

# TML LEGISLATIVE UPDATE



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## **Special Session Update**

This week, the Senate passed their new property tax relief plan, [1S.B. 26](#) and [1S.J.R. 2](#) by Bettencourt. The legislation would allow for a \$100,000 homestead exemption by a school district, add more state funding to buy down school district property tax rates, exempt some small businesses from the state franchise tax, and impose a stricter revenue cap on school districts.

The House still stands adjourned *sine die*. The first called special session is set to end next week and the prospect of legislation passing during this session appears to be very slim.

## **Governor Vetoes Include City-Related Bills**

Governor Abbott vetoed seventy-seven bills passed by the legislature during the regular session. Ten of the seventy-seven were city-related bills described in the League's ["wrap-up" Legislative Update](#) on June 4. (Both the pdf and online version of that edition have been updated to reflect vetoed bills.)

Those ten vetoed are detailed here:

- **H.B. 2956 (Shine/Flores) – Annexation Across Railway Right-of-Way:** this bill, among other things, allows a city that is annexing property under certain conditions to annex an additional area adjacent to railroad rights-of-way if the railroad right-of-way is: (1) contiguous, and runs parallel to the city’s boundaries; and (2) contiguous to the area being annexed. (Effective immediately.)

According to the governor’s veto [message](#), “While House Bill No. 2956 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.”

- **H.B. 4759 (Campos/Menendez) – Dangerous Dogs:** this bill, among other things, provides that the identifying information of a witness who gives a sworn statement relating to a dangerous dog attack: (1) is confidential and not subject to disclosure under the Public Information Act; and (2) may be disclosed for purposes of enforcing state law related to dangerous dog determinations to the governing body of a city or county in which the incident occurred, as applicable, and any other governmental or law enforcement agency. (Effective September 1, 2023.)

According to the governor’s veto [message](#), “Texas’s existing criminal laws penalize attacks by dangerous dogs — so much so that felony arrests have already been made of the dog owners responsible for the tragic attack that took the life of a distinguished Air Force veteran in San Antonio, and that was the catalyst for House Bill No. 4759. The justice system should be allowed to work without the overcriminalization found in this bill. I look forward to working with the author to create investigations and procedures that stop dog attacks *before* they happen.”

- **S.B. 267 (King/Burrows) – Law Enforcement Agency Accreditation:** provides, among other things, that: (1) the Texas Commission on Law Enforcement (TCOLE) shall adopt rules requiring each law enforcement agency that employs at least 20 peace officers to become accredited and maintain accreditation through or by (a) the Texas Police Chiefs Association Law Enforcement Agency Best Practices Accreditation Program; (b) the Commission on Accreditation for Law Enforcement Agencies, Inc.; (c) the International Association of Campus Law Enforcement Administrators; (d) an accreditation program developed by the Sheriff’s Association of Texas; or (e) an association or organization designated by TCOLE; (2) the rules adopted under (1), above, must require a law enforcement agency that is not already accredited to: (a) execute a contract with an approved accrediting entity not later than September 1, 2027; and (b) become accredited not later than September 1, 2029; (3) TCOLE shall implement a program to assist law enforcement agencies in becoming accredited; (4) TCOLE shall periodically review associations and organizations that establish standards of practice for law enforcement agencies and that offer accreditation to agencies that meet those standards; (5) a law enforcement agency shall annually report the agency’s accreditation status, including the applicable accrediting entity described in (1), above, to TCOLE; (6) TCOLE shall post on

its website a list of all law enforcement agencies that are currently accredited or under contract with an accrediting entity; and (7) the comptroller shall establish and administer a grant program to provide financial assistance for purposes of becoming accredited as required by (1), above, to each law enforcement agency that employs fewer than 250 peace officers. (Effective September 1, 2023.)

According to the governor's veto [message](#), "While Senate Bill No. 267 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed."

- **[S.B. 1399](#) (Schwertner/K. Bell) – Renewal of Air Quality Permits:** this bill applies to certain concrete plants that perform wet batching, dry batching, or central mixing and provides that: (1) the Texas Commission on Environmental Quality (TCEQ) shall at least once every six years conduct a protectiveness review of the permit regarding the operation of a permanent concrete plant, including by reviewing available background concentrations of air pollutants; (2) if TCEQ amends the permit after a protectiveness review, TCEQ shall allow facilities authorized to emit air contaminants under the permit as it read before the amendment to continue to operate until a date provided by TCEQ; and (3) each authorization to use a permit is subject to review at least once every six years to determine whether the authority to operate the facility authorized by the permit should be renewed. (Effective September 1, 2023.)

According to the governor's veto [message](#), "Senate Bill No. 1399 appears to add more bureaucracy and cost."

- **[S.B. 1439](#) (Springer/Hefner) – Business Personal Property Tax Exemption:** provides that if a person owns income-producing tangible personal property and is a related business entity, the person's property is aggregated with the property that is owned by each other related business enterprise that composes the same unified business enterprise to determine the taxable value of the property. (Effective January 1, 2024.)

According to the governor's veto [message](#), "While Senate Bill No. 1439 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed."

- **[S.B. 1916](#) (Parker/Shine) – Public Improvement Districts:** requires a city: (1) to post a copy of a public improvement district ("PID") service plan and certain other information on the city's website within seven days of approving, amending, or updating the plan; (2) to submit an assessment roll for each city PID to each appraisal district in which property subject to assessment is located within seven days of levying the assessment; and (3) to post on its website certain information about city PIDs. (Effective January 1, 2024.)

According to the governor's veto [message](#), "While Senate Bill No. 1916 is important, it is simply not as important as cutting property taxes. At this time, the legislature must

concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.”

- **S.B. 1998 (Bettencourt/Shine) – Property Tax Rate Calculation:** this bill requires: (1) a taxing unit to calculate adjustments made to the value of taxable property due to tax revenue the taxing unit pays into a tax increment reinvestment zone fund separately for each reinvestment zone in which the taxing unit participates; and (2) the designated officer or employee of a taxing unit to include a hyperlink to a document that evidences the accuracy of an entry in the tax rate calculation form for each entry on the form, other than an entry making a mathematical calculation. (Effective January 1, 2024.)

According to the governor’s veto [message](#), “Senate Bill No. 1998 requires data reporting on property taxes, but does nothing to cut property taxes. This bill can be reconsidered at a future special session only after property tax relief is passed.”

- **S.B. 2035 (Bettencourt/Capriglione) – Local Debt:** this bill: (1) prohibits the governing body of an issuer, including a city council, from authorizing an anticipation note to pay a contractual obligation to be incurred if a bond proposition to authorize bonds for the same purpose was submitted to the voters during the preceding five years and failed to be approved; (2) provides an exception to (1), above, if: (a) the governing body of an issuer is issuing the note for: (i) a case of public calamity if it is necessary to act promptly to relieve the necessity of the residents or to preserve the property of the issuer; (ii) a case in which it is necessary to preserve or protect the public health of the residents of the issuer; or (iii) a case of unforeseen damage to public machinery, equipment, or other property; (b) to finance the cleanup, mitigation, or remediation of a natural disaster; (c) to comply with a federal court order; and (d) to comply with a state or federal law, rule, or regulation if the issuer has been officially notified of noncompliance with the law, rule, or regulation; and (3) prohibits the governing body of an issuer, including a city council, from authorizing certificate of obligation to pay a contractual obligation to be incurred if a bond proposition to authorize the issuance of bonds for the same purpose was submitted to the voters during the preceding five years and failed to be approved. (Effective September 1, 2023.)

According to the governor’s veto [message](#), “Senate Bill 2035 has too many loopholes. This bill can be reconsidered at a future special session only after property tax relief is passed.”

- **S.B. 2453 (Menendez/Hernandez) – Exceptions to Building Material Preemption:** allows a governmental entity, including a city, to adopt a regulation regarding the building the use or installation of a building product, material, or aesthetic method in construction, renovation, maintenance, or other alteration of a residential or commercial building if that product, material or method relates to: (1) certain energy codes adopted by the State Energy Conservation Office; (2) certain energy and water conservation design standards established by the State Energy Conservation Office; or (3) certain high-performance building standards approved by the board of regents of an institute of higher education. (Effective September 1, 2023.)

According to the governor’s veto [message](#), “While Senate Bill No. 2453 is important, it is simply not as important as cutting property taxes. At this time, the legislature must concentrate on delivering property tax cuts to Texans. This bill can be reconsidered at a future special session only after property tax relief is passed.”

- **[S.B. 2493 \(Middleton/Bryant\)](#) – **Landlord Repairs**: this bill, among other things: (1) requires that repairs made in response to a tenant’s notice of intent to repair must be performed by an independent company, contractor, or repairman; and (2) provides that if the rental unit is located in a city requiring the company, contractor, or repairman to be licensed, the person or entity performing the repair must be licensed in accordance with the city’s requirements. (Effective September 1, 2023.)**

According to the governor’s veto [message](#), “While updating our laws about landlord-tenant relations is important, it is simply not as important as cutting property taxes. This bill can be reconsidered at a future special session only after property tax relief is passed.”

## **Speaker Forms Select Committee on Property Tax Relief**

On Tuesday, Speaker Dade Phelan announced the creation of the House Select Study Committee on Sustainable Property Tax Relief. The new 16-member committee will be charged with examining all elements of state policy that influence the property tax burden on Texas property owners. The committee membership can be found [here](#).

Specifically, the committee shall:

1. Evaluate the dynamic effects of tax rate compression, limits on taxable value, and homestead exemption increases to maximize savings to property owners;
2. Study the viability and sustainability of eliminating maintenance and operations taxes by 2035;
3. Examine historical rates of appraisal increases and recommend methods to reduce the tax burden of appraisal increases on all real property; and
4. Examine the long-term value of homestead exemptions to Texas homeowners in conjunction with the impact of appraisal increases.

The League will monitor and report on the committee’s work.

## **Post-Session Update: Preemption and H.B. 2127**

[H.B. 2127](#) becomes law on September 1, 2023. As written, we know the bill does three things. First, H.B. 2127 expressly preempts certain city regulations in the Labor, Property, and Local Government Codes, while exempting specific city regulations from preemption in certain

circumstances. Second, it prohibits a city from adopting or enforcing an ordinance in a field of regulation occupied by state law in eight specific codes. Lastly, it allows a person, or a trade association representing a person, after providing a city with at least three months' notice, to sue the city for adopting or enforcing an ordinance preempted under H.B. 2127.

Moving forward, one primary unresolved question looms large: what fields of regulation does the state occupy? Quite simply, we do not know. This is a legal question that the courts must decide on a case-by-case basis. The full scope of H.B. 2127 will likely be unknown for years.

### **What we know H.B. 2127 preempts**

H.B. 2127 blends two forms of preemption – express preemption and implied field preemption.

***Express Preemption.*** H.B. 2127 expressly preempts a city from adopting or enforcing five types of regulations:

- Regulations of employment leave, hiring practices, breaks, employment benefits, scheduling practices, and any other terms of employment that exceed or conflict with federal or state law for employers other than the city;
- New or amended predatory lending regulations;
- Regulations impeding a business involving the breeding, care, treatment, or sale of animals or animal products, including a veterinary practice, or the business's transactions if the person operating the business holds a state or federal license to perform such actions or services;
- New or amended regulations relating to the retail sale of dogs or cats; and
- Regulations involving evictions.

***Field Preemption.*** Field preemption is a legal doctrine that exists largely to govern preemption questions between federal and state regulations. A court may find that federal law preempts state law because a federal regulatory scheme is so comprehensive that it leaves no room for additional state regulation. H.B. 2127 applies this concept to city and state regulatory interactions by providing that: “unless expressly authorized by another statute, a [city] may not adopt, enforce, or maintain an ordinance or rule that regulates conduct in a field of regulation that is occupied by a provision of this code.” Any ordinance or rule that violates this provision is void and unenforceable.

But applying field preemption to state law and city ordinances is a novel concept. Texas courts have not explicitly applied field preemption to state law–city ordinance conflicts but have explained that the mere presence of a state regulation does not automatically occupy a regulatory field.

With certain exceptions, H.B. 2127 does not explain when a state occupies a field of regulation. So, whether and to what extent the state occupies a field of regulation must be determined by the courts. The bill's author stated that the bill was drafted in an open-ended way to prospectively preempt ordinances that the legislature has not considered.

The only exceptions to this ambiguity are in the Labor and Property Codes. As mentioned above, H.B. 2127 states that the state occupies the Labor Code regarding "employment leave, hiring practices, breaks, employment benefits, scheduling practices, and other term of employment that exceed or conflict with federal or state law for employers." The bill also explains that the state occupies the Property Code regarding "regulating evictions or otherwise prohibiting, restricting, or delaying delivery of a notice to vacate or filing a suit to recover the possession of the premises under Chapter 24 of the Property Code."

### **What H.B. 2127 does not preempt**

H.B. 2127 does provide for several exceptions. The bill does not preempt city regulations related to:

- Building or maintaining a road, imposing a tax, or carrying out any authority expressly authorized by statute;
- The control, care, management, welfare, or health and safety of animals;
- Conducting a public awareness campaign;
- Negotiating the terms of a collective bargaining agreement with city employees;
- City employee policies;
- Repealing or amending an existing ordinance for the limited purposes of bringing the ordinance into compliance with the bill;
- Predatory lending ordinances adopted before January 1, 2023, and valid under the law before September 1, 2023;
- Ordinances related to the retail sale of cats or dogs adopted before April 1, 2023, until the state adopts a statewide regulation for the retail sale of dogs or cats;
- Local massage establishment regulations adopted under Chapter 455 of the Occupations Code.

### **The effect on general law and home rule cities**

H.B. 2127 has little to no effect on general law cities because general law cities may only exercise the authority expressly granted to them by the state. However, H.B. 2127 will potentially impact

home rule city authority in a significant way. Still, the full scope of this impact is unclear and must be determined by the courts.

According to the Texas Supreme Court, the Texas Constitution gives home rule cities the power of self-government and home rule cities look to the legislature not for grants of authority, but only for limitations on their authority. So, a home rule city may adopt any ordinance or rule to exercise this power that is not inconsistent with state law. In other words, unlike a general law city that must look to state law for its authority to act, a home rule city may act unless expressly prohibited by state law.

Section 11 of the bill appears to potentially contradict the long-standing constitutional interpretation of home rule authority in Texas. This section adds Section 51.002 of the Local Government Code to provide as follows:

“Notwithstanding Section 51.001, the governing body of a municipality may adopt, enforce, or maintain an ordinance or rule only if the ordinance or rule is consistent with the laws of this state.”

This raises even more questions about the scope of the bill. If state law is silent in a certain area, can a home rule city regulate in that area? One might argue yes, since the Texas Constitution gives home rule cities the full power of self-government. But the bill certainly calls home rule authority in question in several areas. There’s a real possibility that a court would determine Section 51.002 of the Local Government Code attempts to eliminate city regulatory authority in the absence of state regulation. Such an interpretation by the courts would create a direct conflict between the statute and the Texas Constitution.

One uncodified provision within H.B. 2127 clarifies that the bill may not be construed to prohibit a home rule city from providing the same services and imposing the same regulations that a general-law city is authorized to provide or impose. So, at a minimum, the bill provides a floor for the permissible scope of regulation applicable to a home rule city. The extent to which a home rule city may exceed this floor remains an open question.

### **Lawsuits under H.B. 2127**

A person, or a trade association representing a person, may sue a city for an actual or threatened injury caused by a city adopting or enforcing an ordinance in any of the codes or statutes preempted under H.B. 2127. But before a plaintiff can file a suit, it must first provide the city with at least three months’ notice of their claim, including reasonably describing the injury claimed and the ordinance or rule that is the cause of the injury.

Consequently, a city has three months from receiving notice to amend or repeal the challenged ordinance. If a city does not act within those three months, a plaintiff may file suit in the county where all or a substantial part of the alleged events happened or where the city is located. In most cases, this will be the county where the city is located. The parties can also agree to transfer the case to another venue by written consent.



The only relief that a plaintiff can only seek under H.B. 2127 is an order declaring that the challenged ordinance is preempted by state law and barring the city from being able to enforce it. And if a plaintiff wins their suit, they may also seek to recover their court costs and attorney's fees from the city. If the court finds that the plaintiff's suit was frivolous, the city can recover its court costs and attorney's fees from the plaintiff.

### **How should cities proceed?**

As lawyers often say, it depends. H.B. 2127 will have little effect on a general law city. But for a home-rule city, how to proceed will depend on the nature of the challenged ordinances.

As detailed above, as of September 1, 2023, any city ordinances regulating employment practices, the breeding, care, treatment or sale of animals or animal products by certain businesses, and evictions are expressly preempted by state law. Further, cities will be expressly preempted from adopting or amending ordinances relating to predatory lending or the retail sale of dogs and cats.

H.B. 2127 does not automatically preempt other city ordinances falling within the eight codes impacted by the bill. Whether H.B. 2127 preempts any other ordinance must be decided by the courts on a case-by-case basis under the new field preemption concept. To bring suit under H.B. 2127, a plaintiff must provide the city with at least three months' notice of their claim. During this time, the city may repeal or amend the challenged ordinance or choose to defend it in court.

To determine what city ordinances may be subject to suit under H.B. 2127, please consult with your city attorney to identify potentially vulnerable ordinances and determine how best to proceed.

## **Post-Session Update: ETJ Release**

[Senate Bill 2038](#) is a significant piece of legislation that could fundamentally alter how cities interact with their extraterritorial jurisdictions (ETJs). This law authorizes residents and landowners to decide if their respective areas within a city's ETJ remain in the ETJ, offering two pathways for areas within a city's ETJ to be released: (1) through a petition filed by residents or landowners, or (2) by an election on the question of release held in the area within the ETJ.

For the first option, a resident can file a petition for release of their area from the city's ETJ. The petition must contain signatures from more than 50 percent of the registered voters or a majority in value of the titleholders of land in the area. Upon receiving a valid petition, the city secretary verifies the signatures, notifies the residents whether or not the petition contains the required number of signatures, and, if it indeed contains the required number of signatures, the city is required to immediately release the area from its ETJ.

The second pathway for release is by an election. A resident can request an election by submitting to the city a petition bearing the signatures of at least five percent of the registered voters in the area to be released. Following the election, if a majority of qualified voters in the area approve the release, the city must release the area. A city can voluntarily release an area instead of holding an election.

To be valid, a petition must fulfill specific requirements. It must be in writing, detail the area's boundaries, and include a map of the area to be released. The petition must also carry the requisite number of signatures and include each signer's printed name, signature, date of birth, voter registration number, county of registration (if the area spans multiple counties), residence address, and date of signing. For home rule cities, city charter provisions governing petition validity may also apply under certain circumstances.

S.B. 2038's ETJ release provisions do not apply to the following five areas: (1) an area within five miles of a military base boundary where active training occurs; (2) an area within 15 miles of an active military base in San Antonio's or Houston's ETJ; (3) certain areas that were voluntarily annexed into cities' ETJ in Hays County; (4) property located in an industrial district; and (5) property subject to a strategic partnership agreement as defined in Chapter 43 of the Texas Local Government Code.

Moreover, starting from January 1, 2023, the law prevents automatic ETJ expansion due to annexation. Instead, ETJ expansion can only occur if property owners who would be included in the city's ETJ request their area to be included in the ETJ when an area is annexed. The bill requires a city to release ETJ acquired from an annexation commenced after January 1, 2023 to comply with this new limitation on ETJ expansion through annexation.

S.B. 2038 may also impact agreements between cities and counties regarding the regulation of subdivisions in the ETJ under Chapter 242 of the Local Government Code. If an area that is subject to an agreement between the city and county relating to platting or subdivision authority is removed from the city's ETJ, the city retains no authority over that property and the county is the entity authorized to regulate subdivisions in the removed area.

The release of areas from the ETJ under the new legislation will impact the applicability of city regulations outside the city limits. Though cities have limited authority to regulate in the ETJ as it is, S.B. 2038 will potentially disrupt the uniform application of those limited regulations. Most notably, released areas will no longer be subject to applicable subdivision and platting regulations or sign regulations. Cities also will lose the ability to participate in the establishment of certain special purpose districts, like municipal utility districts, in areas that are released from the ETJ.

It is possible that other types of economic development measures are impacted as well, including the operation of municipal development districts and public improvement districts that include areas within the ETJ. Other city regulations, like the extension of nuisance ordinances outside the city limits for home rule cities and regulations governing the operation of city utilities likely will not be impacted, as the statutes authorizing those regulations outside the city limits do not distinguish applicability based on inclusion of the area in the city's ETJ.

S.B. 2038 takes effect on September 1, 2023.

## **BDO Extends Deadline for Public Survey Responses to August**

The Texas Broadband Development Office (BDO) has extended the deadline for public surveys regarding broadband service levels around the state to **August 31, 2023**.

The BDO is in the process of developing the Texas Digital Opportunity Plan for achieving reliable and affordable broadband, device access, digital skills training, and cybersecurity awareness to expand digital opportunities for all Texans.

The BDO wants to hear from cities and their residents. To help facilitate such communication, the BDO has created two surveys: the [Digital Resources Mapping Tool Survey](#) (DRMT) and the [Digital Opportunity Public Survey](#) (DOPS).

The DRMT seeks information from cities about local broadband programs and services. The DRMT will take about 10 minutes to complete.

The DOPS seeks information from individual households about their experience with broadband internet accessibility, affordability, and adoption. The survey includes an optional speed test and is available in English, Spanish, Chinese, and Vietnamese. It is also audio-enabled to ensure that people with limited literacy, limited English proficiency, or visual impairments can head the survey questions and answers. The DOPS will take about 10 minutes to complete. Participants can email their surveys to: [plan4broadband@cpa.texas.gov](mailto:plan4broadband@cpa.texas.gov) or mail them to the BDO at:

Texas Comptroller's Broadband Development Office  
P.O. Box 13528  
Austin, TX 13528

The BDO has also created the [Texas Digital Opportunity Public Survey Partner Toolkit](#) to help cities engage their residents and disseminate the DOPS. The toolkit includes the survey and provides public outreach suggestions and draft communication templates.

You can find more information about the BDO and the state's broadband efforts [here](#).

All surveys must be submitted by **August 31, 2023**.

## **TCEQ Seeks Applicants for Advisory Council**

The Texas Commission on Environmental Quality (TCEQ) is seeking applicants to serve on the Municipal Solid Waste Management and Resource Recovery Advisory Council. The council performs several duties including:

- Reviews the effect of state policies and programs on Municipal Solid Waste (MSW) management;
- Makes recommendations to the TCEQ on matters relating to MSW management;
- Recommends legislation to encourage the efficient management of MSW;

- Recommends policies for the use or distribution of funds for the Regional Solid Waste Grants Program; and
- Recommends special studies and projects related to MSW management.

Interested city officials can find application forms and more information about the council [here](#).

## **Unclaimed DOE Grant Funding Available to Eligible Cities**

The [Energy Efficiency and Conservation Block Grant](#) (EECBG) administered by the Department of Energy (DOE) is a program developed under the federal Infrastructure Investment and Jobs Act. The grant program is designed to help cities reduce energy use and improve energy efficiency.

Communities that have a population of more than 35,000 are eligible for a direct formula allocation from the DOE. Many of the eligible Texas cities have not yet claimed their funding. Eligible Texas cities along with their direct allocation amount can be found [here](#).

To claim the city's money, the [EECBG Program Pre-Award Information Sheet](#) must be submitted to DOE at [eecbg@hq.doe.gov](mailto:eecbg@hq.doe.gov) by **July 31, 2023**. DOE has provided the following resources for cities:

- [EECBG Program Guidance](#): Eligible uses of EECBG Program funds including examples and connections to DOE technical assistance.
- [EECBG Technical Assistance website](#): technical assistance and information on how to maximize program funds.
- [EECBG Program Blueprints](#): Step-by-step guidance to help achieve project goals.

## **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 provide 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 (USDOT)**

The USDOT is accepting applications for its Transportation Infrastructure Finance and Innovation Act (TIFIA) program. The TIFIA program provides low-interest loans and credit assistance to public and private entities, including local and state governments, for large-scale surface transportation improvement projects. TIFIA funding will provide financing or credit assistance at more advantageous rates than in the financial markets to help fill funding gaps and leverage co-investment opportunities.

Eligible transportation improvement projects include regional and national highway, transit, railroad, intermodal freight, and port access projects. Such projects include international bridges and tunnels, intercity passenger bus and rail vehicles and facilities, publicly owned freight rail facilities, and roadway surface improvements on or adjacent to the National Highway System. Local transportation improvement projects must be included in the applicable State Transportation Improvement Program to be eligible for funding.

The USDOT is accepting TIFIA funding applications on a rolling basis. City officials can find more information about the TIFIA program [here](#).

### **U.S. Department of Agriculture (USDA)**

The USDA is accepting applications for its Community Facilities Direct Loan and Grant (CFDLG) program. The CFDLG program provides direct loans and grants to public bodies, community non-profit corporations, and federally recognized tribes for developing essential communities in rural areas with a population below 20,000 residents.

The CFDLG program defines essential community facilities as facilities that provide an essential service to the local community for the orderly development of the community in a primarily rural area. Examples of essential community facilities include local health care facilities (hospitals, clinics, and assisted-living facilities), public facilities (town halls, courthouses, and street improvements), community support services facilities (child care centers, community centers, and transitional housing), public safety facilities (fire stations, police stations, and EMS vehicles), educational facilities (museums and libraries), and local food system facilities (community gardens and food pantries).

CFDLG funding may be used to purchase, construct, or improve essential community facilities, necessary equipment to serve such facilities, and reasonable and necessary related project expenses.

The CFDLG program will prioritize funding projects serving communities with a population of 5,500 or fewer or low-income communities with a median household income below 80% of the state's non-metropolitan median household income.

The USDA is accepting CFDLG funding applications on a rolling basis. City officials can find more information about the CFDLG program [here](#).

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