



Legislative UPDATE

April 28, 2017
Number 17

Contacting Your Legislators Works: Keep it Up!

In last week's edition, the League reported on a list of critical action items for city officials. This week's message: Keep up the good work. Not every city official cares equally about each issue below, but everyone should pick one or two that matter the most to your city and take action now!

- **Revenue Caps:** continue to contact members of the House Ways and Means Committee and urge them to oppose S.B. 2 (Bettencourt) and H.B. 15 (Bonnen). Here are the [talking points](#) and here are the committee members:
 - [Dennis Bonnen](#)
 - [Yvonne Davis](#)
 - [Dwayne Bohac](#)
 - [Drew Darby](#)
 - [Eric Johnson](#)
 - [Jim Murphy](#)
 - [Andrew S. Murr](#)
 - [Richard Peña Raymond](#)
 - [Hugh Shine](#)
 - [Drew Springer](#)
 - [Phil Stephenson](#)

- **Annexation:** contact members of the House Land and Resource Management Committee and urge them to oppose H.B. 424 (Huberty), H.B. 299 (Larson), H.B. 2272 (Scofield), and S.B. 715 (Campbell). Each of these bills would end city annexation by allowing a vote only of people being annexed, instead of the entire region. Here are the [talking points](#), here is a [study](#) showing the economic impact of restrictive annexation laws, and here are the committee members:
 - [Abel Herrero](#)
 - [Cecil Bell](#)
 - [Ernest Bailes](#)
 - [César Blanco](#)
 - [Wayne Faircloth](#)
 - [Matt Krause](#)
 - [Lynn Stucky](#)

- **Small Cell Nodes:** contact members of the House State Affairs Committee and urge them to oppose H.B. 2838 (Geren) and S.B. 1004 (Hancock). These bills would end any reasonable control over vertical structures in city rights-of-way and require city taxpayers to subsidize private industry. Here are the [talking points](#) and here are the committee members:
 - [Byron Cook](#)
 - [Helen Giddings](#)
 - [Tom Craddick](#)
 - [Jessica Farrar](#)
 - [Charlie Geren](#)
 - [Ryan Guillen](#)
 - [Ken King](#)
 - [John Kuempel](#)
 - [Morgan Meyer](#)
 - [René Oliveira](#)
 - [Chris Paddie](#)
 - [Eddie Rodriguez](#)
 - [John T. Smithee](#)

- **Short Term Rentals:** contact members of the House Urban Affairs Committee and urge them to oppose H.B. 2551 (Parker) and S.B. 451 (Hancock). These bills would permit disruptive party house rentals in all residential subdivisions. Here are the [talking points](#) and here are the committee members:
 - [Carol Alvarado](#)
 - [Jeff Leach](#)

- [Diego Bernal](#)
 - [Gary Elkins](#)
 - [Jason Isaac](#)
 - [Jarvis D. Johnson](#)
 - [Bill Zedler](#)
- **City Fee Email Notification:** contact your house member and urge them to oppose S.B. 737 (Hancock). This bill would impose burdensome requirements any time a city imposes a new fee or fee increase, such as a complicated email notification system and hearing process. Here are the [talking points](#) and here are the committee members:
 - [Carol Alvarado](#)
 - [Jeff Leach](#)
 - [Diego Bernal](#)
 - [Gary Elkins](#)
 - [Jason Isaac](#)
 - [Jarvis D. Johnson](#)
 - [Bill Zedler](#)
- **Transportation Network Companies:** contact members of the Senate Business and Commerce Committee and urge them to oppose H.B. 100 (Paddie), which would preempt city regulation of transportation network companies (e.g., Uber and Lyft). Here are the committee members:
 - [Kelly Hancock](#)
 - [Brandon Creighton](#)
 - [Craig Estes](#)
 - [Robert Nichols](#)
 - [Charles Schwertner](#)
 - [Larry Taylor](#)
 - [John Whitmire](#)
 - [Judith Zaffirini](#)
- **Manufactured Housing:** contact your House member and urge them to oppose H.B. 1852 (Lucio) and S.B. 1248 (Buckingham), which would limit a city's ability to regulate manufactured home parks. Here are the committee members:
 - [Abel Herrero](#)
 - [Cecil Bell](#)
 - [Ernest Bailes](#)
 - [César Blanco](#)

- [Wayne Faircloth](#)
- [Matt Krause](#)
- [Lynn Stucky](#)
- [Senfronia Thompson](#)
- [John Wray](#)

Permit Vesting on Steroids?

The Texas governor's recent plan to abolish home rule city authority took a step forward this week in the form of H.B. 3787 by Cecil Bell (R – Magnolia). The bill, which was voted out of the House Committee on Land and Resource Management, would provide that a city may not enforce an ordinance related to land use or business regulation if the ordinance was not in effect on the date the property owner acquired title to the property.

The bill is certainly in line with the governor's recent comments. "It would be far simpler and frankly easier for those of you who have to run your lives and businesses on a daily basis if the state of Texas adopted an overriding policy and that is to create certain standards that must be met before which local municipalities or counties can establish new regulations," he said. He characterized his proposal as a "broad-based ban on regulations at the local level..."

House Bill 3787 is permit vesting on steroids (the current permit vesting law is triggered at the time of a permit application, rather than land purchase). Its passage would mean that a city couldn't even protect neighbors from a sexually oriented business or a pig farm being put right next door to their home. It's a bad idea any way you slice it.

Another permit vesting bill, H.B. 898 by Paul Workman (R – Austin), would also be detrimental to cities. That bill would provide, among other things, that a political subdivision that has been found by a court to have violated the permit vesting statute is liable for actual damages, reasonable attorney's fees, administrative and court costs, and the applicant's portion of the cost of any mediation that did not result in an agreement.

City officials with concerns about the bills above should contact their House members now.

Significant Committee Actions

H.B. 1911 (J. White), relating to granting authority to carry a firearm to an unlicensed person who otherwise meets certain requirements for a handgun license and to related criminal offenses. Reported from the House Committee on Homeland Security and Public Safety.

H.B. 2533 (Geren), relating to civil suits brought by local governments or certain other persons for violations of certain laws under the jurisdiction of, or rules adopted or orders or permits issued by, the Texas Commission on Environmental Quality. Reported from the House Committee on Natural Resources.

H.B. 2672 (Collier), relating to the relationship between public employers and fire and police employees. Reported from the House Committee on Urban Affairs.

H.B. 3193 (Alvarado), relating to the relationship between public employers and fire and police employees. Reported from the House Committee on Urban Affairs.

H.B. 3306 (Kuempel), relating to the regulation of motor vehicle towing, booting, and storage and to the elimination of required state licensing for vehicle booting companies and operators. Reported from the House Committee on Licensing and Administrative Procedures.

H.B. 3336 (Murphy), relating to general obligation bonds issued by political subdivisions. Reported from the House Committee on Investments and Financial Services.

S.B. 636 (Huffines), relating to procedures for certain municipalities to adopt or amend a national model building code. Reported from the Senate Intergovernmental Relations Committee.

S.B. 1842 (Lucio), relating to an application for the amendment of a certificate of public convenience and necessity in an area within the boundaries of a political subdivision. Reported from the Senate Intergovernmental Relations Committee.

S.B. 1913 (Zaffirini), relating to the administrative, civil, and criminal consequences, including fines, fees, and costs, imposed on persons arrested for, charged with, or convicted of certain criminal offenses. Reported from the Senate Criminal Justice Committee.

Significant Floor Actions

H.B. 100 (Paddie), relating to the regulation of transportation network companies. Passed the House.

H.B. 354 (Raney), relating to the process for establishing speed limits on roads near certain schools. Passed the House.

H.B. 561 (Murphy), relating to the registration and operation of golf carts and utility vehicles. Passed the House.

S.B. 4 (Perry), relating to the enforcement by certain governmental entities of state and federal laws governing immigration and to the duties of law enforcement agencies concerning certain arrested persons. Passed the House. As passed, the bill would create several new provisions in law related to the enforcement of federal and state immigration laws. Specifically, the bill would prohibit certain city actions by providing that:

1. a “local entity” is defined to include, among others, a city, its officers, its employees, and other bodies that are part of a city, including the city police department and city attorney

(but would exempt schools and hospitals and hospital peace officers, the public health department of a local entity, and a peace officer employed or contracted by a religious organization during service to the religious organization);

2. a local entity shall not adopt, enforce, or endorse a policy that prohibits or discourages the enforcement of immigration laws;
3. a local entity may not by demonstrable pattern or practice prohibit the enforcement of immigration laws;
4. a local entity shall not prohibit or materially limit a peace officer from doing any of the following: (a) inquiring into the immigration status of a lawfully detained or arrested person; (b) with respect to information relating to the immigration status, lawful or unlawful, of any person under a lawful detention or under arrest: (i) sending the information to or requesting or receiving the information from Citizenship and Immigration Services or ICE, including information regarding a person's place of birth; (ii) maintaining the information; or (iii) exchanging the information with another local entity or a federal or state governmental entity; (c) assisting or cooperating with a federal immigration officer as reasonable or necessary, including providing enforcement assistance; or (d) permitting a federal immigration officer to enter and conduct enforcement activities at a municipal or county jail to enforce federal immigration laws;
5. a local entity or a person employed by or otherwise under the direction or control of the entity may not consider race, color, language, religion, or national origin while enforcing immigration laws except to the extent permitted by the United States or Texas Constitutions;
6. a local entity may prohibit persons who are employed by or otherwise under the direction or control of the entity or from assisting or cooperating with a federal immigration officer if the assistance or cooperation occurs at a place of worship;
7. a law enforcement agency is not required to perform a duty imposed by the bill with respect to a person who has provided proof that the person is a citizen of the United States or that the person has lawful immigration status in the United States, such as a Texas driver's license or similar government-issued identification;
8. a police chief who violates (2), above, commits a Class A misdemeanor;
9. a person holding elective or appointive office who violates the bill forfeits his or her office;
10. the attorney general shall file a *quo warranto* proceeding against a person described by (7), above, if presented with evidence establishing probable grounds that the person violates the bill;
11. if the court in a proceeding described by (8), above, finds a person "guilty as charged," the court shall enter a judgment removing the person from office;
12. each law enforcement agency that is subject to the requirements above of the bill may adopt a written policy requiring the agency to perform community outreach activities to educate the public that a peace officer may not inquire into the immigration status of a victim of or witness to an alleged criminal offense unless the officer determines that the inquiry is necessary to investigate the offense or provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement;
13. a policy adopted under (7), above, must include outreach to victims of certain victims of family violence and sexual assault; and

14. The bill does not apply to: (a) a community center; (b) a local mental health authority; or (c) the public health department of a local entity; or (d) a federally qualified health center.

The bill would provide for a state-level complaint and enforcement process by providing that:

1. any citizen residing in the area of a local entity may file a complaint with the attorney general if the person offers a sworn affidavit to support an allegation that a local entity has adopted, enforced, or endorsed a policy under which the entity prohibits or discourages the enforcement of immigration laws or that the entity prohibits or discourages the enforcement of those laws;
2. if the attorney general determines that a complaint filed against a local entity is valid, the attorney general may file a petition for a writ of mandamus or apply for other appropriate equitable relief and the prevailing party may recover reasonable expenses incurred in bringing or defending an action under the bill, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs; and
3. a local entity that is found by a court of law to have intentionally violated the requirements in the bill is subject to a civil penalty up to \$1,500 for the first violation and up to \$25,500 for each subsequent violation that shall be credited to the state's Crime Victims Compensation Fund.

Finally, the bill would provide that:

1. the Department of Public Safety's criminal justice division shall establish and administer a competitive grant program to provide financial assistance to local entities to offset costs related to: (a) enforcing immigration laws; or (b) complying with, honoring, or fulfilling immigration detainer requests;
2. Sovereign immunity of this state and governmental immunity of a county and city to suit is waived and abolished to the extent of liability created by the bill;
3. a law enforcement agency that has custody of a person subject to an immigration detainer issued by ICE shall: (a) comply with, honor, and fulfill the requests made in the detainer and inform the person that the person is being held pursuant to an immigration detainer request issued by ICE;
4. if a criminal defendant is in the U.S. illegally and is to be confined to jail by a court judgment, the judge shall issue an order requiring the correctional facility to require the defendant to serve in federal custody the final portion of the defendant's sentence, not to exceed a period of seven days, following the facility's or officer's determination that the change in the place of confinement will facilitate the seamless transfer of the defendant into federal custody;
5. the attorney general shall defend a local entity in any action in any court if: (a) the executive head or governing body, as applicable, of the local entity requests the attorney general's assistance in the defense; and (b) the attorney general determines that the cause of action arises out of a claim involving the local entity's good-faith compliance with an immigration detainer request required by the bill; and
6. the state is liable for expenses, costs, judgment, or settlement under (5), above.

S.B. 715 (Campbell), relating to municipal annexation. Passed the Senate.

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 the legislative session.

- Anna Holmes, Legislative Manager, City of Dallas
- Anthony Groves, Mayor, City of Brady
- Bill Crolley, Executive Director – Planning Division, City of Grand Prairie
- Bill Hill, City Manager, City of Shavano Park
- Blasita Lopez, Acting Public Information Officer, City of Laredo
- Brian Lillibridge, Water Specialist, City of Buda
- Byron Hebert, City Administrator, City of Katy
- C.J. Wax, Mayor, City of Rockport
- Chance Sparks, Assistant City Manager/Planning Director, City of Buda
- Charles Bujan, Mayor, City of Port Aransas
- Charles Zech, City Attorney, City of Shavano Park
- Chris Watts, Mayor, City of Denton
- Christopher Looney, Planning Director, City of New Braunfels
- Dana Burghdoff, Assistant Director of Planning & Development, City of Fort Worth
- David Green, Manager of Media Relations, City of Austin
- Don Knight, Assistant City Attorney, City of Dallas
- Donovan Burton, San Antonio Water System
- Elizabeth Nelson, Mayor, City of Marlin
- Eric Ellwanger, Assistant City Manager, City of Allen
- Evelyn Kimeu, Assistant City Attorney, City of Missouri City
- Frank Dixon, Assistant Chief of Police, City of Austin
- Greg Smith, City Administrator, City of Shenandoah
- Heather Hurlbert, Director of Finance, City of San Marcos
- Hector Gonzalez, Governmental Affairs and Communications Manager, El Paso Water
- Jarrett Atkinson, City Manager, City of Lubbock
- Jimmy Flannigan, Councilmember, City of Austin
- Joseph Crawford, Mayor's Office, City of Houston
- Kay Hindes, City Archaeologist, City of San Antonio
- Keith Mars, City Arborist, City of Austin
- Kim Lenoir, City Manager, City of Brady
- Lanny Lambert, City Manager, City of Converse
- Lee Kleinman, Council Member, City of Dallas
- Lysa Gonzalez, Director of Tourism, City of Buda
- Marcus Elliott, Acting Division Manager (Legal), City of Austin
- Matthew Wright, Municipal Court of Record, City of Rosebud

- Melinda Ramos, Senior Assistant City Attorney, City of Fort Worth
- Michael Dice, Policy Administrator, City of San Antonio
- Michael Flores, Business Development Director, City of South Padre Island
- Michael Shannon, Interim Director of Development Services, City of San Antonio
- Nathan Watkins, Assistant City Manager, City of Mont Belvieu
- Nghiem Doan, City Attorney, City of League City
- Pat Hallisey, Mayor, City of League City
- Patricia Link, Assistant City Attorney, City of Austin
- Paul Munarriz, Councilmember, City of South Padre Island
- Glenn Johnson, Mayor, City of Port Neches
- Reuben Ramirez, Dallas Police Department
- Rey Saldana, Councilmember, City of San Antonio
- Rick Ramirez, Intergovernmental Relations Manager, City of Sugar Land
- Rob Franke, Mayor, City of Cedar Hill
- Rob Spillar, Transportation Director, City of Austin
- Robert Werner, Mayor, City of Shavano Park
- Rogelio Pena, Assistant City Attorney, City of San Antonio
- Rudy Durham, Mayor, City of Lewisville
- Scott Livingston, Director of Economic Development, City of League City
- Stacie Talbert Anaya, Parks and Recreation, City of Corpus Christi
- Steve Adler, Mayor, City of Austin
- Steven Reid, City Attorney, City of Granbury
- Susan Guthrie, City Manager, City of South Padre Island
- Terrilyn Tarlton-Shannon, Mayor Pro Tem, City of Galveston
- Tom Tagliabue, Intergovernmental Relations, City of Corpus Christi
- W.R. (Bob) Cornett, Mayor, City of Cresson
- Wiley Hopkins, Councilmember, City of Buda
- Yushan Chang, Assistant City Attorney, City of Houston

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