

The logo for the Texas Municipal League, featuring a green square with a white star in the center. The words "Texas", "Municipal", and "League" are stacked vertically in white text within the square.

# Legislative UPDATE

December 16, 2016  
Number 46

## **Texas Cities Lead the Way: TML Board of Directors Adopts 2017-2018 Legislative Program**

On December 2, the TML board of directors finalized the League's 2017-2018 Legislative Program. In setting the program, the Board recognized that Texas cities lead the way in improving the state's economy and quality of life. To help city officials communicate with their legislators, the League has prepared a [one-page \(two-sided\) document](#) that promotes its legislative priorities.

The board determined that TML's highest priority goal for 2017-2018 will be the defeat of legislation deemed detrimental to cities. As a practical matter, adoption of this position means that the beneficial bills will be sacrificed, as necessary, in order to kill detrimental bills.

City officials across the state are well aware of the fact that many significant decisions affecting Texas cities are made by the Texas Legislature, not by municipal officials. During the 2015 session, more than 6,000 bills or significant resolutions were introduced; more than 1,600 of them would have affected Texas cities in some substantial way. In the end, over 1,300 bills or resolutions passed and were signed into law; approximately 220 of them impacted cities in some way.

There is no reason to believe that the workload of the 2017 session will be any lighter; it may be greater. Thus, the TML approach to the 2017 session is guided by principles that spring from a deeply-rooted TML legislative philosophy:

- The League will vigorously oppose any legislation that would erode the authority of Texas cities to govern their own local affairs.
- Cities represent the level of government closest to the people. They bear primary responsibility for provision of capital infrastructure and for ensuring our citizens' health and safety. Thus, cities must be assured of a predictable and sufficient level of revenue and must resist efforts to diminish their revenue.
- The League will oppose the imposition of any state mandates that do not provide for a commensurate level of compensation.

The board considered approximately 150 initiatives that had been recommended by TML policy committees or by the membership-at-large. The [adopted program](#) serves as a roadmap to League staff and others involved in legislative activities on behalf of cities.

## **Texas Attorney General:** **Texas Cities are “Contemptuous of the Rule of Law”**

Au Contraire. Attorney general Ken Paxton issued a press release yesterday letting the public know that he filed a brief in an appeal relating to the City of Laredo's authority to enact a plastic bag ban. The release states that:

“The Legislature did not mince words when it removed the authority of Texas cities to restrict or prohibit plastic checkout bags,” Attorney General Paxton said. “That Laredo and Austin, among others, would persist in their foolhardy policy despite the statute's clear language shows how Texas cities have grown more and more contemptuous of the rule of law.”

Actually, the trial court in the case upheld the City of Laredo's authority, and the intermediate appellate court disagreed. In other words, two courts looked at the same statute and same set of facts but came to different conclusions. The city decided to appeal the matter to the Texas Supreme Court.

The attorney general's statement begs the question: Since when did using the judicial branch of government to resolve a disagreement become “contemptuous?” Contemptuousness is the act of “showing contempt.” Contempt is defined by Merriam-Webster as:

1. willful disobedience to or open disrespect of a court, judge, or legislative body; or
2. the act of despising: the state of mind of one who despises: lack of respect or reverence for something.

Neither the Cities of Laredo or Austin (nor any other city with a plastic bag ban) has done anything in relation to definition number one. Thus, the attorney general must be referring to definition number two when he states that cities have “grown more and more contemptuous of the rule of law [sic].” Of course the officials in Laredo don't despise the Rule of Law. That's

why they have utilized our system of civil justice to resolve a reasonable disagreement about the meaning of a statute.

The civil justice tenet of the Rule of Law measures whether parties to a dispute “can resolve their grievances peacefully and effectively through the civil justice system.” It is a key component of a civilized society.

According to the Rule of Law, the delivery of effective civil justice requires that the court system be, among other things, “without improper influence by public officials.” A statement by a state’s attorney general that a party’s use of the civil justice system is “contemptuous” is, in itself, beyond comprehension.

The League filed a brief of *amicus curiae* in support of the city at the court of appeals, and intends to file one at the Texas Supreme Court as well. Assuming the Texas Supreme Court decides to hear the case, cities will – whatever the outcome – defer to the opinion of the state’s highest civil court. Why? Because city officials actually have the *utmost respect* for the Rule of Law.

### **Contractual Immunity:** **Cities Lost the War, But Won the Battle?**

This week, the Tyler Court of Appeals provided some much-needed clarity on the issue of contractual immunity. It concluded that a lease of property owned by a city to a private person is a governmental function. That means the city essentially “won” its lawsuit by retaining immunity for the lease.

The case involved a 99-year lease between the City of Jacksonville and Wasson Interests, Ltd. (“WIL”) for lakefront property owned by the city. The lease contained a provision prohibiting commercial activity on the lots. (The city’s zoning ordinance expressly defines what constitutes impermissible commercial activity.) WIL rented the property to individuals for terms of a week or less, which is considered an impermissible commercial activity under the ordinance definition.

The City sent eviction notices to WIL based on the continued commercial use of the property. WIL filed suit against the city, and the case went all the way to the Texas Supreme Court. The Supreme Court concluded that the governmental-proprietary distinction from the Texas Tort Claims Act applies to contractual immunity claims. However, the court remanded this case back to the court of appeals to determine whether the City of Jacksonville was engaging in a governmental or proprietary function when it leased the lakefront property.

The court of appeals determined that the city was engaged in a governmental function. In its analysis, the court noted that the “introduction of a proprietary element to an activity designated by the legislature as governmental does not serve to alter its classification.” Additionally, the court cited a San Antonio Court of Appeals opinion related to such “mixed” functions. That opinion held that, if any one component of a function is governmental, the entire function will be

considered governmental. The court viewed the city's actions as governmental after focusing on the specific acts underlying the claims:

1. The development and maintenance of a reservoir is an integral part of the "waterworks" to supply a safe water service to a city, which are classified by the Texas Tort Claims Act as governmental functions; and
2. The city used its zoning authority, a proper use of the city's police power to: (1) maintain a healthy and safe water supply for the general welfare of its residents; (2) protect local residents from the ill effects of urbanization and enhance their quality of life; and (3) preserve and maximize lease lot property values.

Because the city was performing governmental functions, WIL had no authority to sue under the contract. This [chart](#) may be helpful for attorneys and others to analyze whether contractual immunity is waived.

## **Austin Appeals Court Clarifies State Billboard Authority**

This week, the Austin Court of Appeals issued a substituted opinion in the case of [Auspro Enterprises, LP v. Texas Department of Transportation](#). The new opinion comes to the same conclusion as the original one: several provisions of the Texas Highway Beautification Act are unconstitutional because they regulate based on the written content of signs and billboards near state highways. However, it creates a different remedy than the original opinion.

The dispute in *Auspro* related to a store owner placing a political sign supporting Ron Paul for president alongside a state highway. The Texas Department of Transportation (TxDOT) ordered the property owner to remove it because state law allows political signs along state highways only during certain periods before and after an election. The owner also failed to seek a state permit to place the sign and refused to remove it.

TxDOT sued the owner in district court and won. The owner appealed, and the Austin Court of Appeals overturned the trial court based on a U.S. Supreme Court opinion from last year. In [Reed v. Town of Gilbert](#), the Supreme Court concluded that city ordinance provisions containing content-based restrictions violate the First Amendment.

The Austin Court of Appeals adopted the U.S. Supreme Court's mandate that, if a person has to *read the content of the sign* to determine whether it is subject to regulation, the regulation will usually violate the First Amendment. The substitute opinion held the same way, but struck only certain provisions of the Texas Highway Beautification Act that regulate non-commercial speech. (The original opinion struck down the entire law.) The opinion concluded that:

[O]ur decision here is necessarily limited to government regulation of noncommercial speech, specifically Texas's regulation of outdoor advertising in the Texas Highway Beautification Act. But as briefly noted above, the Texas Act includes several provisions that, while related to highway beautification, do not constitute government regulation of speech. For example, the Act includes the Legislature's program for state

controlled right-of-way information logo signs; regulations controlling junkyards and automobile graveyards along the State's highways; and the Transportation Commission's legislative authority to provide public rest areas. Because these provisions in the Texas Act are not government regulations of speech, neither Reed nor our decision here affect their validity.

The substituted *Auspro* opinion shouldn't be any more detrimental to cities than was the original opinion. In fact, it somewhat allayed fears that a city with no sign ordinance would be completely exposed to the construction of new billboards along a state highway that runs through the city.

League staff will continue to monitor the issue in the wake of the opinion. It's highly likely that scenic advocates will seek legislation on the issue.

## **Internet Notice Committee Releases Interim Report**

The Texas Legislature's Joint Interim Committee on Advertising Public Notices has released its [interim report](#). The committee was created by a [House concurrent resolution](#) passed during the 2015 legislature. The resolution directed the committee to examine whether print or internet publication of legal notices best serves governmental entities and citizens of Texas.

It recommends the following:

1. **Retain the print requirement.** However, the legislature should continue to study the issue, as in the near-future there may come a time when the print requirement no longer serves the needs of the people. In such a circumstance, however, the necessity of placing the notice with a local, third-party media organization likely remains.
2. **Distinguish between public notice spending and general advertising.** The committee recommends legislation requiring that political subdivisions distinguish between public notice spending and other advertising, creating a line-item for monies spent fulfilling their statutory requirement to post public notices with local print media organizations so that further study on this issue may address the question of cost based on official budget records.
3. **Creation of public notice email alert system.** The committee recommends that the state create a website...which will act as a clearinghouse for public notices. The state, and all political subdivisions, will be required to send a copy of all public notices to the comptroller electronically for placement on this website.

Items 2 and 3 above appear at first glance to be unfunded mandates on cities, especially given that they are cumulative with the current print requirement. In reality, they may be a glimmer of good news from this interim committee.

Accurate budget tracking of the cost of expensive print publication could aid cities with making their case in the future, and a centralized website for notices – an idea suggested during

testimony by TML staff (albeit in lieu of print) – could highlight the advantages of such a system compared to the current, outdated system.

## **City-Related Bills Filed**

Each week, League staff summarizes in this section the city-related bills filed during the previous week. For a cumulative list of all city-related bills filed to date, click [here](#).

### **Property Tax**

**H.B. 513 (S. Davis) – Property Tax Appraisal:** would provide that the chief appraiser of an appraisal district that appraises property for a taxing unit that is located partly or entirely inside an area declared to be a disaster area by the governor shall reappraise all property damaged in the disaster at its market value immediately after the disaster.

**H.B. 540 (Metcalf) – Property Tax Appeals:** would authorize attorney’s fees of any amount for a property owner who prevails in an appeal if: (1) the appeal is based on excessive or unequal appraisal; (2) the property owner claims the property as the owner’s residence homestead; and (3) in each of the preceding two years, the property owner prevailed in an appeal under (1) and the amount of an award of attorney’s fees to the property owner was subject to a limitation in each of the two preceding years.

**H.B. 566 (Keough) – Appraisal Review Boards:** would, among other things, provide: (1) that an appraisal review board consists of five members elected by the voters of the county in which the appraisal district is established at the general election for state and county officers; and (2) that the members of the appraisal review board serve two-year terms beginning on January 1<sup>st</sup> of odd-numbered years.

**H.B. 570 (Button) – Property Tax Exemption:** would provide: (1) that the surviving spouse of a first responder who is killed or fatally injured in the line of duty is entitled to an exemption from taxation of the total appraised value of the surviving spouse’s residence homestead so long as the surviving spouse has not remarried since the death of the first responder; and (2) that a surviving spouse who receives an exemption under (1) is entitled to receive an exemption from taxation of a property that the surviving spouse subsequently qualifies as the surviving spouse’s residence homestead in an amount equal to the dollar amount of the exemption from taxation of the first property for which the surviving spouse received the exemption in the last year in which the exemption applied so long as the surviving spouse has not remarried since the death of the first responder.

**S.B. 290 (Watson) – School Finance:** would: (1) provide that it is state policy that the state’s contribution to the financing of public education should not decrease as a result of local property values; and (2) require the legislature to appropriate a guaranteed level of state and local funds per weighted student per cent of tax effort that are sufficient to result in at least a level of state expenditure equal to the state’s expenditure for the preceding biennium.

## **Sales Tax**

No sales tax bills were filed this week.

## **Purchasing**

No purchasing bills were filed this week.

## **Elections**

**H.B. 529 (Schofield) – Voter Identification:** would provide that a person 70 years of age or older may use an acceptable form of identification that has expired for the purposes of voting if the identification is otherwise valid.

**H.B. 532 (Schofield) – Local Debt:** would prohibit a political subdivision from issuing a public security to purchase or lease tangible personal property if the expected useful life of the property ends before the maturity date of the public security.

**S.B. 284 (Watson) – Voter Identification:** would provide that the following are acceptable forms of photo identification for voting: (1) a student identification card issued by a public institution of higher education located in this state that contains the person's photograph; and (2) an identification card issued by a state agency of this state that contains the person's photograph.

**H.B. 533 (Schofield) – Primary Runoff Election Date:** would: (1) provide that the primary runoff election date for non-federal partisan offices is the second Tuesday in April following the general primary election; and (2) provide that the primary runoff election date for an election for federal office is the fourth Tuesday in May following the general primary election.

**H.B. 534 (Schofield) – Voter Assistance:** would: (1) require a person providing assistance to a voter to be a registered voter of the county in which the election is being held; (2) require a person providing assistance to voter to provide photo identification to an election officer; and (3) make it a Class A misdemeanor for a person, other than an election officer, to solicit voters to provide voting assistance, including assistance provided during early voting.

## **Open Government**

**H.B. 526 (Schofield) – Public Information Act:** would provide that if a non-resident of Texas submits a public information act request, the governmental body may, but is not required to, accept or comply with the request.

## **Other Finance and Administration**

**H.B. 499 (Collier) – Workers’ Compensation:** would apply unfair insurance settlement practices to a claim by an insured or beneficiary under an insurance policy for workers’ compensation insurance.

**H.B. 510 (S. Davis) – Payroll Deductions:** would, among other things: (1) prohibit the state or a political subdivision of the state from deducting or withholding from an employee’s salary or wages for payment of dues or membership fees to a labor organization or other similar entity, including a trade union, labor union, employees’ association, or professional organization; and (2) except from the prohibition described in (1) certain deductions of employees who work in a city with a population of more than 10,000 and are members of the fire department, police department, or who serve as emergency medical services personnel.

**S.B. 281 (V. Taylor) – Biometric Identifiers:** would: (1) define “biometric identifier” to mean any measurement of the human body or its movement that is used to attempt to uniquely identify or authenticate the identity of a person including, among other things, a blood sample, hair sample, skin sample, DNA sample, and body scan; and (2) prohibit a governmental body from capturing or possessing a biometric identifier of an individual as a prerequisite for providing a governmental service to the individual unless the governmental body has specific, explicit statutory authority to do so or has the voluntary, written consent of the individual or the individual’s legal guardian.

## **Municipal Courts**

**H.B. 551 (Collier) – Drug Offenses:** would allow a judge that grants a petition for expunction of a criminal record to order the fee be returned to the petitioner.

**H.B. 567 (White) – Fine-Only Offenses:** would: (1) prohibit a police officer from arresting an individual for an offense punishable by fine only, unless the offense is public intoxication or an alcohol offense involving a minor; and (2) require an officer who stops a motor vehicle for an offense punishable by fine only to notify the person that: (a) the alleged offense is a misdemeanor punishable by fine only, and (b) the officer may not arrest the person based solely on that offense. (Companion bills are **H.B. 571** by **Johnson** and **S.B. 271** by **Burton**.)

**H.B. 571 (Johnson) – Magistrate:** this bill is the same as **H.B. 567**, above.

**S.B. 265 (Watson) – Municipal Court:** would provide that a magistrate shall inform the person arrested that a plea of guilty or nolo contendere for the offense charged may result on other negative consequences in addition to the criminal punishment for the offense.

**S.B. 266 (Watson) – Municipal Court:** would reduce various fees associated with the driver responsibility program.

**S.B. 271 (Burton) – Magistrate:** this bill is the same as **H.B. 567** and **H.B. 571**, above.

## **Community and Economic Development**

**H.B. 528 (Schofield) – Eminent Domain:** would, in relation tolling a property owner’s right of repurchase: (1) eliminate the following as elements establishing “actual progress” on a project: (a) the acquisition of a tract or parcel of real property adjacent to the property for the same public use project for which the owner’s property was acquired; or (b) for a governmental entity, the adoption by a majority of the entity's governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one tolling action before the tenth anniversary of the date of acquisition of the property; and (2) require three of five remaining elements to be met to establish actual progress.

**H.J.R. 40 (Schofield) – Eminent Domain:** would amend the Texas Constitution to provide that a person whose property is taken through eminent domain or that person's heirs, successors, or assigns, is entitled to repurchase the property at the price paid when taken if: (1) the public use for which the property was acquired through eminent domain is canceled; (2) no actual progress is made toward the public use during a prescribed period of time; or (3) the property is unnecessary for the public use.

**S.B. 377 (Campbell) – Wind Energy:** would, among other things, provide that a city may not enter into a tax abatement agreement for property where a wind-powered energy device is installed or constructed if the property is located within 30 nautical miles of the boundaries of a military aviation facility in Texas.

## **Personnel**

**H.B. 475 (Reynolds) – Employment Law:** would: (1) provide that the minimum wage is not less than the greater of \$15.00 an hour or federal minimum wage under the Fair Labor Standard Act (FLSA); and (2) allow a municipal ordinance or charter provision governing wages in private employment, other than wages under a public contract, to apply to persons covered by the FLSA. (Companion bill is **H.B. 285** by **Alonzo**.)

**H.B. 548 (Deshotel) – Employment Law:** would provide that: (1) employers can only inquire about an applicant’s criminal history record information after the employer has determined that the applicant is otherwise qualified and has conditionally offered that applicant employment or has invited the applicant to an interview; (2) employers can only consider any criminal history record information regarding an offense that occurred or allegedly occurred more than seven years before the date of the employment decision; and (3) the bill does not apply to applicants where consideration of criminal history record information is required by law.

**H.B. 563 (Israel) – Whistleblower:** would expand the definition of “appropriate law enforcement authority” for purposes of whistleblower retaliation claims to include a supervisor, officer, or other manager of the governmental entity. (This bill is likely a reaction to a series of cases narrowly construing the term “appropriate law enforcement authority.”)

**S.B. 279 (Zaffirini) – Expression of Breast Milk:** would require a public employer that constructs or renovates any public building to ensure that the building includes a publicly accessible place, other than a bathroom, where a member of the public can express breast milk.

**S.B. 283 (Watson) – Employment Discrimination:** would expand the offense of unlawfully prohibiting an employee from voting to include: (1) refusing to allow an employee to be absent to vote during early voting; or (2) threatening to subject the employee to a penalty for attending the polls to vote while early voting is in progress.

**S.B. 285 (Watson) – Employee Leave:** would: (1) require an employer to give an employee paid time off to obtain an election identification certificate if: (a) the person does not have a form of identification necessary to vote; and (b) the person is a registered voter in this state or is eligible for registration; (2) require an employee entitled to time off under (1) to, not later than 24 hours before the time the employee will be absent from work, notify the employee’s employer that the employee will take the time off; (3) provide that an employer may not require an employee to use existing vacation leave time, personal leave time, or compensatory leave time for the purpose of an absence from work to obtain an election identification certificate; (4) provide that the use of leave time to obtain an election identification certificate may not be restricted by a term or condition adopted under a collective bargaining agreement entered into on or after September 1, 2017; (5) prohibit an employer from reducing the pay otherwise owed to an employee for any pay period lasting eight hours or less because the employee took time off during that pay period for the purpose of an absence from work to obtain an election identification certificate; (6) upon returning to work, require an employee to provide reasonable documentation to the employer on the employer’s request regarding the employee’s absence from work to obtain an election identification certificate; (7) create a cause of action for retaliation for an employee who is suspended or terminated for taking time off to obtain an election identification certificate; and (8) require an employer to post a conspicuous sign, designed by the Texas Workforce Commission, in the employer’s workplace regarding employees’ right to time off from work to obtain an election identification certificate.

### **Public Safety**

**H.B. 461 (Dale) – Law Enforcement:** would, among other things, provide that law enforcement agencies with responsibility for serving a notice of an application for protective order together with an associated temporary ex parte order shall: (1) make the initial attempt to serve the notice and order within a 48-hour period immediately after receiving the notice and order; (2) if the initial attempt is unsuccessful, try two more attempts to serve notice and order within that same 48-hour period with one attempt being at a different location than the initial attempt; (3) send a copy of notice and order to the respondent by first class mail to the last known address within the 24-hour period immediately following receipt of the notice and order unless personal service is completed during that 24-hour period or a mailing address is unknown; and (4) if unable to serve after three attempts, seek court order authorizing service by affixing notice and order to front door of last known residence and provide sworn statement to the court describing their attempts to personally serve the notice and order.

**H.B. 512 (S. Davis) – Wireless Communication Devices:** would require a city to post a sign stating that use of wireless communication device is prohibited at each entrance to a school crossing zone.

**H.B. 519 (Turner) – Child Safety Seats:** would provide that a person commits an offense if the person operates a passenger vehicle transporting a child who is younger than two years of age and does not keep the child secured during the operation of the vehicle in a rear-facing child passenger safety seat system. (Companion bill is **S.B. 278** by **Zaffirini**.)

**H.B. 520 (Turner) – Cell Phone Ban:** would: (1) provide that it is in a misdemeanor offense to use at least one hand to read, write, or send a text-based communication with a wireless communication device while operating a motoring vehicle when a person under 18 years of age is in the vehicle, unless the vehicle is stopped; (2) provide that it is an offense if a person uses a wireless communication device while operating a passenger bus with a passenger who is under 18 years of age, unless the bus is stopped; (3) provide that it is an offense for the operator of a motor vehicle to use a wireless communication device while on the property of a public school for which a local authority has designated a school crossing zone, during the time a reduced speed limit is in effect, unless the vehicle is either stopped or the operator uses a hands-free device; (4) require a local authority that enforces the prohibition in (3) to post warning signs or, alternatively, if the local authority prohibits the use of wireless communication devices while driving throughout the jurisdiction, to post warning signs at certain jurisdictional entry points; (5) provide that it is an offense for: (a) a person under 18 years of age to operate a motor vehicle while using a wireless communication device, except in case of emergency; (b) a person under 17 years of age who holds a restricted motorcycle or moped license to operate the motorcycle or moped while using a wireless communication device, except in case of emergency; (6) prohibit a peace officer from stopping a vehicle solely for the purpose of determining whether the operator of the vehicle has violated the prohibitions in (5); and (7) provide that a local ordinance relating to the use of a wireless communication device by the operator of a motor vehicle that is consistent with or more stringent than (1)-(6) is not preempted.

**H.B. 554 (White) – Fireworks:** would expand the days that a retail fireworks permit holder may sell fireworks to the public.

**H.B. 556 (Keough) – Licensed Handgun Carry:** would provide that a person with control over the premises of a business or an apartment complex who: (1) forbids entry on the premises by a license holder with a concealed handgun is strictly liable to a license holder who would otherwise have carried a concealed handgun onto the premises for damages for personal injury or death resulting from an occurrence on the premises: (a) in which the license holder would have been justified in using deadly force; and (b) that could have been prevented by the otherwise lawful use of a handgun by the license holder; and (2) allows entry on the premises by a license holder with a handgun is not liable based solely on that permission for damages arising from the lawful carrying of a handgun on the premises. (It is unclear how the bill would apply to cities because it does not define “business.”)

**H.B. 561 (Murphy) – Golf Carts and Utility Vehicles:** would: (1) authorize a master planned community to adopt reasonable safety and maintenance rules for the operation of a golf cart and a commercial utility vehicle in the community; (2) authorize the Texas Department of Motor Vehicles to register commercial utility vehicles for operation on public highways; (3) allow the operation of a commercial utility vehicle: (a) in a master planned community that has in place a uniform set of restrictive covenants and for which a county or city has approved a plat; or (b) on a public or private beach; (4) authorize an employee or agent of a political subdivision to operate its commercial utility vehicles on any public highway; (5) authorize a city to allow the operation of a commercial utility vehicle on all or part of a public highway that is in the city and has a posted speed limit of not more than 35 miles per hour; and (6) set out the required equipment that must be on a commercial utility vehicle.

**H.B. 564 (Hernandez) – Commercial Motor Vehicles:** would create a defense to prosecution for the offenses of no registration, no license plate, failure to carry or present vehicle license receipt, failure to display overweight vehicle permit, and failure to keep cab card in the cab of the vehicle, if the defendant: (1) was the operator of the commercial motor vehicle; and (2) was not the owner of the commercial motor vehicle.

**H.B. 574 (Thompson) – Cite and Release:** would: (1) require a city police department to adopt a written policy regarding the issuance of citations for misdemeanor offenses punishable by fine only; (2) prohibit a peace officer from arresting an offender for a misdemeanor punishable by fine only, other than public intoxication; and (3) require a peace officer to issue a citation in lieu of taking a person who commits a fine only misdemeanor before a magistrate.

**H.B. 575 (S. Thompson) – Drug Offenses:** would reduce the penalty for possession of controlled substances in Penalty Group 1 to provide that an offense is a state jail felony if the amount of the controlled substance possessed is, by aggregate weight, including adulterants or dilutants, a usable quantity that is more than 0.02 grams but less than one gram.

**S.B. 256 (Taylor of Collin) – Confidentiality:** would provide, among other things, that: (1) victims of sexual abuse and trafficking of persons are added to the address confidentiality program administered by the Office of the Attorney General; and (2) eligibility to participate in the address confidentiality program is clarified by adding different situations that make the applicant eligible for the program, including a child or another person in the applicant's household being eligible for the program.

**S.B. 278 (Zaffirini) – Child Safety Seats:** would provide that a person commits an offense if the person operates a passenger vehicle transporting a child who is younger than two years of age and does not keep the child secured during the operation of the vehicle in a rear-facing child passenger safety seat system. (Companion bill is **H.B. 519** by **Turner**.)

## **Transportation**

**S.B. 288 (Watson) – Transportation:** would provide that motorcycle operators are allowed to drive a safe distance between lanes of traffic on a limited-access or controlled-access highway during periods of traffic congestion if the motorcycle operator operates the motorcycle at a speed

not more than five miles per hour greater than the speed of the other traffic and in traffic that is moving at a speed of 20 miles per hour or less.

### **Utilities and Environment**

**H.B. 544 (Anderson) – Rural Water Assistance Fund:** would allow the Texas Water Development Board to use the Rural Water Assistance Fund to assist rural political subdivisions with water planning.

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