

TML LEGISLATIVE UPDATE



December 16, 2022
Number 49

Comptroller Requests Extension to File Challenges to the National Broadband Map

On Tuesday, Comptroller Glenn Hegar [asked](#) the Federal Communications Commission (FCC) and the National Telecommunications and Information Administration (NTIA) to extend the deadline to file challenges to the national broadband map by 60 days, to March 14, 2023; and to postpone release of the final map by 60 days, to July 14, 2023.

The FCC released the initial version of the [national map](#) on November 18, 2022. Currently any challenge to the map submitted by local governments, the state, and other stakeholders are due on January 13, 2023. The national map will be used to allocate federal funds from the Infrastructure Investment and Jobs Act to expand broadband in communities.

The comptroller also requested the FCC and NTIA postpone the Broadband Equity, Access, and Deployment (BEAD) allocation announcement by 60 days so federal agencies may analyze and incorporate challenges to the national map. He asked that BEAD award announcements align with the release of the final map.

More information on how to file challenges can be found on the [comptroller's website](#) or the [FCC website](#).

Federal Lead and Copper Rule Revision

The U.S. Environmental Protection Agency (EPA) finalized the Lead and Copper Rule Revision (LCRR) on December 16, 2021. The Texas Commission on Environmental Quality (TCEQ) published the following information on the revised rule.

The LCRR details additional public health protection measures and applies to community and non-transient noncommunity public water systems. These systems must come into compliance by **October 16, 2024**. Under the revised rule, systems must develop and submit a **Lead Service Line Inventory** for **both** the utility owned service lines and the customer service lines. Service lines must be categorized as lead, galvanized requiring replacement, lead status unknown, or non-lead.

TCEQ encourages cities to start collecting this data now since it will be a time-intensive project for your water system. Funding may be available in the future on a first come, first served basis. If you need help starting your inventory, please contact the TCEQ [Financial, Managerial, and Technical Assistance Program](#).

Below are other highlights of the revisions:

- Lead trigger level added.
- Change in tiering system with an increased emphasis on lead service lines for sample site selection.
- Change in sample collection procedures.
- Find-and-fix approach if an individual sample exceeds the lead action level.
- Increase in public education requirements.
- Lead testing at schools and childcare facilities for community public water systems.

The EPA announced an additional update to strengthen key elements of the Lead and Copper Rule called Lead and Copper Rule Improvements (LCRI). According to the EPA, this new rulemaking is expected before October 16, 2024.

For more information, see the resources below:

- [TCEQ Revised Lead and Copper Rule webpage](#)
- [EPA Revised Lead and Copper Rule webpage](#)
- [Next Steps for the Lead and Copper Rule](#)
- EPA's [Reference Guide for Public Water Systems](#)
- [Federal Register](#)

If you have questions, please email LCRR@tceq.texas.gov or call 512-239-4691. For future LCRR updates, webinars, guidance documents, and notices, please [sign up](#) for GovDelivery notifications.

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.

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>.)

Public Safety

H.B. 569 (Bowers) – Burglary of Vehicles: would provide that a person who maintains a place to which persons habitually go to burglarize vehicles in violation of state law and who knowingly tolerates the activity and fails to make reasonable attempts to abate the activity maintains a common nuisance.

H.B. 892 (Burrows) – Accreditation Grant Program: would, among other things, provide that the governor's criminal justice division shall establish and administer a grant program to provide financial assistance, in an amount that does not exceed \$50,000, to a law enforcement agency for the purpose of becoming accredited or maintaining accreditation: (1) through the Texas Police Chiefs Association Law Enforcement Best Practices Recognition Program; (2) by the Commission on Accreditation for Law Enforcement Agencies, Inc.; (3) by the International Association of Campus Law Enforcement Administrators; or (4) by an association or organization designated by the division. (Companion bill is **S.B. 267** by **King**.)

H.B. 898 (Stucky) – Increased Punishment for Passing Certain Vehicles: increases the penalties for drivers who pass certain stopped emergency or utility vehicles on a roadway without either slowing down or changing lanes.

H.B. 925 (Dutton) – Firearm Regulation: would, among other things:

1. with some exceptions, prohibit a person within Texas from manufacturing or causing to be manufactured, distributing, transporting, or importing into Texas, or causing to be distributed, transported, or imported into Texas, keeping for sale, offering or exposing for sale, or giving or lending any assault weapon, .50 caliber rifle, or unserialized firearm;
2. with some exceptions, prohibit a person from purchasing, selling, offering to sell, or transferring ownership of any firearm precursor part in Texas that is not a federally regulated firearm precursor part;
3. prohibit a person from selling, supplying, delivering, or giving possession or control of a firearm to any person who is under 21 years of age, with some exceptions, including an exception for a firearm that is not a handgun to a person who is 18 years of age or older and is an active peace officer or reserve peace officer who is authorized to carry a firearm in the course and scope of employment;
4. provide that Numbers 1, 2, and 3, above, do not apply to the sale of an assault weapon, .50 caliber rifle, unserialized firearm, or firearm precursor part to, or the purchase, transportation, importation, sale or other transfer, or manufacture of an assault weapon, .50 caliber rifle, unserialized firearm, or firearm precursor part by, any law enforcement agency or public entity that employs peace officers, or any authorized law enforcement representative thereof, if that agency, entity, or representative is not prohibited by law from possessing an assault weapon, .50 caliber rifle, unserialized firearm, or firearm precursor part;
5. provide that, so long as the firearm or firearm precursor part is transported in compliance with the provisions of the bill, an individual may sell, deliver, or transfer an assault weapon, .50 caliber rifle, unserialized firearm, or firearm precursor part to an authorized representative of a city, city and county, county, or state government, or of the federal government, provided that the entity is acquiring the weapon as part of an authorized, voluntary program in which the entity is buying or receiving weapons from private individuals;
6. require that enforcement of the bill is enforced exclusively through private civil actions;
7. prohibit a political subdivision, including a city, a district, county, or city attorney, or an executive or administrative officer or employee of Texas or a political subdivision of Texas from enforcing the bill or filing a civil action under the bill against any person;
8. provide that the fact that conduct violates the bill is not an independent basis for enforcement of any other law of Texas, or the denial, revocation, suspension, or

withholding of any right or privilege conferred by the law of Texas or a political subdivision of Texas, including any business licenses and permits, or a threat to do the same, by Texas, a political subdivision of Texas, a district, county, or city attorney, or an executive or administrative officer or employee of Texas or a political subdivision of Texas, or a board, commission, or similar body assigned authority to do so under law, against any person;

9. provide that any person, other than an officer or employee of Texas or political subdivision of Texas, may bring a civil action against any person who: (a) knowingly violates Numbers 1, 2, or 3, above; (b) knowingly engages in conduct that aids or abets another person in violating Numbers 1, 2, or 3, above, regardless of whether the person knew or should have known that the person aided or abetted would be violating Numbers 1, 2, or 3, above; or (c) knowingly commits an act with the intent to engage in the conduct described by Number 9(a) or (b);
10. provide that if a claimant prevails in an action under the bill, the court shall award injunctive relief, statutory damages in an amount not less than \$10,000 for each weapon or firearm precursor part as to which the defendant violated the bill and for each weapon or firearm precursor part as to which the defendant aided or abetted a violation of the bill, and attorney's fees and costs;
11. provide that a state official, or a district, county, or city attorney may not intervene in an action brought under the bill but the bill does not prohibit a state official, or a district, county, or city attorney from filing an amicus curiae brief in the action;
12. provide that an action may not be brought under the bill against a federal government, state, or political subdivision, or an employee of a federal government, state, or political subdivision on the basis of acts or omissions in the course of discharge of official duties;
13. provide that a political subdivision has governmental immunity, and each officer and employee of a political subdivision of Texas has official immunity in any action, claim, or counterclaim or any type of legal or equitable action that challenges the validity of any provision or application of the bill, on constitutional grounds or otherwise;
14. provide that any person, including an entity, attorney, or law firm, that seeks declaratory or injunctive relief to prevent Texas, a political subdivision of Texas, a governmental entity or public official in Texas, or a person in Texas from enforcing any statute, ordinance, rule, regulation, or other type of law that regulates or restricts firearms, or that represents any litigant seeking that relief, is jointly and severally liable to pay the attorney's fees and costs of the prevailing party; and
15. provide that, for the purposes of Number 14, above, a party is considered the "prevailing party" if a court: (a) dismisses any claim or cause of action brought by the party seeking the declaratory or injunctive relief described by Number 14, above, regardless of the reason for the dismissal; or (b) enters judgment in favor of the party opposing the declaratory or injunctive relief described by Number 14, above, on any claim or cause of action.

H.B. 928 (Dutton) – Asset Forfeiture: would require: (1) a final conviction for an underlying offense in order to pursue forfeiture of contraband; and (2) a court to dismiss a contraband forfeiture proceeding on proof of a dismissal or acquittal of the underlying offense, regardless of whether the owner or interest holder has met any requirements under the Texas Rules of Civil Procedure in the forfeiture proceeding, including answering the state’s civil complaint.

H.B. 931 (Dutton) – Officer Training: would create the officer training advisory committee to conduct a study of the Texas Commission on Law Enforcement’s training programs that are established and maintained for individuals seeking to be peace officers, county jailers, school marshals, public security officers, and telecommunicators.

H.B. 936 (Dutton) – Deadly Force: would provide that: (1) a peace officer is justified in using deadly force against another when and to the degree the peace officer reasonably believes the deadly force is immediately necessary to make an arrest, or to prevent escape after arrest, if: (a) the use of force would have been justified under state law; (b) the person to be arrested or attempting to escape after arrest possesses a deadly weapon; and (c) the peace officer reasonably believes: (i) the conduct for which arrest is authorized included the use or attempted use of deadly force; or (ii) there is a substantial risk that the person to be arrested or attempting to escape after arrest will cause death or serious bodily injury to the actor or another if the arrest or apprehension is delayed; and (2) a person who is not a peace officer but is acting in a peace officer’s presence and at the officer’s direction is justified in using deadly force against another when and to the degree the person reasonably believes the deadly force is immediately necessary to make a lawful arrest, or to prevent escape after a lawful arrest, if: (a) the use of force would have been justified under state law; (b) the person to be arrested or attempting to escape after arrest possesses a deadly weapon; and (c) the actor reasonably believes: (i) the felony or offense against the public peace for which arrest is authorized included the use or attempted use of deadly force; or (ii) there is a substantial risk that the person to be arrested or attempting to escape after arrest will cause death or serious bodily injury to another if the arrest or apprehension is delayed.

H.B. 938 (Dutton) – Use of Force: would amend current law to provide that the standard for: (1) the justified use of force against a person by a peace officer, a person acting in a peace officer’s presence and at the officer’s direction or a person other than a peace officer is an objectively reasonable standard; (2) the justified use of deadly force against a person by a peace officer or a person acting in a peace officer’s presence and at the officer’s direction is an objectively reasonable standard; and (3) the justified use of any force, including deadly force, by a guard employed by a correctional facility or a peace officer to prevent the escape of a person from a correctional facility is an objectively reasonable standard.

H.B. 946 (Dutton) – Spoliation: would, among other things, in criminal proceedings: (1) require the state, except as permitted by other law, to preserve evidence in its possession, custody, or control and prevent the destruction, alteration, or loss of that evidence; and (2) after a hearing outside the presence of the jury, allow for the court to make a spoliation determination against the state for evidence that is destroyed, altered, or lost by an act or omission of the state.

H.B. 974 (Zwiener) – Crowd Control: would provide that each law enforcement agency shall adopt a policy on crowd control that prohibits its peace officers from using less lethal projectiles

(ammunition commonly known as “rubber bullets,” “wooden bullets,” “sponge rounds,” and “bean bag rounds”) to control the activity or movement of a gathering of people.

H.B. 978 (Ordaz) – Pet Groomers: would, among other things: (1) create a criminal offense for pet cruelty by a pet groomer; and (2) authorize the city or county in which the conduct occurs to sue to collect a civil penalty, which may be retained by the city or county along with the reasonable costs of investigation, reasonable attorney’s fees, and reasonable expert witness fees.

S.B. 218 (Eckhardt) – Disciplinary Action Against Peace Officers: would: (1) require the Texas Commission on Law Enforcement to establish grounds under which the commission shall suspend or revoke a peace officer license on a determination by the commission that the license holder’s continued performance of duties as a peace officer constitutes a threat to the public welfare, including a lack of competence in performing duties, illegal drug use or addiction that substantially impairs the officer’s ability to perform duties, lack of truthfulness in court proceedings or other governmental operations, failure to follow the directives of a supervising officer or to follow the policies of the employing law enforcement agency, and certain discriminatory conduct; and (2) prohibit the commission from considering whether an officer is prosecuted for or convicted of an offense based on the conduct that is the ground for suspension or revocation.

S.B. 267 (King) – Accreditation Grant Program: would, among other things, provide that the governor’s criminal justice division shall establish and administer a grant program to provide financial assistance, in an amount that does not exceed \$50,000, to law enforcement agencies for the purpose of becoming accredited or maintaining accreditation: (1) through the Texas Police Chiefs Association Law Enforcement Best Practices Recognition Program; (2) by the Commission on Accreditation for Law Enforcement Agencies, Inc.; (3) by the International Association of Campus Law Enforcement Administrators; or (4) by an association or organization designated by the division. (Companion bill is **H.B. 892** by **Burrows**.)

S.B. 269 (Perry) – Residential Picketing: would provide that a person commits an offense that is a Class B misdemeanor if the person engages in picketing before or about the dwelling of any individual with the intent to harass or disturb the individual in the individual’s dwelling.

Community and Economic Development

H.B. 912 (Campos) – Homelessness: would, among other things: (1) provide that the Texas Department of Housing and Community Affairs (TDHCA) may: (a) operate the transitional housing pilot program in coordination with one or more cities or counties; and (b) provide a grant from the Ending Homelessness fund to a city or county with which TDHCA coordinates to operate the program; and (2) require TDHCA to give priority in issuing grants from the Ending Homelessness fund to cities and counties that coordinate with TDHCA in the operation of the transitional housing pilot program.

H.B. 913 (Campos) – Homelessness Data System: would: (1) require the Texas Interagency Council on Homelessness to collaborate with a state agency designated by the council to establish a statewide homelessness data system through which state agencies and local governmental entities are able to access and share information related to individuals experiencing homelessness; (2)

provide that, in developing the data system, the council and the state agency designated by the council shall, among other things, consult with representatives of the entities in (1), above, to determine the challenges faced by those entities in addressing homelessness and how best to improve the responses to those challenges; and (3) require the data system established in (1), above, to: (a) to the extent permitted by a data sharing agreement, collect data from other homelessness data systems maintained or operated by a state agency, local law enforcement agency, or other entity of Texas; and (b) collect, aggregate, analyze, and share homelessness information submitted to the data system with entities that have access to the system.

H.B. 953 (Dutton) – Tax Preferences: would: (1) require a select commission to review all state and local “tax preferences” and develop a review schedule under which tax preferences are reviewed once during each six-year period; (2) require the commission in (1), above, to file a final report on tax preferences to the governor and the presiding officers of the Senate Finance Committee and the House Ways and Means Committee not later than September 1 of each even-numbered year; (3) provide that a tax preference included in a final report under (2), above, expires on the second anniversary of the date the final report is filed, unless reauthorized by law; and (4) provide that each tax preference enacted by the legislature that becomes law on or after September 1, 2024, expires six years after the date it takes effect, unless the legislature provides an earlier or later expiration date. (See **H.J.R. 60**, below.)

H.B. 983 (Leo-Wilson) – Land Use Regulation of Schools: would provide, among other things, that: (1) cities shall consider an open-enrollment charter school a school district for purposes of, among other things, zoning, permitting, platting, subdivision, construction and site development, land development regulation, application processing and timelines, regulation of architectural features, business licensing, franchises, utility services, signage, the requirements for posting bonds or securities, contract requirements, and fees and assessments; (2) cities may not take any action that prohibits an open-enrollment charter school from operating a public school campus, educational support facility, athletic facility, or administrative office that it could not take against a school district; (3) sections (1) and (2), above, apply to property owned or leased by the charter school; (4) charter schools may be exempt from city ordinances and regulations related to municipal drainage utility systems; and (5) charter schools are treated the same as school districts with regard to development agreements between a city and a school located in an area annexed for limited purposes.

H.J.R. 60 (Dutton) – Tax Preferences: would amend the Texas Constitution to require the periodic review of state and local tax preferences. (See **H.B. 953**, above.)

S.B. 201 (Eckhardt) – Property Valuation in Condemnation: would provide that when valuing property subject to a conservation easement for the purposes of condemnation, the value of the property being condemned as well as any damages to the owner’s remaining property shall be valued based on the property’s highest and best use as though the property was not burdened by a conservation easement.

Elections

H.B. 919 (Slaton) – Early Voting: would, among other things: (1) provide that the period for early voting by personal appearance begins on the eighth day before election day and continues through the day before election day; and (2) repeal the current law providing that for 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 12th day before election day and continues through the fourth day before election day.

H.B. 941 (Dutton) – Final Convictions: would provide that a person who is ineligible for public office because of a final felony conviction may be made eligible by being released from the disabilities resulting from the conviction only if the release is made by a court of competent jurisdiction.

Emergency Management

H.B. 911 (Harrison) – Disaster Orders: would, among other things, provide that: (1) a state or local official may issue recommendations and nonbinding guidelines to assist with a state of disaster and may coordinate public and private resources to prevent or respond to the disaster; (2) notwithstanding any other law, an order issued by the governor or a state or local official that regulates or infringes on the rights of any private person must be: (a) narrowly tailored to serve a compelling public health or safety purpose; and (b) limited in duration, applicability, and scope to reduce any infringement on individual liberty; (3) district and appellate courts have jurisdiction to hear cases challenging a state or local disaster order and shall expedite hearings for the cases; (4) a court may invalidate or enjoin a disaster order or the application of a disaster order that is not narrowly tailored to serve a compelling public health or safety purpose because of the order's inequality in application to or impact on groups, situations, or circumstances; (5) only the governor may issue an order that infringes on a protected constitutional right in a non-trivial manner, including but not limited to: (a) the rights to travel, work, assemble, and speak; (b) the freedom of religious exercise; (c) the right to contract without state interference; (d) property rights; (e) the freedom from unreasonable searches and seizures; and (f) the freedom to purchase lawfully acquired firearms and ammunition; (6) an order in (5), above, expires on the 30th day after the date the governor issues the order unless the governor or legislature terminates the order on an earlier date or the legislature extends the order on or before the expiration date; and (7) the governor may only suspend state agency orders and rules (not statutory requirements) during a state of disaster.

Other Finance and Administration

H.B. 969 (Cook) – Child Custody Orders: would authorize a city or county to adopt an ordinance or order that imposes a civil penalty of not more than \$500 for engaging in interference of child custody.

H.B. 982 (Toth) – Required Contract Provisions: would require that a contract between a governmental entity and a company that has a value of \$100,000 or more that is to be paid wholly or partly from public funds must contain written verification from the company that it does not

and will not during the term of the contract use environmental, social, and governance criteria that further political policies at the expense of the Texas economy and company shareholders to evaluate a business decision or investment strategy.

H.B. 984 (Capriglione) – Department of Information Resources: would: (1) require the executive director of the Department of Information Resources to employ a chief privacy officer to provide assistance to state agencies on legal and policy matters involving data; and (2) authorize the chief privacy officer to assist local governments and the public with data privacy and protection concerns.

S.B. 271 (Johnson) – Local Government Security Incidents: would: (1) provide that a local government that owns, licenses, or maintains computerized data that includes sensitive personal information, confidential information, or information the disclosure of which is regulated by law shall, in the event of a security incident: (a) comply with the notification requirements of the Identify Theft Enforcement and Protection Act, to the same extent as a person who conducts business in Texas; (b) not later than 48 hours after the discovery of the security incident, notify: (i) the Department of Information Resources (DIR), including the chief information security officer; or (ii) if the security incident involves election data, the secretary of state; and (c) comply with all DIR rules relating to security incidents; and (2) provide that not later than the 10th business day after the date of the eradication, closure, and recovery from a security incident, a local government shall notify the DIR, including the chief information security officer, of the details of the security incident and include in the notification an analysis of the cause of the security incident. (Companion bill is **H.B. 712** by **Shaheen**.)

Personnel

H.B. 893 (Reynolds) – Paid Sick Leave: would: (1) require certain employers to provide annual paid sick leave to each employee, accruing on the date the employee is hired at a rate of one hour paid sick leave for each 30 hours worked by the employee; and (2) provide that an employee may use such leave for specific reasons, including to attend: (a) to the employee's or the employee's family member's health condition; (b) to family violence related matters; and (c) a meeting at a child family member's school.

H.B. 894 (Reynolds) – Civilian Complaint Board: would create, in a city with a population of 500,000 or more, a civilian complaint review board with, among other things, the authority to: (1) investigate complaints alleging peace officer misconduct that involve: (a) excessive use of force; (b) improper use of power to threaten, intimidate, or otherwise mistreat a member of the public; (c) a threat of force; (d) an unlawful act, search, or seizure; or (e) other abuses of authority; and (2) issue subpoenas.

H.B. 915 (Craddick) – Workplace Violence Hotline: would, among other things, provide that: (1) the Texas Department of Licensing and Regulation shall establish a workplace violence hotline; (2) an employer, including a city, shall post a notice to employees of the workplace violence hotline described in (1), above; and (3) the notice must be posted: (a) in a conspicuous place in the employer's place of business; (b) in sufficient locations to be convenient to all employees; and (c) in English and Spanish, as appropriate.

S.B. 274 (Blanco) – Discrimination: would, among other things, prohibit discrimination on the basis of sexual orientation or gender identity or expression of an individual in public accommodations and by an employer, including a city.

Transportation

H.B. 960 (Jetton) – Electric Vehicle Registration Fee: would provide that at the time of application for registration or renewal of registration of an electric vehicle, the applicant shall pay an additional \$100 road maintenance fee, which must be deposited to the credit of the state highway fund.

Utilities and Environment

H.B. 926 (Dutton) – Concrete Plant Permitting: would provide that a representative of a school, place of worship, licensed day-care center, hospital, medical facility, or a person residing within 440 yards of a proposed wet batching, dry batching, or central mixing concrete plant may request a public hearing prior to the construction or permitting of the concrete plant.

H.B. 973 (Zwiener) – Critical Infrastructure: would, among other things: (1) create a critical infrastructure resiliency fund that may be used by the Texas Division of Emergency Management to make a grant to an eligible entity; (2) establish the electric grid improvement account as an account within the critical infrastructure resiliency fund that may be used to make grants to municipally owned electric utilities, among others, for projects related to hardening and weatherizing the electric grid; (3) establish the hospital infrastructure resiliency account within the critical infrastructure resiliency fund that may be used to make grants to a city-owned hospital, among others, for projects relating to the purchase of reserve power supply that is reliable during an extreme weather event; and (4) authorize the use of funding under the water loan assistance fund for projects to harden and weatherize water and wastewater systems in the state.

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