



# Legislative UPDATE

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Number 43

## **Senate Business and Commerce Committee:** **Hurricane Harvey Interim Charges**

The Senate Business and Commerce Committee met Wednesday to consider a number of charges related to Hurricane Harvey. Of particular interest to cities, the committee took invited testimony on the following:

*Examine local government regulations, including occupational licenses, as related to Hurricane Harvey and determine if any are a detriment to rebuilding efforts.*

A number of city officials testified, including: (1) C.J. Wax, Mayor of Rockport and TML Past President; (2) Jimmy Sims, Mayor of Orange, (3) Christon Butler, Deputy Director of Public Works and Engineering for Houston; and (4) Jim Olk, Mayor of Lucas and Building Officials of Texas Past President.

The tone of the city officials who testified was a positive one of hope, working together, and rebuilding. They also testified that their permitting and licensing processes had done nothing to slow down rebuilding. In fact, witnesses on a subsequent panel composed of homebuilders, construction industry representatives, and the Texas Department of Licensing and Regulation repeatedly praised city efforts during and after the storm.

Of course, a witness from the perennial city-bashing organization called the Texas Public Policy Foundation testified that cities have done “pretty good” but “not great” during the process. That takes some nerve following the amazing panel of city officials who remain on the front line of dealing with disasters.

Hats off to all the city officials who lead us through the toughest of times.

## **U.S. Senate Takes Up Federal Broadband Preemption**

Last week, the League [reported on efforts](#) at the Federal Communications Commission (FCC) to preempt city authority over broadband deployment in the right-of-way. This week, national preemption efforts appear to be escalating to the U.S. Senate.

The U.S. Senate Committee on Commerce, Science, and Transportation is currently circulating draft legislation that would preempt municipal authority over rights-of-way, as well as limit the compensation a city may collect from a broadband provider. The National League of Cities is in the process of communicating with committee staff with the message that cities share the goal of expanded broadband infrastructure deployment, but that goal shouldn't mean preemption of city authority over municipal right-of-way.

Make no mistake: This is a major threat to municipal authority and revenue. The effort will likely apply to most types of broadband deployment, including small cell nodes, cable, and fiber.

Texas Senator Ted Cruz serves on the Committee on Commerce, Science, and Transportation. Concerned city officials should [contact his office now](#) to express their opposition to any federal legislation that would take away city right-of-way authority or subsidize already profitable broadband companies at taxpayer expense.

## **City-Related Constitutional Amendment Propositions**

Three out of seven proposed amendments to the Texas Constitution on the November 5 ballot directly affect Texas cities. The following information about the propositions is taken directly from the Texas secretary of state's website:

- **Proposition Number 1** (H.J.R. 21) proposes a constitutional amendment that would permit the Texas legislature to expand the circumstances under which a partially disabled veteran or their spouse may qualify for an exemption from ad valorem taxation of part of the market value of the veteran's residence homestead. Currently, the Texas legislature may provide that a partially disabled veteran or their spouse is entitled to an exemption from ad valorem taxation of a percentage of the market value of the disabled veteran's residence homestead only if the residence homestead was donated to the disabled veteran by a charitable organization at no cost to the veteran. The amendment would allow the Texas legislature to provide that the exemption also may be taken when the residence homestead was donated, sold, or transferred to the disabled veteran by a charitable organization for less than the market value of the residence homestead. The amendment also harmonizes certain related provisions of the Texas Constitution.

The proposed amendment will appear on the ballot as follows: "The constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of part of the market value of the residence homestead of a partially disabled veteran or the surviving spouse of a partially disabled veteran if the residence homestead

was donated to the disabled veteran by a charitable organization for less than the market value of the residence homestead and harmonizing certain related provisions of the Texas Constitution.”

- **Proposition Number 4** (S.J.R 6) proposes a constitutional amendment that would allow the Texas legislature to require any court that is hearing a challenge to the constitutionality of a state statute to notify the attorney general of that challenge, if the party raising the challenge notifies the court that the party is challenging the constitutionality of such statute. Additionally, the amendment would allow the Texas legislature to set a period of not more than 45 days following the notification to the attorney general that the court must wait before rendering a judgment that a state statute is unconstitutional.

The proposed amendment will appear on the ballot as follows: “The constitutional amendment authorizing the legislature to require a court to provide notice to the attorney general of a challenge to the constitutionality of a state statute and authorizing the legislature to prescribe a waiting period before the court may enter a judgment holding the statute unconstitutional.”

- **Proposition Number 6** (S.J.R. 1) proposes a constitutional amendment that would allow the Texas legislature by general law to provide that a surviving spouse of a first responder who is killed or fatally injured in the line of duty is entitled to receive an exemption from ad valorem taxation from all or part of the market value on the surviving spouse’s residence homestead, as long as the surviving spouse has not remarried since the death of the first responder. It would also allow the Texas legislature to provide that the surviving spouse, who qualifies and receives the exemption and then qualifies a different property as the surviving spouse’s residence homestead, receive an exemption from ad valorem taxation of the different homestead in an amount equal to the dollar amount of the exemption of the first homestead for which the exemption was received in the last year in which the surviving spouse received the exemption for that first homestead. Like the initial exemption, this benefit will only remain available if the surviving spouse has not remarried since the death of the first responder. The proposed amendment would apply only to ad valorem taxes imposed for a tax year beginning on or after January 1, 2018.

The proposed amendment would appear on the ballot as follows: "The constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of the surviving spouse of a first responder who is killed or fatally injured in the line of duty."

Additional information about all of the propositions is available in the constitutional amendment “[Focus Report](#)” prepared by the House Research Organization.

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