

TML LEGISLATIVE UPDATE



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Board of Directors Adopts 2023-2024 Legislative Program

On December 2, the TML Board of Directors finalized the League's [2023-2024 Legislative Program](#). In setting the program, the Board recognized that local decisions should be made locally, and TML's highest priority goal for 2023-2024 will be the defeat of legislation deemed detrimental to cities.

During the 2021 session, more than 6,900 bills or significant resolutions were filed; more than 2,000 of them would have affected Texas cities in some substantial way. Over one thousand bills or resolutions passed and were signed into law; more than 240 of them impacted cities. Legislators have filed over 1,100 bills since pre-filing began last month. Those that are city-related are [summarized](#) each week by the League in the *Legislative Update*.

The TML approach to the 2023 session is guided by principles that spring from a deeply-rooted TML legislative philosophy:

- The League will vigorously oppose any legislation that would erode the authority of Texas cities to govern their own local affairs.

- Cities represent the level of government closest to the people. They bear primary responsibility for provision of capital infrastructure and for ensuring our citizens' health and safety. Thus, cities must be assured of a predictable and sufficient level of revenue and must resist efforts to diminish their revenue.
- The League will oppose the imposition of any state mandates that do not provide for a commensurate level of compensation.

The adopted program serves as a roadmap to League staff and others involved in legislative activities on behalf of cities.

House and Senate Committees Request Additional Information to Analyze Significant Electric Market Reforms

Over the last two weeks, the Senate Business and Commerce Committee and House Committee on State Affairs held lengthy hearings to hear proposals from the Public Utility Commission (PUC) and ERCOT on potential significant changes to the Texas wholesale electric market. As part of Winter Storm Uri reforms, the PUC was directed by the legislature to commission an independent study to review the current Texas wholesale electric market with a goal of increasing reliability by encouraging the construction of more “dispatchable” electric generation (non-renewable power). The PUC Chairman Peter Lake testified that the independent study is proposing three different options to reform the Texas electric wholesale market. All three proposals have significant and varying levels of cost impact to the overall electric system. Chairman Lake testified he would be seeking for the PUC to endorse a plan known as the “Performance Credit Mechanism” (PCM). The plan is aimed at making payments to wholesale generators to ensure they have necessary levels of generation in the time of heavy generation demand. The PUC is expected to officially consider the proposed reforms at its January meeting.

At both hearings, major stakeholders, such as industrial and commercial customer groups along with consumer interests, expressed significant concerns that the costs of the PCM plan would be billions of dollars, but as proposed, couldn't ensure additional dispatchable power would be built after implementation. These concerns were echoed in both committee hearings by legislators who asked the PUC to slow down consideration and implementation of the PCM plan until the legislature can further review the overall proposal and cost impacts. Cities are often one of the largest electric utility ratepayers in a given region, so debates on costs and reliability will have direct impacts on cities as well as private interests.

Senator Charles Schwertner, Chair of the Senate Business and Commerce Committee, led a group of nine senators that penned a [letter](#) to the PUC asking to stop implementation or moving forward with the PCM plan. The letter requested time so senators can review the costs and whether the plan would guarantee the needed increase of dispatchable power generation. Members of the House Committee on State Affairs expressed similar requests to receive more information on the cost impact of the PCM plan and whether it would result in construction of new dispatchable generation. Finally, Lt. Gov Dan Patrick held a press conference after the Senate hearing and laid out his top priority as increasing dispatchable electric generation in the upcoming legislative session.

The discussion of the electric wholesale market reforms debate will be taking place against the backdrop of the PUC and ERCOT being under Sunset review during the upcoming session. The League has previously reported on the release of the [review](#). This reality means all aspects of the electric market and utility regulations will be subject to debate and reform.

The League will continue to monitor this issue to assess potential direct impacts to cities along with general impacts on the reliability of the Texas electric grid.

Governor Appoints Senator Nelson as Secretary of State

On Tuesday, Governor Abbott [announced](#) his intention to appoint retiring Senator Jane Nelson as Secretary of State. The news comes after Texas Secretary of State John Scott announced his resignation. Senator Nelson has served 30 years in the Texas Senate and was Chair of the powerful Senate Finance Committee since 2014.

The Texas Senate will need to confirm her appointment during the 88th Legislative Session.

Get Involved During the Legislative Session: Grassroots Involvement Program

During the upcoming Texas legislative session, Texas cities will face many challenges and opportunities. TML will need to mobilize our membership at key points during session. The Grassroots Involvement Program (GRIP) is one way to do so. Our GRIP survey focuses on a variety of items including your areas of expertise and involvement with other professional organizations. Most importantly, the GRIP survey asks how well you know various state legislators and if you are willing to communicate with those legislators during the session. TML's grassroots approach will be crucial to our efforts.

If you have a relationship with your legislator(s) or want to be more involved during session, please take the time to complete the [GRIP survey](#). Past efforts have proven that such participation is a highly effective tool.

We ask that you complete the survey as soon as possible, preferably before January 10, 2023.

Federal Infrastructure Bill Update

In November 2021, the federal Infrastructure Investment and Jobs Act (IIJA) was signed into law. The IIJA is altogether a \$1.2 trillion bill that will invest in the nation's core infrastructure priorities including roads, bridges, rail, transit, airports, ports, energy transmission, water systems, and broadband.

The League will monitor state and federal agencies and work with the National League of Cities (NLC) to access the latest information relating to the IIJA. We will be providing periodic updates in the Legislative Update on resources for Texas cities on how to access IIJA funding for local infrastructure projects.

U.S. Department of Transportation (DOT)

DOT recently announced the availability of \$1.5 billion for the FY2023 Rebuilding American Infrastructure with Sustainability and Equity (RAISE) Grant Program. [According to the Notice of Funding Opportunity](#), the funds will be awarded in competitive grants for surface transportation infrastructure projects that will improve safety, environmental sustainability, quality of life, mobility and community connectivity, economic competitiveness and opportunity including tourism, state of good repair, partnership and collaboration, and innovation. Applications must be submitted through Grants.gov by 10:59:59 PM CST on February 28, 2023.

More on the RAISE program, including how to apply and an FAQ, can be found [here](#). Also, the Local Infrastructure Hub will be [hosting a webinar](#) on December 13 to help local leaders develop competitive RAISE applications. Interested city officials can register for the webinar using the link above.

U.S. Department of Energy (DOE)

DOE [recently announced](#) the availability of \$3.8 billion of funding for the Grid Resilience Innovative Partnership (GRIP) program for FY 2022 and 2023. The program is designed to deliver projects under the following three grant programs: (1) Grid Resilience Utility and Industry Grants; (2) Smart Grid Grants; and (3) Grid Innovation Program. Applicants must submit concept papers for the Grid Resilience Utility and Industry Grants and Smart Grid Grants by December 16, 2022, while concept papers for the Grid Innovation Program are due January 13, 2023.

DOE has also announced a Notice of Intent to provide \$550 million through the Energy Efficiency and Conservation Block Grant (EECBG) Program to fund community-based clean energy projects through a variety of capacity-building, planning, and infrastructure efforts to reduce carbon emissions and energy use. Applications for the EECBG program will open in January 2023.

Environmental Protection Agency (EPA)

EPA [recently announced](#) the availability of \$57 million in funding for two Brownfields technical assistance opportunities through the [Brownfields Technical Assistance and Research cooperative agreements](#) and the [Technical Assistance to Brownfields Program](#). Applications for both programs are due by February 14, 2023.

City-Related Bills Filed

(Editor's Note: You will find all of this session's city-related bill summaries online at <https://www.tml.org/319/Legislative-Information>.)

Property Tax

H.B. 808 (Metcalf) – **Appraisal Districts**: would: (1) require a chief appraiser to be elected at the general election for state and county officers by the voters of the county in which the appraisal district is established; (2) provide that the chief appraiser serves a two-year term beginning January 1 of every other odd-numbered year; and (3) provide that to be eligible to serve as chief appraiser, an individual must be a resident of the county in which the appraisal district is established and must have resided in the county for at least four years preceding the date the individual takes office.

H.B. 809 (Metcalf) – **Appraisal Districts**: would provide that: (1) an appraisal district board of directors consists of five directors elected at the general election for state and county officers; (2) the directors are elected from each of the four commissioners precincts in the county in which the appraisal district is established and one member is elected at large from the county; (3) to be eligible to serve as a director, a director elected from a commissioners precinct must be a resident of that precinct and a director elected at large must be a resident of the county; and (4) directors serve two-year terms beginning on January 1 of odd-numbered years.

H.B. 810 (Metcalf) – **Appraisal Review Board**: would provide that: (1) an appraisal review board consists of five members elected at the general election for state and county officers; (2) the board members are elected from each of the four commissioners precincts in the county in which the appraisal district is established and one member is elected at large from the county; and (3) the members serve two-year terms beginning on January 1 of odd-numbered years.

H.B. 868 (K. Bell) – **Appraisal Cap**: would reduce the property tax appraisal cap on residence homesteads from ten to 3.5 percent. (See **H.J.R. 57**, below.)

H.J.R. 57 (K. Bell) – **Appraisal Cap**: would amend the Texas Constitution to reduce the property tax appraisal cap on homesteads from ten to 3.5 percent. (See **H.B. 868**, above.)

S.B. 262 (Hinojosa) – **Appraisal of Open-Space Land**: would provide that to qualify for appraisal as open-space land, property must have been devoted principally to agricultural use or to production of timber or forest products for only two of the preceding seven years, reducing the existing requirement that property must have been devoted to that use for at least five of the preceding seven years. (Companion bill is **H.B. 634** by Lozano.)

Public Safety

H.B. 828 (Dutton) – **Age of Criminal Responsibility**: would, among other things, generally raise the age of criminal responsibility from 17 to 18, including for purposes of city adoption of juvenile curfew ordinances.

H.B. 861 (Lozano) – Kratom Products: would impose regulations on the sale of Kratom and Kratom products, including labelling and prohibiting the sale to a minor, and authorize a city attorney, among others, to bring an action to recover a civil penalty for violation of those regulations.

S.B. 253 (Eckhardt) – Firearm Signage: would authorize a person to provide notice that firearms are prohibited on property by posting a sign that: (1) includes, in both English and Spanish, language that is identical to or substantially similar to the following statements, depending on the situation: (a) “No firearms permitted on this property”; (b) “No concealed handguns permitted on this property”; or (c) “No openly carried handguns permitted on this property”; (2) appears on a white background with black block letters at least one inch in height; (3) contains a pictogram that shows, on a white background, a handgun drawn in black ink within a red circle of at least six inches in diameter and a diagonal red line across the handgun; and (4) is displayed in a conspicuous manner clearly visible to the public.

Community and Economic Development

H.B. 834 (Campos) – Homelessness: would, among other things: (1) provide that the Department of Housing and Community Affairs may implement and administer a pilot program to solicit donations made by text message for the benefit of local programs that provide services to homeless individuals and families in municipalities with a population of 285,000 or more; and (2) provide that of any money donated under the program, the department shall allocate: (a) not less than 65 percent for costs associated with housing homeless individuals and families; (b) not less than 20 percent for transportation costs; (c) not less than five percent for the promotion of the program; and (d) not more than 10 percent for overhead and administrative costs.

H.B. 866 (Oliverson) – Plat or Plan Submissions Limitations: provides, among other things, that a city may not: (1) require a person to fulfill any prerequisites or conditions or obtain any approvals before filing a copy of a plan or plat; (2) delay the starting date for calculating any timeframe to approve or disapprove a plan or plat by not considering the date the plan or plat was filed as the starting date; or (3) refuse to accept, acknowledge, process, or act on a filed copy of the plan or plat.

S.B. 259 (Springer) – Filing of Plats, Plans and Building Permits: provides, among other things, that: (1) unless specifically authorized by another state law, a city may not: (a) require a person to submit or obtain approval of any document or fulfill any other prerequisites or conditions before the person files a copy of the plan or plat with the city; or (b) refuse to accept a filed copy of the plan or plat; (2) not later than the 45th day after the date an application for a building permit is submitted, a city must either: (a) grant or deny the permit; or (b) provide written notice to the applicant stating the reasons why the city has been unable to grant or deny the permit application in the time required; and (3) a city may not: (a) deny a permit solely because the city cannot comply with requirements in (2), above; or (b) require an applicant to waive the requirements of (2), above.

Elections

H.B. 824 (Buckley) – Uniform Election Date: would authorize the governing body of a political subdivision, other than a county or municipal utility district, that holds its general election for officers on the May uniform election date to, not later than December 31, 2024, change the date on which it holds its general election for officers to the November uniform election date.

Emergency Management

H.B. 860 (Gates) – Emergency Repairs to Residential Buildings: provides, among other things that: (1) a city shall allow an owner of a damaged residential building to immediately begin to repair to the building if: (a) the owner applies for an emergency permit; and (b) the repairs are necessary to protect public safety, prevent further damage to the building, or protect the overall structural integrity of the building; (2) an owner of a residential building may apply for an emergency permit to conduct repairs by filing an application not later than the third business day after the later of the date the repairs commence or the date the city is able to accept the application; (3) the governor may not exempt a city from (1), above, by an executive order related to a declared disaster; (4) an owner of a residential building who is prohibited from conducting repairs by a city in violation of (1), above, may bring an action against the city for damages, including litigation costs and reasonable attorney’s fees; and (5) governmental immunity to suit and from liability is waived.

Other Finance and Administration

H.B. 819 (Talarico) – Abortion: would repeal existing statutes prohibiting abortion, including among others, the authority that generally allows for a political subdivision, including a city, to regulate or prohibit abortion in a manner that is at least as stringent as under state law.

H.B. 870 (Patterson) – Pet Stores: would provide that: (1) a pet store may not sell a dog or cat unless the pet store obtained the dog or cat from: (a) an animal control agency; (b) an animal shelter; or (c) an animal rescue organization; and (2) a pet store that violates (1), above, is liable to the state for a civil penalty in an amount not to exceed \$500 for each dog or cat sold in violation of (1), above.

H.J.R. 58 (Frank) – Parental Rights: would amend the Texas Constitution to: (1) provide that the liberty of a parent to direct the upbringing of the parent’s child is a fundamental right; (2) provide that the right includes the right to direct the care, custody, control, education, moral and religious training, and medical care of the child; and (3) prohibit the state or a political subdivision of the state from interfering with the rights of a parent as described in (1) and (2), above, unless the interference is essential to further a compelling governmental interest and narrowly tailored to accomplish that compelling governmental interest.

Personnel

H.B. 818 (Walle) – Expressing Breast Milk: would provide that a public employer shall provide a place, other than a bathroom, that is shielded from view and free from intrusion from other employees and the public where the employee can express breast milk.

H.B. 850 (Reynolds) – Discrimination: would, among other things, provide that: (1) a person engages in a discriminatory practice if the person, because of the sexual orientation or gender identity or expression of an individual: (a) denies that individual full and equal accommodation in any place of public accommodation; or (b) otherwise discriminates against or segregates or separates the individual based on sexual orientation or gender identity or expression; (2) an aggrieved person may file a civil action in district court not later than the second anniversary of the occurrence of the termination of an alleged discriminatory practice to obtain the following relief with respect to the discriminatory practice: (a) actual and punitive damages; (b) reasonable attorney’s fees; (c) court costs; and (d) any permanent or temporary injunction, temporary restraining order, or other order, including an order enjoining the defendant from engaging in the practice or other appropriate action; and (3) an employer, including a city, may not discriminate against a person on the basis of sexual orientation or gender identity or expression.

H.B. 863 (Schofield) – Local Debt or Tax Elections: would provide that an election for the issuance of bonds or a tax increase must be held on the November uniform election date.

H.B. 864 (Hernandez) – Unemployment Benefits: would allow an individual to qualify for unemployment benefits if the individual involuntarily leaves the workplace because of sexual harassment and: (1) reports the sexual harassment to the individual’s employer or a law enforcement agency; or (2) files a sexual harassment complaint with the Texas Workforce Commission or the Equal Employment Opportunity Commission.

Purchasing

H.B. 857 (Gervin-Hawkins) – Payment Bonds: would increase the amount of a public works contract for which a payment bond is required from \$25,000 to \$100,000.

H.B. 876 (Raymond) – Flag Purchases: would, among other things, for each United States flag or Texas state flag purchased by a city, require the city to: (1) give first preference to flags manufactured in the Texas using materials grown, produced, or manufactured in Texas to the extent reasonable and practicable; and (2) give second preference to flags manufactured in Texas or the United States using materials grown, produced, or manufactured in the United States.

Transportation

H.B. 820 (King) – Additional Hybrid Vehicle Registration Fee: provides that applicants for registration or renewal of registration for a hybrid or electric vehicle shall pay an additional fee of \$200 if the vehicle is an electric vehicle and \$100 if the vehicle is a hybrid vehicle with 90% of the fees to be deposited into the state highway fund and 10% to be deposited into a new electric vehicle battery disposal account administered by the Texas Commission on Environmental Quality.

S.B. 254 (Eckhardt) - Gas Tax: would increase the rate of the state gasoline tax and diesel fuel tax from 20 to 40 cents per gallon.

Utilities and Environment

H.B. 874 (Bowers) – Water Rights: would provide that a water right is not cancelled for nonuse if the nonuse resulted from an executed temporary or permanent forbearance agreement that: (1) promotes restoration, preservation, or enhancement of instream flows; (2) was entered into by the holder of the permit, certified filing, or certificate of adjudication; and (3) was filed with the Texas Commission on Environmental Quality not later than the 180th day after the date the agreement was executed.

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