



# Legislative UPDATE

December 22, 2017  
Number 48

## **Texas Supreme Court Upholds General Law Sex Offender Residency Restrictions**

Last Friday, the Texas Supreme Court upheld a general law city's sex offender ordinance that complies with House Bill 1111, passed in 2017. The case is styled [\*City of Krum v. Taylor Rice\*](#).

In 2014, Rice pled guilty to sexual assault of a fourteen-year-old. Rice agreed to deferred adjudication, the terms of which barred him from going "within 1,000 feet of a premise where children commonly gather, including a...playground," until 2024.

Rice also had to register as a sex offender. At the time, the City of Krum had in place a sex offender residency restrictions ordinance (SORRO) prohibiting registered sex offenders who had committed violations involving minors under the age of sixteen from residing "within 2,000 feet of any premises where children commonly gather."

Rice challenged the city's ordinance, alleging that general law cities had no authority to enact a SORRO, largely based on a March 2007 opinion from the Texas attorney general's office. He claimed that, because they are incorporated under the general laws, and no general law expressly delegates the authority to enact a sex offender residency restriction ordinance, the defendant cities are not authorized to enact one.

While the lawsuit was pending, the Texas Legislature passed H.B. 1111, a TML priority bill. The bill's effective date was September 1, 2017, and it effectively overruled the attorney general's opinion. Among other things, the bill caps the distance of any SORRO at 1,000 feet

and requires an exemption for persons who established residence within a restricted zone before the effective date of the relevant ordinance. After the bill's effective date, Krum passed an amended SORRO that complies with its requirements. The amended ordinance prohibits registered sex offenders from living within 1,000 feet of a "child safety zone."

The court held that Rice's challenge to the SORRO is moot in light of H.B. 1111 because the bill clearly empowers general law cities to enact ordinances that limit the movements of sex offenders. Rice filed a motion for rehearing, which is pending.

## **Federal Tax Reform Passes**

The federal Tax Cuts and Jobs Act, frequently referred to as the President's "tax reform bill," passed earlier this week. Here's what we know about municipal issues in the bill:

- **Publicly-Issued Municipal Bonds**  
These bonds are the primary way state and local governments finance the public infrastructure that supports everyday life. Their tax exemption allows cities to borrow at and lower interest rates and save on costs.  
CURRENT STATUS: Preserved in the conference report.
- **Advance Refunding Bonds**  
These bonds allow a one-time refinance on bonds to achieve lower rates and cost savings for taxpayers. This critical tool permits cities to change an otherwise fixed costs and respond to economic downturns.  
STATUS: Eliminated in the conference report.
- **Private Activity Bonds (PABs)**  
PABs are a critical source of financing for important qualified projects and programs, including infrastructure, affordable housing, economic development and much more.  
STATUS: Preserves the tax exemption for PABs.

Future editions of the *Legislative Update* should report in more detail on these and other city-related provisions.

## **Don't Forget:** **Mandatory Eminent Domain Reporting**

Senate Bill 1812, passed during the 2015 legislative session, requires cities to annually fill out a [web-based form](#) with the comptroller relating to each city's statutory eminent domain authority. (The failure to fill out the form could result in a \$1,000 penalty against a city.)

The first annual entry was due last February. The next reporting period is open now and the second annual entry is due by February 1, 2018. The 2018 entry is, for almost every city, just an

update of previously-filed information, including whether the city exercised its eminent domain authority in the preceding calendar year by filing a condemnation petition under Section 21.012, Property Code.

Of course, any city that never filled out the form as required should do so now. Detailed instructions on doing so are available in this [previous article](#).

*TML member cities may use the material herein for any purpose. No other person or entity may reproduce, duplicate, or distribute any part of this document without the written authorization of the Texas Municipal League.*