



Legislative UPDATE

August 11, 2017
Number 31

Five Days Left: Where We Stand

With five days remaining, here's where we stand on major city-related bills:

- **Revenue Caps:** The revenue cap bill, S.B. 1, will be heard on the House floor Saturday, August 12. As it currently stands, the bill imposes a 6 percent revenue cap on cities with over \$25 million in property tax revenue. That \$25 million bracket is almost certain to change either this session if the bill advances or in future sessions to include more or all cities, so no city should feel safe that the bracket doesn't currently apply to them. All cities should contact their House delegation now and urge them to vote no on S.B. 1 because the bill provides no real tax relief, harms public safety, and doesn't address the true problem with property taxes – school finance.
- **Annexation:** The annexation bill, S.B. 6, is on the House calendar today, August 11. City officials should continue to explain to their representatives the importance of annexation to the state's economy, as well as express the negative impact that annexation restrictions will have on our state's military bases and BRAC strategy.

- **Trees:** The tree bill with momentum, H.B. 7, had been agreed-to by both cities and developers, but it received harmful amendments in the Senate Business and Commerce Committee. The amendments bring the bill closer to the broad preemption provisions in S.B. 14, specifically that: (1) cities cannot regulate trees smaller than 24 inches in diameter; (2) cities cannot regulate trees in the ETJ; and (3) cities may charge no higher than a \$400 mitigation fee.
- **Expedited Permitting:** The expedited permitting bill, S.B. 13, was heard on Wednesday of this week in the House State Affairs Committee. The bill would speed up deadlines for city approval of permits and deem many permits granted if deadlines aren't met.
- **Super Vesting:** The extremely harmful super vesting bill, S.B. 12, has not yet passed the Senate. The House version, H.B. 188, is pending in a House committee.
- **Spending Cap:** The bill that caps total city spending at population growth plus inflation, S.B. 18, has not yet passed the Senate.
- **Cell Phones:** The bill that preempts city cell phone ordinances, S.B. 15, has passed the Senate but not yet been referred to a committee in the House.
- **Bathrooms:** The bathroom bill, S.B. 3, has passed the Senate but not yet been referred to a committee in the House.

Unlike a regular legislative session, where strict deadlines apply, a special session bill isn't dead until the session finally ends. It's important for city officials to continue to express their opposition to bad bills until the end of the final day of the session, Wednesday, August 16.

Post Session Update: Small Cell Implementation

Senate Bill 1004, passed during the regular session and effective September 1, requires a city to allow access for cellular antennae and related equipment ("small cell nodes") in city rights-of-way, and it also entitles cell companies and others to place equipment on city light poles, traffic poles, street signs, and other poles. Negotiations during the legislative session led to concessions giving some city authority over placement. That may make the bill's access provisions palatable to many cities, but local preparation is key to dealing with these installations. The League has obtained example documents for city officials to use when developing their ordinance, design criteria manual, and attachment agreements. Please email Scott Houston, TML general counsel, at shouston@tml.org for more information.

First Special Session – City-Related Bills Filed

Property Tax

1H.B. 390 (White) – Appraisal Cap: would: (1) reduce the property tax appraisal cap on residence homesteads from ten to five percent, and apply the appraisal cap to all real property; and (2) require the appraisal district to apply a two percent appraisal cap on real property instead of a five percent appraisal cap if the owner of the property discloses to the office the price the owner paid to purchase the property. (See **1H.J.R. 55**, below.)

1H.B. 393 (Koop) – Tax Rate Calculation: would: (1) provide that, for a city that makes additional city police and fire fighter retirement systems expenditures in a given year after 2018, the effective maintenance and operations rate is adjusted upwards to account for the additional payments into the retirement system; (2) require the city to include a notice of the increase in its effective maintenance and operations tax rate, including a brief description and the amount of the additional city police and fire fighter retirement systems expenditures in the required tax rate notices; and (3) provide that (1) and (2) only take effect if S.B. 1 or similar legislation lowering the rollback rate and requiring an automatic tax ratification election if the rollback rate is exceeded become law following the current special legislative session.

1H.J.R. 55 (White) – Appraisal Cap: would amend the Texas Constitution to: (1) reduce the property tax appraisal cap on homesteads from ten to five percent and apply the new appraisal cap to all real property; and (2) authorize the legislature to provide for a percentage of less than 105 percent but not less than 102 percent of the appraised value of the real property for the preceding tax year to be used in calculating the maximum appraised value of real property for property tax purposes if the owner of the real property discloses to the appraisal entity the price the owner paid to purchase the real property.

1S.B. 117 (Kolkhorst) – Appraisal Cap: would provide that an appraisal office may increase the appraised value of a parcel of commercial or industrial real property for a tax year to an amount not to exceed the lesser of: (1) the market value of the property for the most recent tax year that the market value was determined by the appraisal office; or (2) the sum of: (a) 20 percent of the appraised value of the property for the preceding tax year; (b) the appraised value of the property for the preceding tax year; and (c) the market value of all new improvements to the property. (Companion bill is **1H.B. 5** by **D. Bonnen**.) (See **1H.J.R. 14**, below.)

1S.B. 118 (Kolkhorst) – Appraisal Cap: would reduce the property tax appraisal cap on residence homesteads from ten to five percent. (Companion bill is **1H.B. 71** by **Bohac**.) (See **1S.J.R. 13**, below.)

1S.J.R. 13 (Kolkhorst) – Appraisal Cap: would amend the Texas Constitution to authorize the legislature to reduce the property tax appraisal cap on residence homesteads from ten to five percent. (See **1S.B. 118**, above.)

1S.J.R. 14 (Kolkhorst) – Appraisal Cap: would propose an amendment to the Texas Constitution to authorize the legislature by general law to limit the maximum appraised value of

a parcel of commercial or industrial real property for a tax year to an amount not to exceed the lesser of: (1) the most recent market value of the property as determined by the appraisal entity; or (2) 120 percent, or a greater percentage, of the appraised value of the property for the preceding tax year of the appraised value of the property for the preceding tax year. (See **1S.B. 117**, above.)

Other Finance and Administration

1H.B. 16 (S. Davis) – Ethics: would, among other things: (1) prohibit an officer or employee of a political subdivision from: (a) spending or authorizing the spending of public funds to make a political contribution or expenditure; and (b) employing a person to use public funds to make an unlawful political contribution or expenditure; (2) make a violation of the prohibitions in (1) a Class A misdemeanor offense; and (3) change the content requirements of a personal financial statement that must be filed by certain city officers and candidates in cities with a population of 100,000 or more in regard to disclosures about stocks in non-publicly traded and publicly traded corporations.

1H.B. 17 (S. Davis) – Conflicts Disclosure: would amend the law relating to the disclosure by vendors of gifts to and relationships with certain local government officers (Local Government Code Chapter 176) to:

1. define “entertainment” to include transportation to, lodging for, and attendance at a function, event or performance that: (a) a local government officer accepts as a guest of a vendor; and (b) is not required to be reported by a vendor under other law;
2. define “gift” to mean a benefit, including entertainment, offered by a vendor and accepted by a local government officer, but excluding: (a) a benefit offered based on kinship or a personal, professional, or business relationship independent of the official status of the local government officer; (b) food or beverages accepted as a guest of a vendor; or (c) a political contribution;
3. define “local government officer” to mean: (a) a member of the governing body of a local governmental entity; or (b) a director, superintendent, administrator, president, or other executive officer of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor;
4. define “vendor” to mean a person or agent of the person who enters or seeks to enter into a contract with a local governmental entity for the provision of goods or services;
5. require a vendor, not later than the 15th day of the first month of each calendar quarter, to submit a completed disclosure form if the vendor has a contract or is seeking a contract with a local governmental entity and has given one or more gifts during the preceding calendar quarter with an aggregate value of more than \$100 to a local government officer of the entity or a family member of the local government officer;
6. except from (5) a gift given by a vendor directly as part of the vendor’s sponsorship of or contribution to an event that benefits certain nonprofit organizations or political committees;
7. provide that a vendor commits a Class C misdemeanor for knowingly failing to submit the disclosure as described in (5);

8. authorize the Texas Ethics Commission to prepare written advisory opinions and adopt rules regarding the requirements described in (1)-(7);
9. provide that a local government officer must file a conflicts disclosure statement with respect to a vendor if the vendor enters into a contract with the local governmental entity and: (a) the vendor and officer (or officer's family member) have certain employment or business relationships; or (b) the vendor has a family relationship with the local government officer; and
10. provide that a vendor must file a completed conflict of interest questionnaire if the vendor has a business relationship with a local governmental entity and: (a) the vendor and a local government officer (or officer's family member) have certain employment or business relationships; or (b) the vendor has a family relationship with a local government officer.

1H.B. 381 (Shaheen) – Local Government Bathrooms: would: (1) provide that each multiple-occupancy restroom, shower, and changing facility of a political subdivision or an open-enrollment charter school must be designated for and used only by persons of the same “sex” (defined as the physical condition of being male or female); (2) exempt from (1) a private entity that leases or contracts to use a building owned or leased by a political subdivision or open-enrollment charter school, and prohibit a political subdivision or open-enrollment charter school from requiring the private entity to adopt, or prohibiting the private entity from adopting, a policy on the designation or use of restrooms, showers, or changing facilities; (3) prohibit a political subdivision or open-enrollment charter school from adopting or enforcing an order, ordinance, policy, or other measure that: (a) relates to the designation or use of a multiple-occupancy restroom, shower, or changing facility; or (b) requires a private entity to adopt, or prohibits the entity from adopting, a policy on the designation or use of the entity's restrooms, showers, or changing facilities; (4) provide that (1)-(3) does not preclude an ordinance, order, policy, or other measure regarding the use of a multiple-occupancy restroom, shower, or changing facility by a person not of the designated sex to: (a) assist a person with a disability, a child under eight years of age, or an elderly person; (b) render medical or other emergency assistance; or (c) maintain a facility when not in use; and (5) waive governmental immunity and authorize enforcement of (1)-(4) through an action for mandamus or injunctive relief by the attorney general or, in some circumstances, a parent/legal guardian of a child.

Community and Economic Development

1H.B. 380 (Dukes) – Industrialized Housing and Buildings: would expand the manufacture, construction, and use of modular housing by amending the industrialized housing and building regulations to increase from four stories to 14 stories or from 60 feet in height to 168 feet in height the maximum height of a residential structure and a commercial structure considered to be industrialized housing or an industrialized building, respectively.

1S.B. 116 (Kolkhorst) – Economic Development Act: would repeal the Texas Economic Development Act in Chapter 313 of the Texas Tax Code.

Public Safety

1H.B. 376 (Isaac) – Drones: would provide that it is an affirmative defense to prosecution for certain offenses involving damage or destruction of property if the actor: (1) was on property owned or legally occupied by the actor; (2) legally possessed a firearm; (3) used that firearm to disable, damage, or destroy an unmanned aircraft that was unlawfully over the property; and (4) was not prohibited from discharging the firearm under law, local regulation, or a dedicatory instrument governing use of the property.

1H.B. 378 (Isaac) – Drones: would repeal certain defenses to prosecution related to the illegal use of unmanned aircraft to capture images and the possession, disclosure, display, distribution or use of such images.

1H.B. 384 (D. Bonnen) – Utility Vehicles: would: (1) authorize the operation of a utility vehicle in certain counties; and (2) remove utility vehicles from the types of vehicles that are subject to statutory provisions relating to the operation of certain off-highway vehicles adopted during regular session (House Bill 1956).

1H.B. 385 (Villalba) – Vehicle Booting: would: (1) define the term “boot” to mean a device that, when installed and located on any part of a parked vehicle, is designed to immobilize the vehicle and prevent its movement or lawful operation; (2) require local booting regulations to establish a maximum amount that may be charged for a boot removal fee and to provide for the revocation of the license, permit, or other authorization of a booting company for certain violations; (3) authorize a boot operator to install a boot on an unauthorized vehicle in a parking facility only if the vehicle has been parked for 30 minutes or longer; and (4) establish when a booting company must waive a boot fee or is prohibited from charging such a fee.

City Officials Testify

When the legislature is in session, nothing compares to the effectiveness of city officials testifying at the Capitol. City officials who take their time to travel to Austin to speak out on important city issues should be applauded by us all. The League extends its thanks to all those who have vigilantly represented cities during this special session.

The following officials testified in committee hearings held through August 8:

- Allison Heinemeier, Mayor Pro-Tem, City of Kingsbury
- Carolyn Meredith, Environmental Services Manager, City of Sunset Valley
- Chance Sparks, Assistant City Manager, City of Buda
- Charles Cox, City Manager, City of Farmers Branch
- Joe Crawford, Assistant City Attorney, City of Houston
- Jungus Jordan, Councilmember, City of Fort Worth
- Keith Mars, Chief Arborist, City of Austin
- Manny Pelaez, Councilmember, City of San Antonio

- Mary Elliott, Planning Manager, City of Fort Worth
- Mike Shannon, Development Services Director, City of San Antonio
- Miles Risley, City of Corpus Christi
- Paul Virgadamo, City Administrator, City of Conroe
- Phil Erwin, Chief Arborist, City of Dallas
- Ret. Maj. Gen. Juan Ayala, Director of Military Affairs, City of San Antonio
- Robert Garza, Mayor, City of Del Rio
- Robert Wood, City Administrator, City of West Lake Hills
- Sam Drugan, City Attorney, City of Kingsbury

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