



Legislative UPDATE

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Attorney General Sues San Antonio Over Immigration Policies

The Texas attorney general has [sued](#) the City of San Antonio, its police chief William McManus, the city manager, and the San Antonio Police Department (SAPD) for alleged violations of Senate Bill 4. Senate Bill 4 is the so-called “sanctuary city bill” that requires, among other things, local law enforcement to cooperate with Immigration and Customs Enforcement detainer requests. In addition, it subjects elected and appointed officials to a fine, jail time, and possible removal from office for violating the bill.

The attorney general alleges that several citizens complained about the way the city handled the scene of a suspected smuggling operation. According to the lawsuit pleadings, SAPD responded to the scene of a tractor-trailer filled with 12 suspected undocumented immigrants in 2017. The pleadings allege that Chief McManus refused to allow U.S. Immigration and Customs Enforcement (ICE) agents access to the suspects and later released them without determining their legal status or performing criminal background checks:

“By a series of orchestrated and intentional actions, McManus and SAPD enforced a policy of prohibiting and materially limiting HSI from enforcing federal immigration laws and prohibited and materially limited their officers from cooperating with ICE to enforce federal immigration laws. As a result, the suspected aliens were released, and

upon information and belief, no state or federal case has been filed against a single individual arising out of the December 23, 2017 incident.”

The lawsuit also alleges that the city’s policies “prohibit and materially limit enforcement of immigration laws by prohibiting officers from referring individuals to ICE, requiring officers to contact immigration attorneys on behalf of suspected aliens, and by transferring suspected aliens to third-party organizations instead of federal authorities.”

The information above is based on the attorney general’s pleadings. The pleadings simply initiate the lawsuit, and the city will have an opportunity to respond to the allegations as the lawsuit moves forward.

Interim Report: **Senate Veteran Affairs and Border Security Committee**

The Senate Veterans Affairs and Border Security Committee recently released its [interim report](#), which contains two city-related items. A summary of the relevant charges and the committee’s recommendations are provided below.

Charge on Border Security and Law Enforcement: Study and make recommendations on opportunities to create public safety partnerships. Consider the federal 287(g) program and any needs of a state or local jurisdiction when entering in a Memorandum of Agreement for receiving delegated federal authority. Review cross training programs offered in other states that allow U.S. Border Patrol agents to be certified as state peace officers, and determine if Texas could create such a program. (Editor’s note: The “287(g) Program” authorizes Immigration and Customs Enforcement-trained police officers to screen jailed immigrants, determine immigration status, and hold immigrants for ICE agents to pick up for deportation.)

Recommendation: Supplement resources for communities and departments which temporarily lose local law enforcement manpower due to 287(g) training requirements.

Charge on Military Installations: Identify opportunities to promote the strategic importance of military installations in Texas. Study the impact of the aviation, aerospace and defense manufacturing industry on the economic vitality of military installations and communities. Identify potential strategic partnerships between this industry and military communities which would enhance key strategic assets.

Recommendations:

1. Continue to encourage public-private partnerships, which allow for the development of underutilized facilities and enhance the growth of the Texas aerospace industry.
2. Support a favorable regulatory climate and workforce which encourages aerospace and defense manufacturers to locate more of their businesses in Texas.

Interim Report: Senate State Affairs Committee

This week, the Senate State Affairs Committee released its [interim report](#), which contains a number of city-related items. A summary of the relevant charges and the committee's recommendations are provided below.

Charge No. 1 (Natural Disaster Government Interaction): Review the interaction between federal, state, and local agencies in charge of responding to natural disasters. Examine emergency situation operations, including evacuation routes and procedures, and the efficient use of Disaster Recovery Centers. Make recommendations to ensure emergency management officials have the tools and authority necessary to promptly and appropriately respond to disaster areas and alert citizens to potential threats

Recommendations:

1. The state should consider increasing the funding of the Texas Division of Emergency Management (TDEM) to allow for the employment of skilled recovery experts to enter a devastated area and work to mitigate suffering while Federal Emergency Management Agency (FEMA) ramps up its services. The state should also examine the possibility of establishing a network of social service agencies throughout the state that could rapidly deploy skilled professionals to initiate social services during the FEMA ramp up period. Many problems resulted during Hurricane Harvey due to inconsistencies in inundation and flood maps leaving homeowners unadvised about potential flooding risks. Even if a homeowner does not reside in a flood zone, every structure is susceptible to flooding at some level. The legislature should examine efforts to require all residential maps to be updated to reflect current flooding models that clearly indicate the area's flood-risk level rather than its mere location in the floodplain.
2. During Hurricane Harvey, the office of the attorney general (OAG) received a number of requests from local jurisdictions seeking legal guidance on various issues. Getting answers to these issues and resolving them in a timely manner is critical during times of disaster. However, even during times of emergency, current Texas law strictly limits which parties the OAG may provide legal advice to. The legislature should review current restrictions and consider amending the Texas Government Code to enable the OAG to provide legal counsel to local jurisdictions during a disaster response. Ensuring that local officials have the tools necessary to appropriately respond to constituent requests is especially critical immediately following a major disaster.
3. The Public Information Act and Open Meetings Act also presented challenges for local officials attempting to coordinate and respond to the emergency in a timely manner. While transparency in government is important and must be preserved, governmental entities need to be able to focus on responding to emergencies without undue restrictions. The safety and well-being of Texas citizens must take priority in times of emergency. Although there are limited exceptions for disclosure of public information and of certain types of communication among elected bodies, there are no specific exceptions during

times of disaster or emergency. Potential, very limited exceptions may include situations in which the governor has officially declared an emergency in certain jurisdictions to ensure these officials are able to focus on response efforts and do not become restricted by the Public Information Act or Open Meetings Act. These limited exceptions can still be crafted in a manner that retains transparency and does not enable governmental abuse. These exceptions should specifically include instances where the governmental body is able to demonstrate that the disaster made compliance with the Public Information Act or Open Meetings Act unduly burdensome or would hinder the governmental body's ability to adequately respond to the emergency. Clearer parameters regarding how governmental bodies are able to meet or communicate during a disaster would also enable more efficiency responding to these disasters.

4. Finally, the state's infrastructure, and potential evacuation routes, must continuously be evaluated by the appropriate agencies. The population of Texas continues to rise rapidly, leaving more and more Texans susceptible to experiencing a disaster or emergency. The roadways, bridges, dams, and waterways must be able to adequately support Texans, especially during times of disaster. Evacuation routes are critical immediately following a disaster and must be evaluated routinely. The Texas Department of Transportation must coordinate with the legislature to ensure the proper infrastructure exists to provide safe avenues for Texans to safely travel during evacuations. Although each disaster is inherently unique, each event also signifies a new learning opportunity that all levels of government must capitalize on to improve future response efforts.

Charge No. 2 (Natural Disaster Source of Information): Study and make recommendations on the benefit of the state maintaining a single, web-based source of comprehensive information that outlines the State Emergency Operations during times of disaster.

Recommendations:

1. Even though government officials work around the clock to serve Texas citizens, unforeseeable obstacles during times of disaster or emergency may lead to breakdowns in communication between government officials and the general public. Because each disaster is unique and presents its own challenges, a single, web-based source of comprehensive information that outlines State Emergency Operations may be extremely helpful for citizens that are directly, and even indirectly, affected by the disaster.
2. Although multiple state agencies already post pertinent information online and disseminate this information through various media outlets, there is no single location that details comprehensive disaster information such as evacuation routes, temporary housing options, licensing issues, insurance questions, law enforcement assistance, missing persons, consumer protection issues, public safety alerts, and other critical information that members of the public may desperately need. Because the Department of Information Resources (DIR) already activates its disaster portal under the Texas.gov program when the Governor's office declares a disaster, DIR may be in the best position to proficiently and effectively manage a single, web-based source of information that outlines State Emergency Operations during times of disaster. DIR currently has the

technology, expertise, and resources to efficiently manage and operate a new web-based source of information for Texans citizens. Because it is critical to inform the public during times of disaster and emergency, this disaster portal could also be expanded to cover all major emergencies that pose a public safety threat. Natural disasters are not the only events that threaten public safety. To ensure success of this comprehensive disaster portal, it is essential that DIR consult with local officials regarding the most efficient manner to operate. Should DIR successfully implement this new portal that is capable of utilizing information disseminated by local officials, local and state officials must promote and educate the public about this resource to ensure it is fully utilized.

Charge No. 6 (Pensions): Examine and assess public pension systems in Texas. Specifically, review and assess (1) the different types of retirement plans; (2) the actuarial assumptions used by retirement systems to value their liabilities and the consequences of amending those assumptions; (3) retirement systems' investment practices and performance; and (4) the adequacy of financial disclosures including asset returns and fees. Make recommendations to ensure public pension system retirees' benefits are preserved and protected.

Recommendations:

1. Every state and local pension plan has its own history, legal framework, and characteristics. Due to this complexity, solutions to pension funding and other challenges must be tailored to the individual needs and circumstances of participating employers and workers. Regardless, each public pension system, in coordination with local and state government, should have a clear pension funding policy that lays out a plan to fully fund pension benefits within a reasonable time period. A sound pension funding policy offers guidance in making annual budget decisions, documents prudent financial management practices, and provides transparency as to how and when pensions will be funded. Policymakers, stakeholders, and the public need full disclosure on investment performance and fees to ensure that risks, returns, and costs are balanced in ways that follow best practices and meet funds' policy needs.
2. In examining pension plans that are well funded, certain strategies stand out. Without exception, these pension plans have been able to count on the employer contributions. These governments routinely make their full contribution whether the economy is prosperous or not. Additionally, if the pension system needs to make changes to their pension plan design, it is done based on reliable data; all stakeholders are engaged as changes are considered; and pension plan objectives remain a priority. Finally, well funded pension plans are rigorous in examining their assumptions to ensure they accurately reflect the plan's experience and that any needed adjustments can be made in a timely fashion.
3. Improving a pension plan's funded status can be achieved with discipline and commitment. As more workers retire and a younger generation moves into the government workforce, attracting and retaining well qualified individuals is more important than ever. Therefore, it is critical to balance stakeholder objectives to produce a sustainable retirement system that is both competitive and cost effective. The Texas

Legislature must keep these strategies at the forefront to ensure public pension system retirees' benefits are preserved and protected for generations to come.

Charge No. 8 (Court Fees): Examine the structure of court fees and make recommendations to ensure statutory filing fees and court costs are appropriate and justified. Provide recommendations for proper agency oversight of fee collection.

Recommendations:

1. Moving forward, the legislature should ensure that a thorough review of all court costs and fees is conducted. The review should ascertain which costs and fees do not have a stated statutory purpose. It should also ascertain if any revenue from criminal court costs and fees is being directed toward functions which may not be considered legitimate criminal justice purposes. Additionally, the legislature should collaborate with the Office of Court Administration (OCA) to develop a method to simplify the current court cost and filing fee structure to reduce the difficulty of administration by clerks. As part of this process, the legislature should work with OCA to gather information that would show the fiscal impact of these changes on local and state revenue which could in turn improve efficiency.
2. The legislature should also seek to simplify the court cost and filing fee structure by limiting the number and differentiation of costs and fees. Establishing a mechanism to regularly review these costs and fees would ensure that they are appropriate and that they maintain a simplified structure. Finally, working preemptively, the legislature should ensure that newly enacted costs and fees are used for a legitimate justice purpose and that the costs and fees are structured in such a way to reduce complexity. These statutory revisions and simplifications may reduce the inefficiencies of the justice system and greatly improve the court cost and fee structure throughout the state.

Charge No. 10 (Religious Liberty): Monitor the implementation of legislation that protects citizens' religious freedoms, including Senate Bill 24 (sermon safeguard) and House Bill 555 (religious liberty of county clerks), and make recommendations for any legislation needed to ensure that citizens' religious freedoms are not eroded by local ordinances or state or federal law.

Recommendation:

The Legislature should continue to ensure that the government does not force individuals, organizations, or businesses to violate their sincerely held religious beliefs. The First Amendment rights of all Texans must be protected. In order to avoid lengthy and costly litigation, the Legislature should enact targeted religious liberty protections designed to address specific violations of an individual, business, or organization's sincerely held religious belief.

City-Related Bills Filed

Property Tax

S.B. 211 (Flores) – Property Tax Protests: would, among other things, require the appraisal review board and the chief appraiser to review the evidence or argument provided by a property owner before the hearing on the protest.

Sales Tax

H.B. 451 (C. Turner) – Sales Tax Exemption: would exempt LED light bulbs from the sales and use tax if the sale takes place during a period beginning at 12:01 a.m. on the Saturday preceding the last Monday in May (Memorial Day) and ending at 11:59 p.m. on the last Monday in May.

Purchasing

No city-related purchasing bills were filed this week.

Elections

H.B. 423 (Nevarez) – Voter Identification: would, among other things, provide that a valid identification card issued by a tribal organization that contains the person's photograph is an acceptable form of identification for voting.

H.B. 424 (Murphy) – Voter Registration: would: (1) provide that a person's residence, for purposes of registering to vote, is established at the first residence address in the following list that is applicable to the person: (a) the address stated on the person's driver's license; (b) the address stated on the person's personal identification card; (c) the address stated on a license to carry a concealed handgun; (d) the address where the person receives mail; (e) the address the person claims as a homestead; or (f) the registration address of a vehicle the person owns; (2) authorize a person who has no address to establish residence by executing an affidavit and filing it with the secretary of state; and (3) except from the provisions in (1) and (2), above: (a) a member of the armed forces; (b) a person enrolled as a full time student at an institution of higher education; (c) a person whose address is confidential as a crime victim; (d) a federal judge, state judge, or spouse of a federal judge or state judge whose driver's license includes the street address of a courthouse; and (e) a peace officer whose driver's license omits the officer's actual residence address.

H.B. 430 (Shaheen) – Bond Ballot Propositions: would provide that: (1) a ballot printed for an election to authorize a local government to issue general obligation bonds must include with the ballot proposition a statement that includes the following amounts, with each stated as total amount and as a per capita amount for the current population of the local government at the time

the statement is prepared: (a) the current general obligation debt of the local government at the time the statement is prepared; (b) the maximum amount of additional general obligation debt of the local government that would be authorized if the proposition is passed; and (c) the maximum estimated cost to repay the general obligation debt that would be authorized by the proposition, including principal and interest, as a stated likely interest rate; and (2) for the purposes of the information required by (1), the treasurer of the local government, or another person as determined by the governing body of the local government, shall: (a) certify the current general obligation debt of the local government; (b) determine a likely interest rate for the proposed bonds; and (c) compute the estimated maximum repayment cost in accordance with the likely interest rate as determined under (b).

H.B. 431 (Shaheen) – Poll Watchers: would provide that a person is ineligible to serve as a poll watcher in an election if the person has been finally convicted of a felony.

H.B. 438 (Shaheen) – Photos at Voting Station: would provide that a person occupying a voting station may use a mechanical or electronic device to photograph the person's completed ballot.

Open Government

No city-related open government bills were filed this week.

Other Finance and Administration

H.B. 415 (Guerra) – State Agency Rules: would require a state agency that is made aware that a proposed rule may have an adverse economic effect on small businesses, micro-businesses, or rural communities after notice of the proposed rule has been published to: (1) prepare an economic impact statement and regulatory flexibility analysis; (2) publish the statement and analysis in the Texas Register as an amendment to the proposed rule; and (3) provide a copy of the statement and the analysis to the standing committee of each house of the legislature charged with reviewing the proposed rule.

H.B. 433 (Shaheen) – Lobbying: would require a city that imposes a tax and uses any public money to directly or indirectly influence or attempt to influence the outcome of any legislation pending before the legislature to disclose on any comprehensive annual financial report required to be prepared by the city: (1) the total amount spent during the fiscal year on influencing legislation; and (2) each person required to register as a lobbyist who was compensated by the city during the fiscal year to try to influence the outcome of legislation.

H.B. 440 (Murphy) – Local Debt: would: (1) require a political subdivision to include any sample ballot prepared for a general obligation bond election to be prominently posted on the political subdivision's website during the 21 days before the election along with the election order, notice of the election, and contents of the proposition, if the political subdivision maintains a website; (2) provide that at an election at which a political subdivision submits a

proposition to the voters to approve the issuance of general obligation bonds, the entity that establishes early voting polling places may not establish the polling places with the intent to affect the outcome of the election; (3) provide that a political subdivision may not issue a general obligation bond to purchase, improve, or construct improvements or to purchase personal property if the weighted average maturity of the issue of bonds to finance the improvements or personal property exceeds 120 percent of the reasonably expected weighted average economic life of the improvements or personal property financed with the issue of bonds; (4) provide that a political subdivision may use the unspent proceeds of issued general obligation bonds only: (a) for the specific purpose for which the bonds were authorized; (b) to retire the bonds; or (c) for a purpose other than the specific purpose for which the bonds were issued if: (i) the specific purpose is accomplished or abandoned; and (ii) a majority of the votes cast in an election held in the political subdivision approve the use of the proceeds for the proposed purpose; (5) require the election order and the notice of the election for an election authorized to be held under (4)(c), above, to state the proposed purpose for which the bond proceeds are to be used; and (6) require a political subdivision to hold the election under (4)(c), above, in the same manner as an election to issue bonds in the political subdivision.

H.B. 444 (Meyer) – Misuse of Official Information: would provide the following penalty for the offense of misuse of official information when the offense results in a net pecuniary gain to the offender: (1) a felony of the third degree if the net pecuniary gain is less than \$150,000; (2) a felony of the second degree if the net pecuniary gain is \$150,000 or more but less than \$300,000; and (3) a felony of the first degree if the net pecuniary gain is \$300,000 or more.

Municipal Courts

No municipal court bills were filed this week.

Community and Economic Development

H.B. 416 (Guerra) – Low Income Housing Tax Credits: would eliminate the written statement from the state representative who represents the district containing a proposed development site as a criteria used by the Texas Department of Housing and Community Affairs to rank low income housing tax credit applications.

Personnel

No city-related personnel bills were filed this week.

Public Safety

H.B. 439 (Shaheen) – Suspicious Activity: would prohibit a civil lawsuit against a person who reports suspicious activity to an appropriate law enforcement authority if the person acted: (1) as

a reasonable person would in the same or similar circumstances; and (2) with a reasonable belief that the suspicious activity constituted or was in furtherance of a crime, including an act of terrorism.

H.B. 445 (M. Gonzalez) – Immigration: would provide that a local entity, including the governing body of a city, a police officer, or a city attorney, does not violate the provisions of S.B. 4 (2017), relating to the enforcement of immigration laws by local governments, by prohibiting a peace officer from assisting or cooperating with a federal immigration officer if the assistance or cooperation occurs: (1) on the property of a school district, open-enrollment charter school, or private school; (2) at an institution of higher education; or (3) at a hospital, emergency clinic, outpatient clinic, birthing center, ambulatory surgical center, or other facility providing health care services.

Transportation

No city-related transportation bills were filed this week.

Utilities and Environment

No city-related utilities bills were filed this week.

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