



September 8, 2023
Number 36

Court of Appeals Rules in Favor of City of College Station in ETJ Case

On August 31, 2023, the Texarkana Court of Appeals issued an [opinion](#) ruling in favor of the City of College Station's plea to the jurisdiction in a lawsuit that stems from a Texas constitutional challenge to the existence of the city's extraterritorial jurisdiction (ETJ).

In May 2022, two individuals residing in the ETJ of College Station sued the city, the mayor, and the city manager asserting that it is unconstitutional for the city to have jurisdiction over an area in which the residents of that area cannot vote in the city's elections. The city and its officials filed a plea to the jurisdiction, asserting that the residents lacked standing, their claims were not ripe, and that the suit presented a political question. The trial court permitted discovery, including a deposition of the city manager, and after a hearing on the plea, granted the plea, and dismissed the case. The residents appealed.

In its opinion, the court of appeals discusses in-depth the nature of Texas cities and concludes that the residents' challenge presents a political question, which the court may not address without

violating the separation of powers of doctrine. Accordingly, the court of appeals upheld the trial court's decision.

It's likely that this case will be appealed to the Supreme Court of Texas. The League will continue monitoring this case.

Resolutions Submitted for Consideration at the 2023 Annual Conference and Your City Delegate

Several cities submitted legislative resolutions for consideration at the 2023 TML Annual Conference in Dallas. The topics relate, among other things, to:

1. Emergency Service Districts
2. Rural Water Supply Corporations
3. TxDOT Toll Road Improvement Projects
4. Legal Notices
5. TML Member Services Fees

The full resolutions packet can be found [here](#). The resolutions will be debated at the TML business meeting on October 5 at 3:30 p.m. An additional resolution relating to the TML Constitution may be added to the packet after a Tuesday TML Board meeting at the Conference.

Each city is entitled to one voting delegate at the business meeting. The delegate isn't required to have any expertise, and an elected official delegate is encouraged but not required. The delegate can sign up electronically [here](#) prior to the meeting or sign up in person at a table outside of the meeting room. Cities are encouraged to sign up their delegate early using the link above.

All city officials are welcome to attend the meeting, whether or not they are a voting delegate.

TCEQ Releases New Required Notification Form for Water Outages

[H.B. 3810](#) requires public water systems to immediately notify the Texas Commission on Environmental Quality (TCEQ) in the event of an unplanned condition that causes a water outage or interruption to the production of safe drinking water. Public water systems must file a report using TCEQ's [immediate notification form](#) for an unplanned condition that:

- Causes a public water supply outage; and/or
- Results in the public water system issuing a do-not-use advisory, do-not-consume advisory, or boil water notice.

Public water systems are still required to comply with all other reporting requirements including:

- Issuing the do-not-use advisory, do-not-consume advisory, or boil water notice to the public as soon as possible but no later than 24 hours after meeting notice requirements;
- Submitting a copy of the notice to TCEQ at pwsbwn@tceq.texas.gov within 24 hours of delivery to the public;
- Submitting a certificate of delivery to TCEQ within 10 days; and
- Submitting a rescind certificate of delivery, copy of the rescind notice, and a copy of the microbiological samples to TCEQ within 10 days of rescinding the notice.

For more information, please visit TCEQ’s boil water notice [website](#).

GLO Evaluation Tool for Disaster Housing Recovery

The [Hazard Reduction and Recovery Center](#) under the Texas General Land Office (GLO) has developed an Evaluation Tool for Disaster Housing Recovery Plans. The tool was developed following the passage of [S.B. 289](#) by the 86th Legislature (2019) that tasked the GLO to develop a process to coordinate the review of housing recovery plans developed by cities and counties. The tool provides an “assessment of whether and to what extent the plan addresses important topics that have been shown to improve effective, efficient, and inclusive housing recovery after a disaster caused by a natural, technological, or human-caused hazard.”

City officials can find more information [here](#), including the tool and guidebook in three different levels based on community experience and capacity.

Comptroller Publishes Report on Texas Water Needs

The comptroller’s office recently published a report, *Texas Water: Present and Future Needs 2023*. The report focuses on Texas’ critical water issues highlighted in the Texas Water Development Board’s latest state water plan including aging water infrastructure, water governance, and the impact of drought and floods on our state. Interested city officials can read the report [here](#).

NLC Seeking Feedback on Proposed DOJ Rules Regarding ADA Accessibility for City Web Services and Mobile Apps

The National League of Cities (NLC) is seeking comments about the Department of Justice Civil Rights Division’s (DOJ’s) recent [Notice of Proposed Rulemaking](#) regarding accessibility standards for local government internet and mobile app services, programs, and activities.

DOJ proposes adopting the Web Content Accessibility Guidelines (WCAG) 2.1 Level AA standard, which would require certain websites and mobile applications to be made understandable by screen readers or assistive technology, or through captions, so the information is accessible to

individuals who are blind or have low vision, in addition to individuals who are deaf or hard of hearing. The proposal includes exceptions for:

- (1) archived web content;
- (2) preexisting conventional electronic documents;
- (3) web content posted by third parties on a public entity's website;
- (4) third-party web content linked from a public entity's website;
- (5) course content on a public entity's password-protected or otherwise secured website for admitted students enrolled in a specific course offered by a public postsecondary institution;
- (6) class or course content on a public entity's password-protected or otherwise secured website for students enrolled, or parents of students enrolled, in a specific class or course at a public elementary or secondary school; and
- (7) conventional electronic documents that are about a specific individual, their property, or their account and that are password-protected or otherwise secured.

Cities over 50,000 population would have to comply with the rule within two years of the publication of the final rule. Cities under 50,000 would have to comply within three years of publication. City officials can find information about the proposed standard [here](#) and [here](#).

The U.S. Small Business Administration (SBA) will hold a Microsoft Teams roundtable for state and local government officials to discuss the proposed rule on Thursday, September 14, 2023, from 12 PM – 2 PM CST. If you are interested in attending the SBA roundtable, RSVP by emailing SBA Assistant Chief Counsel Janis Reyes at janis.reyes@sba.gov

DOJ is accepting comments on the proposed rule until October 3, 2023.

NLC will be submitting written comments about the proposed rule. As part of preparing its comments, NLC is seeking feedback from cities about the proposed rule's impact. Specifically, NLC is seeking comments about:

- The scope of your city's web and mobile app presence;
- How close is your city to complying with the WCAG 2.1 Level AA standard;
- Estimated initial and maintenance costs to bring and keep your city into compliance with the WCAG 2.1 Level AA standard;
- The impact of compliance on your city's budget;
- Most challenging requirements and possible exemptions that could make compliance less burdensome;
- Reasonableness of compliance timeline;
- Any federal assistance that could make compliance less burdensome; and
- Any other concerns.

Cities can email Angelina Panettieri with NLC at panettieri@nlc.org with any feedback.

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