



Legislative UPDATE

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Number 17

Late Session Attack on Municipal Annexation Authority

Home rule cities that annex property unilaterally should contact their legislators now in opposition to [H.B. 2221](#) by Representative Dan Huberty (R – Kingwood). The bill would do many things, but the most harmful provisions in the bill would require strict voter approval of an annexation of an area with more than 200 residents. (Under the bill, other annexations require a vote if triggered by a petition.)

League staff, along with several city officials, testified against the bill in the House Land and Resource Management Committee on March 23. In spite of that testimony, it was voted out of committee last week. It appears the Representative Huberty now intends to try to set it on the House calendar. But what is the bill all about? According to his staff:

Back in the 1990's Kingwood was forcefully annexed by the City of Houston...No one living in Kingwood wanted to be annexed at all, but they had no choice in the matter. To this day, the people of Kingwood still despise the relationship that they have with the City of Houston. My boss was in Kingwood throughout the annexation process and saw how invasive the annexation was to his community. This bill is an attempt to ensure that this does not happen to any other group of property owners.

Legislation was passed more than a decade ago to address the complaints of the residents of Kingwood. That legislation, Senate Bill 89 in 1999, was a hard-fought compromise that ensures appropriate services to highly-populated areas. But it doesn't require an election prior to a city annexing. So why hasn't an election requirement been put in place over the more than a century of unilateral annexations? Hopefully, it is because key legislators understand that cities support the state's economy through the services they provide.

Texas ranks very low (45th) among the states in total per capita tax burden. Telling, however, is the fact that it ranks much higher (27th) in local taxes per capita. The reason is that, compared to

those in other states, Texas cities and other local governments pay for more services that benefit the entire state, and unlike other states, Texas cities receive little state-generated revenue.

If annexation authority were to be severely curtailed or eliminated, Texas would become the only state in the nation that denies both state financial assistance and annexation authority to its cities. Opponents of annexation cannot point to a single state that has restricted annexation authority without implementing fiscal assistance programs under which the state helps cities pay for the infrastructure on which the entire state depends.

Further, the annexation “property rights fallacy” is one issue that should be quickly dispatched. In cities across the state, landowners protest annexations as “taxation without representation.” In a 1999 article for the *Houston Review* in response to the Kingwood annexation, the author made this argument:

Of course, the cities consider any bill requiring a [popular] vote [on annexation] to be punitive. When American colonists wanted the right to vote on British tax increases, you can bet many of the British aristocrats also felt such a proposal was punitive! It is amazing that the democratic right to vote on becoming part of a city could be considered punitive.

His argument is flawed because, upon annexation, the law grants residents of an annexed area the power to vote in all matters relating to the city. Annexation simply does not impose taxation without representation. Another way to analyze the fallacy is to consider school district property taxes. Every person in Texas who owns taxable property pays his or her local school tax. Even a property owner who has no children and will never have children must do so. The reason for this is simple: For the state to succeed, it needs educated citizens. Because every property owner benefits from a prosperous state, it makes sense that every property owner should bear a portion of that tax burden. The same is true for cities and the services they provide.

Representative Huberty is not alone among state legislators who believe residents of an area should have the right to vote on whether they are annexed. But they should be aware of other states where cities are similarly handcuffed. If San Antonio, for example, had the same boundaries it had in 1945, it would contain more poverty and unemployment than Newark, New Jersey. The failure to annex prosperous, surrounding areas was partially responsible for the unprecedented bankruptcy of Detroit. With annexation limitations, such as a popular vote requirement, Texas cities could languish economically as so many northern cities do.

Under the system of intergovernmental finance in Texas, state leaders have thus far recognized that – while property rights are a core issue for Texans – keeping the “Texas Miracle” alive and the economy afloat is preeminent. Legislators and city officials should always give due consideration to fairness, but legislators should also recognize that the economy, not property rights, is the key annexation issue.

If your city is concerned about this bill, either because you intend to annex or you appreciate the importance of annexation authority to the Texas economy, it is time to contact your state representative in opposition to H.B. 2221.

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.

- Brad Neighbor, City Attorney, Garland
- Brian England, Deputy City Attorney, Garland
- Brian LaBorde, Assistant City Manager, Buda
- Cynthia Garcia, Assistant Director of Housing and Economic Development, Fort Worth
- Daryl Slusher, Assistant Director, Austin Water Utility
- David Wilson, Councilmember, Kyle
- Heidi Hansing, Councilmember, League City
- Jarrett Atkinson, City Manager, Amarillo
- Jim Darling, Mayor, McAllen
- Kelly Gray, Councilmember, Fort Worth
- Peter Dewing, Mayor, Northlake
- Peter Zaroni, Deputy City Manager, San Antonio
- Richard Garcia, Mayor, Edinburg
- Sergio Contreras, Director of External Affairs, Pharr
- Stephen Castillo, Councilmember, Houston
- Stephen Stanley, Councilmember, Garland
- Steve Adler, Mayor, Austin
- Steve Smith, Building Official & Public Works Director, Bunker Hill Village
- Tecló Garcia, Director of Government Affairs, McAllen
- Troy Elliot, Finance Director, San Antonio

Significant Floor Actions

H.B. 910 (Phillips), relating to the authority of a person who is licensed to carry a handgun to openly carry a holstered handgun. Passed the House. As passed, the bill would allow open carry of a holstered handgun by a concealed handgun license holder, and, because of a floor amendment, would **prohibit a peace officer from making an investigatory stop or other temporary detention to inquire as to whether a person possesses a handgun license solely because the person is carrying a partially or wholly visible handgun carried in a shoulder or belt holster.**

H.B. 2027 (G. Bonnen), relating to establishing precincts for elections held on a uniform election date. Passed the House.

H.B. 2201 (Phillips), relating to vacancies on the governing body of a Type A general-law municipality. Passed the House. As passed, the bill would, for a general law Type A city: (1) create an automatic vacancy in office for any member of a governing body who moves his or her place of residence outside the city limits; (2) reduce the vote requirement to appoint an individual to the governing body from a majority of the remaining members to a majority of members present and voting; and (3) prohibit a member who has resigned from the governing body from voting to fill a vacancy on the governing body by special election.

H.B. 2439 (W. Smith), relating to inspections and other activities conducted by engineers in connection with the issuance of certain windstorm and hail insurance. Passed the House.

H.J.R. 75 (D. Bonnen), Proposing a 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. Passed the House.

S.B. 321 (Hinojosa), relating to the amount of money transferred monthly from the state highway fund to the Texas emissions reduction plan fund. Passed the Senate.

S.B. 336 (V. Taylor), relating to the right of municipal officers to obtain information, documents, and records. Passed the Senate.

S.B. 476 (Kolkhorst), relating to the duties of certain law enforcement officials under procedures regulating the making or transfer of firearms. Passed the Senate.

S.B. 479 (Schwertner), relating to establishing actual progress for the purposes of determining the right to repurchase real property from a condemning entity. Passed the Senate.

S.B. 503 (Perry), relating to financial assistance to local governmental entities affected by the realignment of defense jobs or facilities. Passed the Senate.

S.B. 521 (Fraser), relating to the period for which the Texas Commission on Environmental Quality may grant or renew an emergency authorization relating to the use of state water. Passed the Senate.

S.B. 709 (Fraser), relating to environmental permitting procedures for applications filed with the Texas Commission on Environmental Quality. Passed the Senate.

S.B. 714 (Hall), relating to the authority of the governing body of a local authority to impose a civil penalty for certain violations recorded by an automated traffic control system or a photographic traffic signal enforcement system. Passed the Senate. **As passed, the bill would prohibit the use of red light and school bus stop-arm cameras.**

Significant Committee Actions

H.B. 23 (S. Davis), relating to disclosure of certain relationships with local government officers and vendors. Reported from the House Committee on House General Investigating and Ethics.

H.B. 156 (Larson), relating to the use of proceeds of bonds sold and delivered by a home-rule municipality for a specific purpose. Reported from the House Committee on Investments and Financial Services.

H.B. 281 (Simmons), relating to a limitation on the expansion of certain landfills. Reported from the House Committee on Environmental Regulation.

H.B. 1269 (Springer), relating to supplemental environmental projects implemented by certain local governments in lieu of administrative penalties assessed by the Texas Commission on Environmental Quality. Reported from the House Committee on Environmental Regulation.

H.B. 1269 (Alvarado), relating to the confidentiality of identifying information of victims of stalking. Reported from the House Committee on Environmental Regulation.

H.B. 1388 (Bohac), relating to certain diseases or illnesses suffered by firefighters and emergency medical technicians. Reported from the House Committee on Homeland Security and Public Safety.

H.B. 1390 (S. Thompson), relating to remedies for discrimination by a public employer against a public employee in connection with a claim for workers' compensation. Reported from the House Committee on Business and Industry.

H.B. 1436 (Smithee), relating to appeals regarding dangerous dogs. Reported from the House Committee on Judiciary and Civil Jurisprudence. As reported, the bill would mandate a jury trial in municipal court for an appeal from a dangerous dog determination by the animal control officer.

H.B. 1736 (Villalba), relating to building energy efficiency performance standards. Reported from the House Committee on Business and Industry. As reported, the bill would enact statutory energy rating index scores for residential construction, but would allow cities in nonattainment or affected areas to enact local scores.

H.B. 1865 (Morrison), relating to environmental permitting procedures for applications filed with the Texas Commission on Environmental Quality. Reported from the House Committee on Environmental Regulation.

H.B. 1953 (D. Bonnen), relating to the deadline for counties and municipalities to provide notice of a proposed property tax rate. Reported from the House Committee on Ways and Means. (Note: This is a TML priority bill.)

H.B. 2269 (Metcalf), relating to the unlawful seizure of a firearm by a governmental officer or employee. Reported from the House Committee on Homeland Security and Public Safety. As reported, the bill provides that **a police officer commits a crime if an officer seizes a firearm under federal laws if there is no state law allowing it, with certain exceptions.**

H.B. 2595 (Keffer), relating to the use of municipal initiative and referendum to restrict property rights. Reported from the House Committee on Urban Affairs.

H.B. 3266 (Guillen), relating to the construction standards for Recreational Vehicle Parks and Campgrounds. Reported from the House Committee on Culture, Recreation and Tourism. As reported, the bill would provide that: (1) a campground or recreational vehicle park must comply with the NFPA 1194, Standard for Recreational Vehicle Parks and Campgrounds, 2014 Edition, other than Section 1.1.1; and (2) a city may adopt a law, policy, rule, regulation, ordinance, or order that regulates environmental health and sanitation, safety of electrical distribution systems, safety of liquefied petroleum gas storage and dispensing, or fire protection, provided that the law, policy, rule, regulation, ordinance, or order does not impose standards more stringent than the standards under the bill. (Note: **it appears that the bill would preempt local zoning and similar land use controls over campgrounds and recreational vehicle parks.**)

H.B. 3300 (Fallon), relating to the authority of general-law municipalities to impose term limits on the members of their governing bodies. Reported from the House Committee on Urban Affairs.

H.B. 3358 (Lucio), relating to municipal regulation of passenger transportation for compensation. Reported from the House Committee on Urban Affairs.

H.B. 4061 (J. White), relating to the regulation of firearms, air guns, ammunition, and firearm and air gun supplies. Reported from the House Committee on Homeland Security and Public Safety. As reported, the bill would provide that: (1) a city may not adopt regulations relating to the transfer, purchase, sale, taxation, manufacture, storage, carrying, wearing, private ownership, keeping, transportation, licensing, or registration of firearms, air guns, ammunition, or firearm or air gun supplies; (2) a political subdivision or an officer of a political subdivision may not adopt or enforce a local regulation relating to a firearm or ammunition unless authorized by state law; (3) a person who is adversely affected by a violation of the bill may file suit against the political subdivision; (4) governmental immunity to suit and liability is waived and abolished to the extent of liability for the relief allowed under the bill; (5) a district court may award a plaintiff in a civil action brought under the bill declaratory relief, injunctive relief to prevent the threatened violation or continued violation, actual damages of not more than \$100,000, and reasonable attorney's fees, court costs, and other reasonable expenses required in bringing the action; (6) a city employee who knowingly and willfully violates the bill is personally liable to the state for a civil penalty of not more than \$5,000.

S.B. 309 (Campbell), relating to public access to boundary, financial, and tax rate information of certain political subdivisions. Reported from the Senate Finance Committee.

S.B. 740 (West), relating to the assessment of court costs and fees on conviction of multiple offenses or on conviction of multiple counts of the same offense. Reported from the Senate Criminal Justice Committee.

S.B. 1116 (West), relating to a notice or document sent by mail or electronic mail by a court, justice, judge, magistrate, or clerk of a judicial court. Reported from the Senate State Affairs Committee.

S.B. 1529 (Burton), relating to the creation and regulation of a law enforcement agency or police department. Reported from the Senate Criminal Justice Committee.

S.B. 1593 (Lucio), relating to regulation of fireworks by certain municipalities. Reported from the Senate Intergovernmental Relations Committee. As reported, **the bill would prohibit a home rule city from regulating the sale or use of fireworks within 5,000 feet outside the city's limits.**

S.B. 1781 (Menendez), relating to euthanasia as a last resort in a county or municipal animal shelter in certain counties. Reported from the Senate Intergovernmental Relations Committee.

S.B. 1968 (Huffman), relating to the organization of public employees. Reported from the Senate State Affairs Committee.

City-Related Bills Filed This Week

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](#).

There were no additional city-related bills filed this week.

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