and transfer of a memory card, flash drive, hard drive, data storage device, or other medium now existing or later developed used by the voting system equipment;
10. entitle an election watcher to follow the transfer of election materials from the polling place at which the watcher was accepted to a regional tabulating center, central counting station, or any other location designated to process election materials;
11. generally provide that a written letter, e-mail, or other communication, including a communication made confidential by other law, between a public official and a voting systems vendor, is not confidential or subject to an exception to disclosure under the Public Information Act;
12. prohibit an early voting clerk from making an attempt to solicit a person to complete an application for an early voting ballot by mail, whether directly or through a third party;
13. generally prohibit an officer or employee of a political subdivision from: (a) distributing an application form for an early voting ballot to a person who did not request an application; and (b) using public funds to facilitate the distribution by another person of an application form for an early voting ballot to a person who did not request an application;
14. impose requirements on the signature verification committee and early voting ballot board to give would-be voters an opportunity to cure certain defects regarding an early voting mail ballot;

15. provide that an election judge commits a state jail felony if the judge knowingly provides a voter with a form for an affidavit stating that the voter is the person on the list of registered voters if the form contains information that the judge entered on the form knowing it was false;
16. prohibit a public official from creating, altering, modifying, waiving, or suspending any election standard, practice, or procedure in a manner not expressly authorized by the Election Code; and
17. prohibit a person from serving as an election official if the person has been finally convicted under an offense under the Election Code.

2S.B. 25 (Hall) – Polling Place Management: would, among other things: (1) define “election period” as the period beginning on the first day of early voting by personal appearance and ending when the polls close on election day; (2) require, immediately before opening the polls for voting on the first day of the election period, the presiding election judge to confirm that each voting machine has any public counter reset to zero and must print the zero tape: (a) that shows the counter was set to zero; and (b) that shows the summary for each candidate and measure on the ballot for each voting machine is set to zero; (4) require, immediately after closing the polls for voting on the last day of the election period, the presiding election judge to print the results tape to show the summary of votes for each candidate or ballot measure for each voting machine at that polling location; (5) require the precinct election judge, and an election official aligned with a different political party, to sign the tape printed; (6) expand the period for early voting by personal appearance for an election by beginning on the 14th, rather than the 17th, day before election day and continue through the opening of the polls on election day, rather than the 4th day before election day; except that an election held on the uniform election date in May and any resulting runoff election, the period for early voting by personal appearance begins on the 10th, rather than the 12th, day before election day and continues through the opening of the polls on election day, rather than the 4th day before election day; and (7) require a piece of electronic voting machine equipment that fails and taken out of service during the election period to be securely isolated, including any associated memory card, until the end of the election period.

2S.B. 41 (Zaffirini) – Early Voting by Mail: would impose requirements on the signature verification committee and early voting ballot board to give would-be voters an opportunity to cure certain defects regarding an early voting mail ballot.

2S.B. 45 (Alvarado) – Early Voting by Mail: would, among other things, require the secretary of state to implement a program allowing a person to complete an application for an early voting ballot by mail over the internet from the official website of the state.

2S.B. 46 (Miles) – Temporary Branch Polling Places: would, among other things: (1) provide that voting at a temporary branch polling place may be conducted on any days and during any hours of the period for early voting by personal appearance, as determined by the authority establishing the branch; and (2) repeal the requirement that voting at a temporary branch polling place must be conducted on at least two consecutive business days and for at least eight consecutive hours on each of those days.

2S.B. 48 (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.

2S.B. 51 (Eckhardt) – **Early Voting by Mail:** would provide that an application for a ballot to be voted by mail serves as an application both for a ballot for the main election and for any resulting runoff election, unless the applicant indicates otherwise on the application.

2S.B. 52 (Eckhardt) – **Voting by Mail:** would modify current law to allow for the delivery of ballots voted by mail to be deposited in an authorized depository box.

2S.B. 53 (Eckhardt) – **Early Voting by Mail:** would, among many other things, authorize early voting by mail for any qualified voter and provide for implementing procedures.

2S.B. 59 (Blanco) – **Early Voting Period:** would extend the starting date of the period for early voting by personal appearance from the 17th day before election day to the 21st day before election day.

2S.B. 60 (Blanco) – **Voter Registration:** would, among other things: (1) provide that an election officer serving a polling place for early voting by personal appearance is a deputy voter registrar and has the same authority as a regular deputy registrar; (2) require two voter registrars to be present at each polling place while the polls are open; (3) 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 residence a form of photo identification that complies with state law and states the person’s current address; (4) require the election officer to return the original proof of residence to the voter; and (5) require a person voting under (3), above, to vote a provisional ballot in accordance with state law, except that the person is not required to submit an affidavit stating the person is a registered voter and is eligible to vote in the election.

2S.B. 65 (Menendez) – **Early Voting by Mail:** would, among many other things, authorize early voting by mail for any qualified voter and provide for implementing procedures.

2S.B. 67 (Menendez) – **Voter Identification:** would, among other things, expand the list of acceptable forms of identification for the purposes of voting and allow a voter to present two forms of certain types of identification from the expanded list as proof of identification, so long as one form of identification contains the name and address of the voter.

Emergency Management

2H.B. 128 (Schaefer) – **Face Coverings:** would provide that the governor or a local official may not issue an executive order, proclamation, or regulation, as applicable, that requires a person to wear a mask or personal protective equipment unless expressly provided by statute.

Open Government

2H.B. 110 (Vasut) – **Public Information Act Charges:** would provide that a governmental body may not impose a charge for providing a copy of public information if: (1) the information is a political or campaign report required to be filed with the governmental body, unless all of those reports filed with the governmental body during the preceding three years are available to the public on the governmental body’s internet website; (2) the governmental body fails to disclose the information on or before the 10th business day after the date of receiving the requestor’s written request, unless the governmental body: (a) sends a written request for clarification to the requestor; or (b) requests a decision from the attorney general; or (3) the governmental body requests a decision from the attorney general and: (a) the governmental body fails to provide to the requestor: (i) a written statement that the governmental body wishes to withhold the requested information and has requested a decision from the attorney general; and (ii) a copy of the written request for a decision; or (b) the attorney general determines the requested information must be disclosed.

2H.B. 131 (Swanson) – **Anonymized Ballots:** would: (1) provide that a cast ballot that contains no specific individual voter identifying information is public information under the Public Information Act; (2) authorizes the redaction of any individual voter identifying information contained on a cast ballot prior to a cast ballot being made available for inspection or copying; and (3) authorizes a governmental body, in responding to a request under the Public Information Act, for portions of a ballot cast in a precinct containing five or fewer registered voters as of the date of the election, to take reasonable measures to ensure the release of the records does not have the effect of disclosing the votes taken by the voters in that precinct, including redacting precinct identifying information, modifying the request to include portions of ballots from additional precincts and aggregating responsive records from multiple precincts.

Other Finance and Administration

2H.B. 17 (Jetton) – **Unlawful Restraint of Dog:** would: (1) with certain exceptions, prohibit a person who owns or has custody or control of a dog from leaving the dog outside and attended by use of a restraint; (2) provide that a violation of the prohibition in (1) is a criminal offense; and (3) provide that the bill does not preempt a local regulation relating to the restraint of a dog or affect the authority of a political subdivision to adopt or enforce an ordinance or requirement relating to the restraint of a dog if the regulation, ordinance, or requirement relates to an issue not specifically addressed by the bill.

2H.B. 32 (Schofield) – **Compensation Damages:** would provide, among other things, that: (1) a business owner is entitled to compensation from a governmental entity, including a city, for losses caused to the owner’s business by an order, ordinance, or other regulation by a governmental entity, including an executive or local order issued during a declared state of disaster that: (a) closes a business permanently or temporarily; or (b) effectively closes a business by: (i) limiting the business’s operations to the extent that the business owner cannot effectively maintain the business; or (ii) ordering customers not to patronize the business; (2) a business owner is not entitled to compensation under (1), above, if the governmental entity can demonstrate that the primary reason for the governmental action was: (a) a judicial finding that the business: (i) was a

nuisance under the law; or (ii) violated other law; or (b) a finding that the business or owner failed to: (i) acquire or maintain a license required by the governmental entity for the business; (ii) file or maintain records required by the secretary of state; or (iii) pay taxes; and (3) sovereign and governmental immunity to suit and from liability is waived and abolished.

2H.B. 77 (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 **2S.B. 33** by **Hall**.)

2H.B. 111 (Vasut) – **Campaign Finance and Treasurer Reports**: would provide that certain campaign finance reports and campaign treasurer appointments be filed only with the Texas Ethics Commission and not local filing authorities.

2H.B. 148 (Middleton) – **Cooperation with Federal Agency**: would, among other things, prohibit a political subdivision from cooperating with a federal government agency in implementing an agency rule that a report published by the Texas attorney general indicates has been found by a court to violate the rights guaranteed to the citizens of the United States by the United States Constitution.

2S.B. 33 (Hall) – **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 **2H.B. 77** by **Middleton**.)

Personnel

2H.B. 10 (King) – **Employment Benefits**: would provide that: (1) a city or county may not adopt or enforce an ordinance, order, rule, regulation, or policy requiring any terms of employment that exceed or conflict with federal or state law relating to any form of employment leave, hiring practices, employment benefits, scheduling practices, or other terms of employment; (2) any provision of such ordinance, order, rule, regulation, or policy is void and unenforceable; and (3) the provision described in (1) do not apply to: (a) minimum wage; or (b) a contract or agreement

relating to terms of employment voluntarily entered into between a private employer or entity and a governmental entity. (Companion bill is **2S.B. 14** by **Creighton**.)

2H.B. 24 (Noble) – **COVID-19 Vaccines**: would provide, among other things, that: (1) an employer commits an unlawful employment practice if the employer fails or refuses to hire, discharges, or otherwise discriminates against an individual with respect to the compensation or the terms, conditions, or privileges of employment because the individual has not received a COVID-19 vaccine; and (2) an employer is not liable for a claim arising from exposure to COVID-19 on the basis that the employer, failed to require an individual to receive a COVID-19 vaccine.

2H.B. 39 (Toth) – **COVID-19 Vaccines**: would provide, among other things, that an employer commits an unlawful employment practice if the employer fails or refuses to hire, discharges, or otherwise discriminates against an individual with respect to the compensation or the terms, conditions, or privileges of employment because the individual has not received an immunization or vaccine.

2H.B. 40 (Toth) – **Critical Race/Sex Theory**: would provide, among other things, that:

- (1) a state agency or political subdivision, including a city, may not, directly or through another entity, compel, inculcate, instruct, teach, or train an employee, student, service recipient, contractor, staff member, inmate, or other individual or group to adopt or express a belief in, or support for, racist or sexist concepts or revisionist history concerning race or sex, including that:
 - (a) one race or sex is inherently superior to another race or sex;
 - (b) an individual, by virtue of the individual's race or sex, is inherently racist, sexist, or oppressive, whether consciously or unconsciously;
 - (c) an individual should be discriminated against or receive adverse treatment solely or partly because of the individual's race;
 - (d) members of one race or sex cannot and should not attempt to treat others without respect to race;
 - (e) an individual's moral character, standing, or worth is necessarily determined by the individual's race;
 - (f) an individual, by virtue of the individual's race or sex, bears responsibility for actions committed in the past by other members of the same race or sex;
 - (g) an individual should feel discomfort, guilt, anguish, or any other form of psychological distress on account of the individual's race or sex;
 - (h) meritocracy or traits such as having a strong work ethic are racist or sexist or were created by members of a particular race to oppress members of another race;
 - (i) the advent of slavery in the territory that is now the United States constituted the true founding of the United States; or
 - (j) with respect to their relationship to American values, slavery and racism are anything other than deviations from, betrayals of, or failures to live up to, the authentic founding principles of the United States, which include liberty and equality;

- (2) a state agency or political subdivision may not subject an employee to an adverse employment action, warning, or discipline for refusing to participate in a training program or other activity described by (1);
- (3) not later than November 1 of each year, a state agency or political subdivision shall review any training program relating to diversity or inclusion and evaluate whether the training program violates (1);
- (4) a state agency or political subdivision is not prohibited from providing workplace sensitivity training based on the inherent humanity and equality of all persons and the idea that all persons should be treated with equality, dignity, and respect;
- (5) a state agency or political subdivision that (1) is liable to the state for a civil penalty in the amount of \$5,000 for each violation, and each day a violation continues is considered a separate violation;
- (6) waive and abolish sovereign immunity to the extent liability is created; and
- (7) a state agency or political subdivision may not enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it does not, and will not during the term of the contract, compel, inculcate, instruct, teach, or train any public or private employee, student, service recipient, contractor, staff member, inmate, or other individual or group to adopt or express a belief in, or support for, items described in (1).

2H.B. 63 (Reynolds) – **Minimum Wage:** would provide that an employer, including a city, shall pay to each employee not less than the greater of: (1) \$15.00 an hour; or (2) the federal minimum wage (currently \$7.25 an hour).

2H.B. 64 (Reynolds) – **Paid Sick Leave:** would require, among other things, that certain employers provide paid sick leave to each of their employees.

2H.B. 125 (Tinderholt) – **COVID-19 Passports:** would provide that a governmental entity, including a city, that issues to a third party a vaccine passport, vaccine pass, or other standardized documentation to certify an individual’s COVID-19 vaccination status or otherwise publishes or shares any individual’s COVID-19 immunization record or similar health information, other than for health care purposes, shall be liable for a civil penalty in an amount not to exceed \$5,000 for each violation.

2S.B. 14 (Creighton) – **Employment Benefits:** would provide that: (1) a city or county may not adopt or enforce an ordinance, order, rule, regulation, or policy requiring any terms of employment that exceed or conflict with federal or state law relating to any form of employment leave, hiring practices, employment benefits, scheduling practices, or other terms of employment; (2) any provision of such ordinance, order, rule, regulation, or policy is void and unenforceable; and (3) the provision described in (1) do not apply to: (a) minimum wage; or (b) a contract or agreement relating to terms of employment voluntarily entered into between a private employer or entity and a governmental entity. (Companion bill is **2H.B. 10** by **King**.)

2S.B. 49 (Miles) – **Early Voting Employee Leave:** would provide that: (1) a person commits an offense if, with respect to another person over whom the person has authority in the scope of employment, the person knowingly: (a) refuses, while early voting is in progress, to permit the

other person to be absent from work for the purpose of attending the polls to vote; or (b) subjects or threatens to subject the other person to a penalty for attending the polls to vote while early voting is in progress; and (2) the provisions of (1), above, do not apply in connection with an election in which polls are open while early voting is in progress for two consecutive hours outside of the voter's working hours.

2S.B. 68 (Campbell) – **Employment Benefits**: would provide that a municipality or county may not adopt or enforce an ordinance, order, rule, or regulation that requires an employer in the municipality or county to provide employment benefits to its employees.

Utilities and Environment

2H.B. 66 (Reynolds) – **Electricity**: would, among other things: (1) provide that a retail electric customer is entitled to participation in demand response programs through retail electric providers and demand response providers; and (2) require municipally owned electric utilities, electric cooperatives, and retail electric providers to periodically provide together with bills sent to the customers, information about the procedure for a residential or commercial customer to participate in a voluntary demand response program through the electric utility or a demand response provider to reduce electricity use during times of peak demand, including during an involuntary load shedding event.

2H.B. 67 (Reynolds) – **Public Utility Commission/Energy Blackouts**: would require: (1) the Public Utility Commission to adopt rules to develop a process for obtaining emergency reserve power generation capacity as appropriate to prevent blackout conditions caused by shortages of generated power in the ERCOT power region; (2) the rules in (1) to provide: (a) parameters for estimating the amount of emergency reserve power generation capacity necessary to prevent blackout conditions; and (b) mechanisms for equitably sharing the costs of making the reserve capacity available and the costs of generated power provided to prevent blackout conditions; (3) an independent organization for the ERCOT power region to adopt procedures and enter contracts as necessary to ensure the availability of a defined amount of emergency reserve power generation capacity the organization may call on to prevent blackouts caused by shortages of generated power; and (4) the independent organization to use all other sources of power and demand reduction available before the independent organization calls on the emergency reserve power generation capacity to prevent blackout conditions.

2H.B. 68 (Reynolds) – **Interconnection of Transmission Facilities**: would require the Public Utility Commission to: (1) identify transmission facilities in ERCOT that may be interconnected with transmission facilities outside of ERCOT for the purpose of allowing federal regulation of transmission service and wholesale power sales in ERCOT; and (2) require an electric utility, municipally owned utility, or electric cooperative that owns a transmission facility identified in (1) to make requests, obtain approvals, enter into contracts, and construct facilities as necessary to interconnect the facility with a transmission facility outside of ERCOT.

2H.B. 69 (Reynolds) – **Energy Efficiency Goals**: would: (1) require each electric utility to meet an annual energy savings goal of: (a) one-fourth of one percent annual energy savings in the 2022 calendar year; (b) one-half of one percent annual energy savings in the 2023 calendar year; (c)

three-fourths of one percent annual energy savings in the 2024 calendar year; and (d) one percent annual energy savings beginning with the 2025 calendar year; (2) require the Public Utility Commission to adopt rules to provide a method to establish each utility's annual savings goal under (1) that must be based on the existing and expected usage of electricity delivered in a utility's service area that is required to pay the annual energy efficiency cost recovery fee; and (3) provide that in adopting the rules under (2), the PUC may provide for cost caps for the implementation of (1) and provide good cause exceptions for a utility that is unable to meet the goal in a cost-effective manner.

2H.B. 84 (Zwiener) – **Critical Infrastructure Resiliency**: would, among other things: (1) create a critical infrastructure resiliency fund that may be used by the Texas Division of Emergency Management (TDEM) only to: (a) make a grant to an eligible entity under the bill; and (b) pay the necessary and reasonable expenses of administering the fund; (2) create the electric grid improvement account as part of the infrastructure resiliency fund, which may be used only to make matching grants to eligible entities for hardening and weatherizing the electric grid, including: (a) installing advanced meter infrastructure and demand response technology; (b) improving load shed capabilities; (c) incentivizing customers to engage in distributed energy production and energy efficiency measures; (d) installing electric energy storage; and (e) weatherizing facilities; (3) provide that an entity is eligible to receive a matching grant under (2) only if the entity is: (a) a municipally owned electric utility; (b) an electric cooperative; (c) a transmission and distribution utility; or (d) a vertically integrated utility; (4) provide that in making grants under (2), TDEM may consult with the Public Utility Commission and shall consider: (a) the expected number of individuals who will benefit from the project; (b) existing infrastructure and overall need for the project; (c) the potential benefit of the project to: (i) low-income communities; and (ii) areas in disparate parts of the state; (d) the equitable distribution of grants throughout the state; (e) the existence of matching federal funds for the project and whether available federal funds have been exhausted; and (f) the total impact of the project on the resiliency of the state's electric grid; (5) create a hospital infrastructure resiliency account as part of the infrastructure resiliency fund, which may be used only by eligible entities, including a hospital owned by a city, for purchasing reserve power supply that is reliable during an extreme weather event, such as on-site generation and energy storage systems, necessary to sustain critical medical care; (6) provide that a "project" for the Texas Water Assistance Program includes any undertaking or work to provide for the weatherization of water and wastewater facilities; (7) provide that the water loan assistance fund administered by the Texas Water Development Board (TWDB) may be used to provide grants for projects to harden and weatherize water and wastewater systems in the state, including: (a) covering wells; (b) purchasing reserve power supply, such as on-site generation and energy storage systems; and (c) building connectivity to neighboring water suppliers; (8) require the TWDB to consider, in awarding a grant under (7): (a) the expected number of individuals who will benefit from the project; (b) existing infrastructure and overall need for the project; (c) the potential benefit of the project to: (i) low-income communities; and (ii) areas in disparate parts of the state; (d) the equitable distribution of grants throughout the state; (e) the existence of matching federal funds for the project and whether available federal funds have been exhausted; and (f) the total impact of the project on the state's resiliency; and (9) require the TWDB to condition each grant awarded under (7) on the grant recipient providing funds from non-state sources in a total amount at least equal to 10 percent of the grant amount, with at least five percent of the recipient's match coming from local sources.

2S.B. 28 (Hall) – **Resilience of Electric Grid:** would, among other things: (1) create the Texas Grid Security Commission to, among other things, evaluate all hazards to the ERCOT grid, including threats which can cause future blackouts; (2) define “all hazards” as: (a) terrestrial weather including wind, hurricanes, tornadoes, flooding, ice storms, extended cold weather events, heat waves, and wildfires; (b) seismic events including earthquakes and tsunamis; (c) physical threats including terrorist attacks with direct fire, drones, explosives, and other methods of physical sabotage; (d) cyber-attacks including malware attacks and hacking of unprotected or compromised information technology networks; (e) manipulation of operational technology devices including sensors, actuators, and drives; (f) electromagnetic threats through man-made radio frequency weapons, high altitude nuclear electromagnetic pulse, and naturally occurring geomagnetic disturbances; (g) electric generation supply chain vulnerabilities including insecure or inadequate fuel transportation or storage; and (h) insider threats caused by compromised or hostile personnel working within government or the utility industry; (3) require the Texas Grid Security Commission to prepare and deliver to the legislature a plan for protecting the ERCOT grid from all hazards, including a catastrophic loss of power; (4) except as provided for in (5), preempt a city or other political subdivision from enacting or enforcing an ordinance or other measure that bans, limits, or otherwise regulates inside the boundaries or extraterritorial jurisdiction of the city or political subdivision a micro-grid that is certified by the Texas Grid Security Commission; (5) provide that the owner or operator of a micro-grid certified by the Texas Grid Security Commission is a power generation company and is required to register Texas law and the owner or operator of the micro-grid is entitled to: (a) interconnect the micro-grid; (b) obtain transmission service for the micro-grid; and (c) use the micro-grid to sell electricity and ancillary services at wholesale in a manner consistent with the bill and Public Utility Commission rules applicable to a power generation company or an exempt wholesale generator; (6) require the Texas Grid Security Commission to establish resilience standards for cities in the following essential services areas: (a) emergency services; (b) communication systems; (c) clean water and sewer services; (d) health care systems; (e) financial services; (f) energy systems; and (g) transportation services; and (7) provide that the Texas Grid Security Commission may designate a city that meets the resiliency standards in five of the seven service areas in (6) as a Five Star Gold Resilient Community.

COVID-19 Update (No. 198)

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.

- **Mask Mandate Update:** Tuesday afternoon, two state district court judges in Dallas and Bexar counties granted local authorities in those jurisdictions temporary restraining orders blocking Governor Abbott’s [ban on mask mandates](#). In response to the rulings, the City of San Antonio issued a requirement for face coverings inside city facilities, and the Dallas County Judge issued an emergency order on Wednesday related to face coverings. Temporary restraining orders are by definition temporary and require further court proceedings to become permanent. TML will continue to monitor these developments. In related news, Houston’s Mayor Sylvester Turner is requiring masks in city facilities when physical distancing is not doable. Read more [here](#) and [here](#).

Additionally, a number of large school districts (“ISDs”) across the state, including [Dallas ISD](#), [Houston ISD](#), [Austin ISD](#), [Fort Worth ISD](#), and [San Antonio ISD](#), are requiring masks on school property.

- **Attorney General Issues Two COVID-related opinions:** On August 11, the Attorney General released two opinions related to mask mandates and vaccines.
 - In [Opinion KP-0379](#), the Attorney General was asked whether COVID-19 vaccines could be required as a condition to enter a government building. Citing the Governor’s [Executive Order No. 38](#) as well as the recently passed [S.B. 968](#), the Attorney General opined that government entities may not require COVID-19 vaccines as a condition to enter a government facility.
 - In [Opinion No. KP-0380](#), the Attorney General was asked to opine on the effect of the Governor’s executive orders on federal requirements related to face coverings on public transit. The AG ultimately opined that he is unconvinced that CDC and TSA rules as well as federal law preempt the Governor’s orders prohibiting mask mandates.

Please remember that Attorney General opinion are just that: opinions. They are legal guidance but do not carry the force of law or court order.

- **Counties Across Texas Seeing Rise in COVID-19 Threat Levels:** Over the last few weeks, we have reported on the rise in COVID-19 threat levels in counties and cities across the state. That rise continues, with Travis, Harris, Dallas, and Williamson counties, among others, back at the highest threat levels as the Delta variant spreads across the state and [ICU bed availability drops](#).
- **American Rescue Plan Act Funds ACT NOW!:** The state of Texas received the first tranche of ARPA funds from the U.S. Treasury this week. “Non-entitlement units of local government” (NEUs are generally cities under 50,000 population) must register with the [Texas Division of Emergency Management](#) (“TDEM”) to receive ARPA funds. TDEM recently updated its [Coronavirus Local Fiscal Recovery Fund FAQ](#). NEUs should pay special attention to *Question 13: How does my NEU receive funding?* The answer includes a link to the [CLFRF Timeline Check-in document](#) with step-by-step instructions on registering your city with the [TDEM Grant Management System](#), which is a critical step to receiving funds.

Approximately 2/3 of eligible entities have completed certification, leaving nearly one third of NEUs unregistered. If your city does not register, your city risks losing this funding. Even though TDEM indicated that August 2, 2021 was a deadline to register with the GMS system, if your city missed that deadline but still wants to participate in the funding, register with GMS as soon as possible.

- **Rental Assistance Call to Action:** The federal Consumer Finance Protection Bureau (CFPB) has put out a Call to Action to raise awareness about federal rental assistance

programs. Among other things, the CFPB has developed a new [Rental Assistance Look Up Tool](#) that allows renters to find information on rental assistance in their area as well as [sample messages and graphics](#) that could be used by interested entities looking to spread the word. Please visit the [CFPB's housing assistance page](#) for more information.

- **Open Meetings Act Reminder:** In March 2020, as Texans worked to mitigate the spread of COVID-19, Governor Abbott's office granted the attorney general's request to suspend certain open-meeting statutes. The temporary suspension allows, among other things, for telephonic or videoconference meetings of governmental bodies that are accessible to the public in an effort to reduce in-person meetings that assemble large groups of people.

On June 30, 2021, [the governor's office approved a request by the attorney general to lift those suspensions](#). The suspensions will lift at 12:01 a.m. on September 1, 2021. Thus, as of September 1, 2021, all provisions of the Open Meetings Act will be effective and all Texas governmental bodies subject to the Open Meetings Act must conduct their meetings in full compliance with the Open Meetings Act as written in state law.

This could change, given the rising numbers of COVID-19 cases across the state, but as of now, plan for the September 1 expiration.

- **ARPA FAQs:** The U.S. Treasury Department's Coronavirus State and Local Fiscal Recovery Funds FAQ contains a number of questions and answers related to eligibility for recovery funds and eligible uses of recovery funds. The entire FAQ can be accessed [here](#).

The National League of Cities also maintains an ARPA-related FAQ which can be found [here](#).

Reminder: TML Coronavirus materials are archived by date [here](#) and by subject [here](#).

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