



February 24, 2017
Number 8

PUC Asserts Jurisdiction over In-City Water Rates

Last summer, the *Legislative Update* [reported](#) on several pending cases at the Texas Public Utility Commission (PUC). Those cases signaled a disturbing trend of the Commission asserting authority over cities. One of them, *Appeal of Water and Sewer Rates Charged by the Town of Woodloch*, has come to a head, and not in a good way.

In the [proceeding](#), the PUC asserted jurisdiction over the *in-city* rates of a municipally-owned water utility. The League filed [comments](#) and [reply comments](#) in support of the City of Woodloch in the Spring of 2016.

The Woodloch dispute began when out-of-town water customers appealed their rates and a surcharge to the PUC. The State Office of Administrative Hearings (SOAH) generally found that the rates were too high and the surcharge wasn't authorized. It then set the rates the city could charge. That in itself isn't necessarily unusual with regard to outside customers. However, the SOAH judge and subsequently the PUC ordered that the city modify its *in-city* rates as well. (The Woodloch situation is somewhat unusual because its water utility has only 244 connections, and 172 of those are outside the city limits.)

Following the PUC order, Woodloch filed a motion for rehearing last March. The motion contended that the PUC does not possess the authority to set rates, including ordering refunds and surcharges, for Woodloch's in-city ratepayers.

The PUC essentially ignored Woodloch's motion for rehearing, allowing it to be denied by operation of law. Woodloch then appealed the denial to state district court. Last September, the district court remanded this matter back to the PUC. The PUC again concluded that it has jurisdiction.

The PUC will now consider the issue yet again pursuant to a slightly modified motion for rehearing. The city and TML position is clear: The statutes in question have never been read to grant the Commission authority over customers in a city's limits. The League will continue to monitor and participate in the process, and any city with a water utility should do so as well.

Other cases relating to right-of-way fees, certificates of convenience and necessity, and municipal zoning and subdivision authority are moving through the PUC and judicial processes. Look for updates on those cases as they progress.

Significant Committee Actions

C.S.S.B. 13 (Perry), relating to payroll deductions for state and local government employee organizations. Reported from the Senate State Affairs Committee.

City-Related Bills Filed

Property Tax

H.B. 1830 (Anchia) – Property Tax Appeals: would provide that, if the final determination of an appeal occurs pursuant to a settlement agreement filed with a court, the property owner and the chief appraiser may agree to waive: (1) the penalties and interest on the additional tax due to each affected taxing unit as a term of the settlement agreement; and (2) the interest otherwise required on the amount refunded to the property owner as a term of the settlement agreement. (Companion bill is **S.B. 931** by **Seliger**.)

H.B. 1833 (Dutton) – Property Tax Exemption: would provide that property is exempt from taxation by a taxing unit during the period of time beginning on the date a judgment foreclosing a tax lien on the property is entered and ending: (1) on the date the property is sold to a purchaser or bid off to a taxing unit at a tax sale conducted under that judgment; or (2) if the property owner pays the amount of the judgment before the property is sold or bid off, on the date the owner pays the judgment.

H.B. 1880 (Hefner) – Property Tax on Agricultural Land: would repeal the additional property taxes imposed as a result of certain changes in the use of open-space land appraised as agricultural land. (Companion bill is **H.B. 801** by **Murphy**.)

H.B. 2028 (Goldman) – Property Tax Deferral and Abatement: would provide that the chief appraiser may not make a determination that an individual who is 65 years of age or older is no longer entitled to receive a property tax deferral or abatement because the property for which the deferral or abatement was obtained is no longer the individual's principal residence without first providing written notice to the individual. (Companion bill is **S.B. 448** by **Burton**.)

H.B. 2133 (R. Anderson) – Property Tax Exemption: would allow a property tax exemption of more than six years for a tract of land that is contiguous to a tract of land on which a religious

organization's place of regular religious worship is located if the property is to be used for the expansion of the religious organization's place of regular religious worship or construction of a new place of regular religious worship.

H.J.R. 71 (Swanson) – Property Tax Exemption: would amend the Texas Constitution to provide that: (1) an individual is entitled to an exemption from taxation of the total appraised value of the individual's residence homestead if the individual is 75 years of age or older; and (2) the surviving spouse of an individual who qualified for an exemption under (1) is entitled to an exemption from taxation of the total appraised value of the same property to which the deceased spouse's exemption applied if: (a) the deceased spouse died in a year in which the deceased spouse qualified for the exemption; (b) the surviving spouse was 55 years of age or older when the deceased spouse died; and (c) the property was the residence homestead of the surviving spouse when the deceased spouse died and remains the residence homestead of the surviving spouse. (See **H.B. 1772**.)

S.B. 870 (Bettencourt) – Appraisal Review Board: would prevent an appraisal review board from scheduling a protest hearing on a Sunday.

S.B. 929 (Hughes) – Tax Assessor-Collector: would require that a county assessor-collector successfully complete at least 40 hours of continuing education courses on the assessment and collection of property taxes, including a course dedicated to Chapter 26 of the Tax Code, not later than nine months after the date on which the county assessor-collector first takes office.

S.B. 931 (Seliger) – Property Tax Appeals: this bill is the same as **H.B. 1830**, above.

S.B. 946 (Bettencourt) – Property Tax Deadlines: would, among other things, provide that: (1) the chief appraiser shall accept and approve or deny an application for a Freeport property tax exemption after the filing deadline if the application is filed not later than June 1; (2) rendition statements and property reports for property located in an appraisal district in which one or more taxing units exempt Freeport property must be delivered to the chief appraiser not later than April 1; and (3) the chief appraiser may extend the filing deadline in (2) to not later than May 1 for good cause on written request by the property owner.

Sales Tax

H.B. 2041 (Neave) – Sales Tax Exemption: would exempt the sale of the United States and state flags from sales taxes.

Purchasing

H.B. 1844 (Workman) – Construction Contracts: would provide, with certain exceptions, that a provision in a construction contract or an agreement collateral to or affecting the construction contract that makes the dispute subject to another state's law, litigation in the courts of another

state, or arbitration in another state, is voidable by a party. (Companion bill is **S.B. 807** by **Creighton**.)

Elections

H.B. 1825 (Goldman) – Early Voting/County Precincts: would provide that: (1) early voting by personal appearance at a moveable polling place shall be conducted for at least eight hours on each day voting is conducted; (2) the location of a movable polling place may be changed only after the polling place has been open for at least two days of voting at its current location; and (3) cities must use county election precincts for all elections.

H.B. 1873 (S. Thompson) – Early Voting Ballot Board: would, among other things, require an early voting ballot board to deliver to the early voting clerk any early voting applications included in a carrier envelope with a ballot voted in an election held on the November uniform election date regardless of whether the ballot is accepted.

H.B. 1887 (Romero) – Election Interpreters: would: (1) allow an interpreter to be appointed by an election officer if the voter has not selected an interpreter; (2) provide that a voting interpreter may be any person other than the voter’s employer, an agent of the voter’s employer, or an officer or agent of a labor union to which the voter belongs; and (3) provide that, if appointed to serve as an interpreter by an election officer, an interpreter must be a registered voter of the county in which the voter needing the interpreter resides or a registered voter of an adjacent county. (Companion bill is **S.B. 148** by **Garcia**.)

H.B. 1888 (Romero) – Election Interpreters: would: (1) allow an interpreter to be appointed by an election officer if the voter has not selected an interpreter; (2) provide that a voting interpreter may be any person other than the voter’s employer, an agent of the voter’s employer, or an officer or agent of a labor union to which the voter belongs; and (3) provide that if appointed to serve as an interpreter by an election officer, an interpreter must be a registered voter of the county in which the voter needing the interpreter resides or a registered voter of an adjacent county. (Companion bill is **S.B. 148** by **Garcia**.)

H.B. 1933 (Springer) – Uniform Election Dates: would: (1) provide that a general election held by a political subdivision other than a county may be held on the first Tuesday in March; and (2) eliminate the exception allowing other statutes to designate election days other than the uniform dates in May and November. (Companion bill is **S.B. 363** by **Perry**.)

H.B. 1955 (Reynolds) – Voter Registration: would require the secretary of state to implement a program to allow a person who has an unexpired Texas driver’s license or personal identification card to complete an electronic voter registration application over the Internet.

H.B. 1991 (Israel) – Voter Residency: would provide that a statement of residence submitted to an election officer at a polling place does not need to be signed by the applicant.

H.B. 2000 (Israel) – Voting System Grants: would establish a voting system fund and authorize a city or county to apply to the secretary of state for a grant to replace voting system equipment.

H.B. 2138 (Shaheen) – Poll Watcher: would provide that a person is ineligible to serve as a poll watcher in an election if the person has been finally convicted of a felony.

S.B. 925 (Garcia) – Municipal Jail: would: (1) require the secretary of state to prescribe a written notice to be provided to each person confined in a city or county jail that states: (a) that persons eligible to vote may vote an absentee ballot from jail; (b) the upcoming election dates; and (c) the voter registration deadlines and absentee ballot request deadlines applicable to the upcoming elections; (2) require the officially prescribed application forms for both registration by mail and an early voting ballot to be made available to persons confined in jail who are qualified voters; and (3) require the authority in charge of the jail to facilitate the proper delivery of voter registration applications, applications for ballots to be voted by mail, and marked ballots to eligible persons, and make the authority responsible for the payment of any required postage.

S.B. 957 (Campbell) – Ballot Propositions: would require each political subdivision's proposition on the ballot to be assigned a unique number.

Open Government

H.B. 2050 (G. Bonnen) – Law Enforcement Records: would provide that copies of confidential licensing and employment records, the originals of which are submitted to the Texas Commission on Law Enforcement (TCOLE), are confidential (in the same manner as the originals held by TCOLE are confidential).

Other Finance and Administration

H.B. 9 (Capriglione) – Texas Cybercrime Act: would, among other things, create: (1) a third degree felony for a person who intentionally interrupts or suspends access to a computer system or computer network without the effective consent of the owner; and (2) a Class A misdemeanor for a person who: (a) alters data as it transmits between two computers in a computer network or computer system without the effective consent of the owner; or (b) introduces malware, including ransomware, onto a computer, computer network, or computer system without the effective consent of the owner.

H.B. 1861 (Elkins) – Cybersecurity: would provide that information collected, assembled, or maintained by or for a governmental body to prevent, detect, or investigate a computer security incident, including a breach of system security, is confidential under the Public Information Act.

H.B. 1878 (Murr) – Candidacy for Election: would require an individual to have paid all property taxes due in order to be eligible to be a candidate for public office.

H.B. 1896 (Bohac) – Hotel Occupancy Tax: would, among other things: (1) modify the definition of “venue” for purposes of a venue project to exclude a facility financed wholly or partly by hotel occupancy taxes that will not be primarily used for community, civic, and charitable events that are attended only by residents of the community; (2) provide that a convention center facility that qualifies as a venue project and is financed wholly or partly with hotel occupancy tax revenue must be in the vicinity of the convention center; (3) provide that, in order to be eligible for hotel occupancy tax funding, a “convention center facility” or “convention center complex” must be primarily used to host conventions and meetings, with the term “meetings” defined as “gatherings of people that enhance and promote tourism and the convention and hotel industry;” (4) provide that, if a city adopts an ordinance imposing a hotel occupancy tax for the first time, the imposition of the tax does not apply to the use or possession, or the right to the use or possession, of a room under a contract executed before the date the imposition of the tax takes effect, unless the contract is subject to change or modification by reason of the imposition of the new tax; and (5) clarify that hotel occupancy tax dollars can be spent on the promotion of tourism by enhancing and upgrading any existing sports facilities or fields in certain cities.

H.B. 1908 (Zerwas) – E-Cigarettes/Tobacco Products: would raise the legal age to purchase e-cigarettes and tobacco products to 21 years. (Companion bill is **S.B. 910** by **Huffman**.)

H.B. 1916 (Elkins) – Animal Shelters: would: (1) require all animal shelters and releasing agencies to prepare and maintain monthly records on the intake and disposition of animals, including: (a) the total number of live animals categorized by species and age; (b) the reason an animal was placed at the shelter or agency, including whether the animal was surrendered, impounded, confiscated, transferred, or born at the shelter; (c) the number of animals on the last day of each month, categorized by species and age; and (d) the disposition of each animal taken in by the shelter or agency, categorized by species and age, including whether the animal was adopted, reclaimed by the owner, died, transferred, euthanized, returned to the field, lost, or stolen; and (2) require a shelter or releasing agency to make the records described in (1) available to the public on their website, if they have one, or in a form regularly-maintained for inspection and copying.

H.B. 1923 (Krause) – Religious Beliefs/Marriage: would provide: (1) that a governmental entity may not take any adverse action against any person based wholly or partly on a person’s belief or action in accordance with the person’s sincerely held religious belief or moral conviction that marriage is or should be recognized as the union of one man and one woman or that sexual relationships are properly reserved to such a marriage; and (2) for various remedies under the bill, including action by the attorney general. (Companion bill is **S.B. 893** by **Hughes**.)

H.B. 1924 (Elkins) – Hotel Occupancy Tax: would: (1) prohibit a state agency from posting on a public Internet website information that identifies the taxable receipts of an individual business that is contained in or derived from a record, report, or other document related to the collection of hotel occupancy taxes; and (2) provide that information described by (1) and that is collected or maintained by a state agency is considered to be public information.

H.B. 1926 (E. Rodriguez) – Cottage Foods: would: (1) define a “home food processor” as someone who makes certain food at home for sale, including cottage food production; (2) provide that home food processors are subject to county or state health laws and rules and inspections, but otherwise exempt from certain provisions applicable to food service establishments; (3) require that home food processors: (a) obtain a state permit; (b) meet packaging and labeling requirements; (c) meet production requirements; and (d) meet recordkeeping requirements; and (4) prohibit a city zoning ordinance from prohibiting the use of a home for home food processor operations, but provide that a person is not limited in the ability to bring a nuisance or tort action against a home food processor.

H.B. 1930 (Frullo) – Financial Accounting and Reporting Requirements: would, among other things, repeal the state law governing financial accounting and reporting standards for the state and political subdivisions of the state. (Companion bill is **S.B. 753** by **Perry**.)

H.B. 1936 (Springer) – Abortion: would provide, among other things, that a governmental entity may not enter into a transaction to give any thing of value to an abortion facility licensed by the state, except for basic governmental services such as police and fire services. (Companion bill is **S.B. 855** by **Campbell**.)

H.B. 1941 (Turner) – Personal Financial Statements: would 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 to: (1) lower the dollar amount of certain information that must be reported by category; (2) provide that the actual face value of a gift of cash or cash equivalent must be reported, regardless of amount; (3) alter the applicable time frame for which certain information must be reported; (4) require the dollar value (rather than number) of certain stock shares be reported; and (5) disclose the date certain financial liability was incurred.

H.B. 1961 (Miller) – Dogs: would: (1) prohibit the owner of a dog from: (a) leaving the dog outside and unattended unless the owner provides continuous access to adequate shelter, shade, and water; and (b) restraining the dog outside and unattended by use of certain restraints; (2) provide for the disposition of certain penalties to go to the city served by the court that collects the penalty; and (3) provide that provisions in the bill do not affect the applicability of a city ordinance or prevent a city from regulating by ordinance the ownership, possession, restraint, confinement, or care of a dog.

H.B. 1984 (Burkett) – Rabies Quarantine: would: (1) require a veterinarian and a local rabies control authority to provide notice to the owner of an animal at the time that the owner submits the animal for rabies quarantine, setting out the date the animal enters into and will be released from quarantine; (2) require a veterinarian and a local rabies control authority to fit each animal in rabies quarantine with a yellow collar that is distinct from the collars of other animals in their care; and (3) prohibit a veterinarian or local rabies control authority from destroying an animal following the final day of rabies quarantine unless the owner is notified of the destruction and provided a reasonable opportunity to take possession of the animal.

H.B. 2004 (C. Anderson) – State Economic Development Fund: would, among other things, allow the Department of Agriculture to use the Texas economic development fund to administer,

continue, implement, or maintain an economic development program established through an agreement with a local governmental entity to encourage rural economic development in this state.

H.B. 2069 (Shaheen) – Civil Action Limitations: would provide that a civil action related to a report of suspicious activity of another person to an appropriate law enforcement authority may not be brought against the person who made the report if the person made the report in good faith with a reasonable belief that the suspicious activity constitutes or is in furtherance of a crime, including an act of terrorism.

H.B. 2073 (E. Johnson) – Newspaper Notice: would: (1) repeal the requirement that an official city newspaper be entered as second-class postal matter; and (2) require a city that publishes certain notices in a newspaper to consider selecting a newspaper that is a minority-owned business if: (a) a substantial percentage of the individuals residing in the area where the notice is to be published are members of minority groups; and (b) a newspaper in the area where the notice is to be published is a minority-owned business and is widely circulated in that area.

H.B. 2107 (Lucio) - Medical Cannabis: would prohibit a city from enacting, adopting, or enforcing a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of medical cannabis.

H.J.R. 73 (Burns) – Unfunded Mandates: would amend the Texas Constitution to provide that a law enacted by the legislature on or after January 1, 2018, that requires a city or county to establish, expand, or modify a duty or activity that requires the expenditure of revenue by the city or county is not effective unless the legislature appropriates or otherwise provides, from a source other than the revenue of the city or county, for the payment or reimbursement of the costs incurred for the biennium by the city or county in complying with the requirement.

S.B. 892 (Perry) – Child Welfare Providers: would provide: (1) that a child welfare service provider is protected from discrimination or any adverse action by an employing city if the child welfare service provider makes decisions based on their religious beliefs that are contrary to any ordinance, rule, order, decision, practice or other exercises of the city; and (2) for various remedies against a city that violates (1). (Companion bill is **H.B. 1805** by **Sanford**.)

S.B. 893 (Krause) – Religious Beliefs/Marriage: this bill is the same as H.B. 1923, above.

S.B. 898 (Bettencourt) – Tree Preservation: would provide that: (1) a landowner owns all trees and timber located on the landowner's land as real property until cut or otherwise removed from the land, unless otherwise provided by a contract, bill of sale, deed, mortgage, deed of trust, or other legally binding document; (2) a governmental entity may not prohibit a landowner from trimming or removing trees or timber located on the landowner's land; and (3) a city may not regulate the trimming or removal of trees or timber in the extraterritorial jurisdiction.

S.B. 902 (Birdwell) – Library Standards: would provide that, in establishing library accreditation standards, the Texas State Library and Archives Commission may not require the governing body of a library that proposes to become a member of a major resource system or

regional library system to satisfy minimum requirements related to: (1) local operating expenditures; (2) collections based on publication dates; (3) hours the library is open to the public; or (4) the number or classification of library employees.

S.B. 910 (Huffman) – E-Cigarettes/Tobacco Products: this bill is the same as **H.B. 1908**, above.

S.B. 936 (Huffman) – Public Retirement Systems: would create a joint interim committee to study and assess each public retirement system of this state and report the findings and recommendations to the lieutenant governor, the speaker of the house, and the governor.

S.B. 947 (Kolkhorst) – Electric Utility Liability: would expand the protection from premises liability for recreational uses to any electric utility that has an agreement with a city to allow individuals on its premises for recreational purposes.

Municipal Courts

H.B. 1866 (Geren) – Restitution: would, among other things, provide for the disposition of certain unclaimed restitution payments to be treated as abandoned property by the comptroller.

H.B. 1884 (Anderson of McLennan) – Littering: would provide that a defendant convicted of certain littering offense shall perform 60 hours of community service picking up litter in the county.

H.B. 1999 (Israel) – Alcohol Offenses: would make minor in possession and minor in consumption of alcohol offenses civil violations, subject to a penalty not to exceed \$500, rather than criminal offenses.

H.B. 2003 (Swanson) – Licensed Carry: would authorize a county or deputy county or district clerk who holds a license to carry a handgun to carry a handgun in any court or offices utilized by a court in the state, including a municipal court.

H.B. 2059 (Phillips) – Expunction: would: (1) add prosecutorial and law enforcement records to the records to be expunged by a court for an alcohol-related offense committed while the defendant was a minor; and (2) allow a person placed under arrest and not convicted for more than one alcohol-related offense while a minor to apply to the court to have the records expunged.

H.B. 2065 (Phillips) – Fines: would require a city to file an annual report with the comptroller detailing the amount of fines retained from the enforcement of commercial motor vehicle standards.

S.B. 941 (Hughes) – Juveniles: would raise the age of criminal responsibility by one year in various statutes. (Companion bill is **H.B. 676** by **Wu**.)

Community and Economic Development

H.B. 1852 (Lucio) – Manufactured Homes: would: (1) prohibit a city from requiring “a change in the nonconforming use” of any portion of land within a manufactured home community if the nonconforming use of land is: (a) authorized by law; or is not authorized by law on September 1, 2017, but the city has taken no action to enforce the violation before September 1, 2017; and (b) at least 50% of the lots are occupied by a manufactured home as a residence; (2) define “a change in the nonconforming use” to include: (a) requiring the amount of land designated as a nonconforming use to be decreased; (b) imposing an expiration on the nonconforming use designation; (c) declaring the nonconforming use of the land to be abandoned; and (d) requiring an amortization period for the nonconforming use of the land; (3) authorize a manufactured home owner to install a new or used manufactured home on a lot in a manufactured home community under certain circumstances; and (4) prohibit a city from regulating a tract or parcel of land as a manufactured home community, park, or subdivision unless the tract or parcel contains at least four spaces offered for lease for installing and occupying manufactured homes.

H.B. 1892 (Ortega) – Substandard Buildings: would require a court to expedite any proceeding, including appeals, related to a substandard building determination.

H.B. 1952 (Schofield) – Annexation: would apply to a city with a population of 1.5 million or more and provide that such a city may annex only if approved by election held in the area to be annexed.

H.B. 2008 (Cosper) – Payday Lending: would require a lender who engages in a payday loan transaction with a member of the United States military or dependent of a member of the United States military to comply with relevant federal laws pertaining to loans for military personnel and their dependents.

H.B. 2019 (T. King) – Manufactured Housing: would make various amendments to the Texas Manufactured Housing Standards Act.

H.B. 2052 (Phelan) – Tree Mitigation Fees: would: (1) require a city that imposes a tree mitigation fee (a fee for tree removal necessary for development or construction on a person’s property) to allow that person to apply for a credit for tree planting to offset the amount of the fee; (2) provide that an application for a tree planting credit be in the form and manner prescribed by the city, and require that the tree must be planted on property located in the city either owned by the person or mutually agreed upon by the city and the person; and (3) require that the amount of a tree planting credit be applied in the same manner as the tree mitigation fee assessed against the person and ,if the amount of the tree mitigation fee is based on the size of tree being removed, the amount of credit must be based on at least 60 percent of the projected size of the planted tree at full maturity. (Companion bill is **S.B. 744** by **Kolkhorst**.)

H.B. 2076 (Schubert) – Eminent Domain: would, in relation to 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. (Companion bill is **S.B. 628** by **Schwertner**.)

H.B. 2090 (VanDeaver) – Eminent Domain: would provide: (1) that a bona fide offer to acquire heritage property (defined as property continuously owned within the same family for 100 or more years) must include a final offer equal to or greater than 150 percent of: (a) the amount of the written appraisal obtained by the entity of the value of the property being acquired; and (b) the damages, if any, to any of the property owner's remaining property; and (2) procedures related to establishing heritage property status and value.

S.B. 871 (Bettencourt) – Annexation: would provide that the qualified voters of a special purpose district annexed for limited purposes under a strategic partnership agreement are entitled to vote in municipal elections for officials.

Personnel

H.B. 1922 (E. Rodriguez) – Survivor's Benefits: would provide, in regard to certain claims and benefits or compensation by survivors of fire fighters, that: (1) the opinion of the individual's employer on whether the individual's death resulted from a personal injury sustained in the line of duty may not be considered; (2) any reasonable doubt arising from the circumstances of the individual's death shall be resolved in favor of payment when the person died as a result of an illness sustained in the line of duty and any scientific evidence is presented that establishes: (a) the incidence rate for the illness is significantly higher among persons performing the same job; or (b) a causal link between the illness and a hazardous condition encountered in the individual's job; and (3) deference shall be given to the medical opinion of a treating physician in favor of payment when there is any reasonable doubt regarding the circumstances of the individual's death as a result of a newly discovered or rare illness sustained in the line of duty.

H.B. 1925 (E. Rodriguez) – Employer Retaliation: would: (1) prohibit an employer from suspending or terminating an employee who in good faith seeks to recover wages owed to the employee; and (2) provide for damages for a violation in an amount equal to the greater of \$1,000 or the amount of the wages owed to the employee.

H.B. 1958 (Springer) – Volunteer Firefighters: would provide that a state agency may not require a volunteer firefighter or an industrial emergency response team member to obtain a license or certification in order to be a volunteer firefighter or an industrial emergency response team member, but may require them to possess certain credentials, as determined by the agency, to participate in disaster response or deployment requested by the Texas A&M Forest Services, Department of Public Safety or Texas Division of Emergency Management.

H.B. 1973 (Blanco) – Veterans: would require the Texas Workforce Commission (commission) to establish a program to expedite the entry of veterans and military service members into the workforce and, among other things, authorize the commission to award grants to local entities that perform related activities.

H.B. 1981 (E. Johnson): Criminal History Record Information: would provide, among other things, that:

1. A state agency or local government may not include a question regarding an applicant's criminal history record information (CHRI) on an initial employment application form;
2. A state agency or local government may inquire into or consider an applicant's CHRI after the state agency or local government has determined that the applicant is otherwise qualified and has conditionally offered the applicant employment;
3. A state agency or local government may not disqualify an applicant from employment because of a prior criminal conviction unless: (a) the criminal conviction directly related to the employment position; or (b) other law prohibit the applicant from employment because of the type of criminal conviction;
4. A state agency or local government may not consider CHRI or disqualify an applicant based on: (a) an arrest that is not followed by an indictment; (b) a conviction that has been sealed, dismissed, or expunged; or (c) a Class C misdemeanor or other misdemeanor punishable by fine only;
5. if a state agency or local government decides to deny employment to an applicant because of CHRI, the state agency and local government shall provide a notice of intent to deny employment that must: (a) identify the criminal conviction that is the basis for the potential denial or disqualification; (b) provide a copy of the applicant's CHRI; and (c) provide examples of evidence to mitigate or rehabilitate the applicant;
6. the applicant has 10 days after receiving the notice of intent to deny employment to provide evidence to mitigate or rehabilitate himself for the position;
7. after considering the mitigating or rehabilitating evidence provided by the applicant, the state agency or local government that denies employment shall notify the applicant in writing and include: (a) final denial or disqualification; (b) appeals process established by the Texas Workforce Commission (TWC); (c) potential eligibility for other employment; and (d) the earliest date on which the applicant may reapply for employment;
8. when hiring a contractor, the state agency or local government shall require: (a) the contractor to certify in writing that the contractor's consideration of CHRI in hiring satisfies the requirement of the bill, (b) review the contractor's policies for consideration of CHRI for consistency with the requirements of the chapter and (c) use the contractor's policy in CHRI in hiring as criteria to award the contract;
9. an applicant aggrieved by a state agency or local government because of a violation of the bill may file a compliant with TWC;
10. TWC shall conduct periodic review of state agencies and local governments to assess compliance and report quarterly on complaints, investigations, and reviews; and
11. the bill does not apply to applicants for positions that involve provisions of service to or care of children, direct interaction with children, or for which CHRI is required by law.

H.B. 1983 (Wray) – Workers’ Compensation: would provide that post-traumatic stress disorder suffered by a firefighter or peace officer is a compensable workers compensation eligible injury if: (1) the disorder is caused by events occurring in the course and scope of the firefighter or peace officer’s employment; and (2) the preponderance of the evidence indicates that the firefighter or peace officer’s work was a substantial contributing factor of the disorder.

H.B. 2054 (Oliveira) – Workers’ Compensation: would provide that death benefits paid under the workers’ compensation system be adjusted each calendar year to equal the percentage increase, if any, in the Consumer Price Index for Urban Wage Earners and Clerical Workers.

H.B. 2055 (Oliveira) – Workers’ Compensation: would provide that an eligible spouse is entitled to receive workers’ compensation death benefits for life, regardless of whether the spouse remarries.

H.B. 2057 (Oliveira) – Workers’ Compensation: would provide that a political subdivision that self-insures either individually or collectively is liable for attorney’s fees under the Workers’ Compensation Act and governmental immunity is waived for that purpose. (Companion bill is **S.B. 877** by **Hancock**.)

H.B. 2061 (Oliveira) – Workers’ Compensation: would, in relation to workers’ compensation cases, require: (1) a party seeking judicial review to provide a copy of the petition to the workers’ compensation division simultaneously with filing the petition with the court and serving the opposing party, and provide that a party is prohibited from seeking judicial review if they fail to provide the division a copy of the petition; and (2) a party who initiates a workers’ compensation case to file any proposed agreed judgment with the division, and require that the terms of any proposed settlement or proposed agreed judgment be fully described to the division either in the proposal or a separate document. (Companion bill is **S.B. 876** by **Hancock**.)

H.B. 2082 (Burrows) – Workers’ Compensation: would require: (1) the Office of Inured Employee Counsel (office) to designate an employee to act as a first responder liaison to assist injured first responders during a workers’ compensation administrative dispute resolution process; and (2) an employer that employs first responders or supervises volunteer first responders to notify them of the liaison described in (1) in the manner prescribed by the office.

H.B. 2119 (Kacal) – Death Benefits: would provide that eligibility for lifetime death benefits for the remarried spouse of a first responder killed in the line of duty applies regardless of the date on which the death of the first responder occurred or the spouse remarried.

S.B. 876 (Hancock) – Workers’ Compensation: this bill is the same as **H.B. 2061**, above.

S.B. 877 (Hancock) – Workers Compensation: this bill is the same as **H.B. 2057**, above.

Public Safety

H.B. 603 (J. Johnson) – Physical Fitness Standards: would: (1) require the Texas Commission on Law Enforcement (TCOLE) to adopt a physical fitness test that has standards that are equivalent to the standards adopted by the Department of Public Safety; (2) prohibit TCOLE from issuing a peace officer license, unless the person is examined by a fitness examiner who declares in writing that the person has successfully passed the physical fitness test in (1); (3) require TCOLE: (a) to adopt rules requiring that peace officers take a physical fitness test at regular intervals (with certain exceptions); (b) to adopt rules requiring timely and accurate reporting of physical fitness test results by agencies and licensees; and (c) to suspend the license of a peace officer who fails to comply with these rules; and (4) exempt a peace officer licensed before September 1, 2017, from complying with the requirements in (3).

H.B. 1824 (Shaheen) – Warrants: would provide that a law enforcement agency shall execute, as soon as practicable, a warrant that is directed to the agency and issued for the return of a release in the super-intensive supervision program based on a violation of a condition of parole or mandatory supervision related to the electronic monitoring of the release.

H.B. 1827 (Hinojosa) – Firearms: would provide that a person commits a Class A misdemeanor if he, while intoxicated, carries a firearm in a public place. (Note: Peace officers are exempt from the prohibition.)

H.B. 1855 (Johnson) – Immigration: would provide that: (1) in the course of investigating an alleged criminal offense, a peace officer may inquire as to the nationality or immigration status of a victim of or witness to the offense only if the officer determines that the inquiry is necessary to: (a) investigate the offense; or (b) provide the victim or witness with information about federal visas designed to protect individuals providing assistance to law enforcement; and (2) the bill does not prevent a peace officer from: (a) conducting a separate investigation of any other alleged criminal offense; or (b) inquiring as to the nationality or immigration status of a victim of or witness to a criminal offense if the officer has probable cause to believe that the victim or witness has engaged in specific conduct constituting a separate criminal offense. (Companion bill is **S.B. 169** by **Rodriguez**.)

H.B. 1864 (S. Thompson) – Traffic Stops: would provide that: (1) the Texas Education Commission by rule shall require that information relating to law enforcement procedures for traffic stops be included in the curriculum of each driver education course and driving safety course; and (2) as part of the minimum curriculum requirements for law enforcement officers, the Texas Commission on Law Enforcement shall establish a statewide education and training program on proper procedures for traffic stops, including information regarding the appropriate use of force, for officers.

H.B. 1911 (White) – Unlicensed Carry: would appear to authorize a person who would be eligible to obtain a license to carry a handgun to do so without a license.

H.B. 1914 (Cain) – Licensed Carry: would provide that: (1) a peace officer charging a license holder with a the offense of trespass by license holder, instead of taking the license holder before a magistrate, shall issue to the license holder a written citation and notice to appear that contains the time and place the license holder must appear before a magistrate, the name and address of

the license holder, and the offense charged; and (2) if the license holder makes a written promise to appear before the magistrate by signing in duplicate the citation and notice to appear issued by the officer, the officer shall release the license holder and may not seize a handgun possessed by the license holder unless the seizure is authorized under other law.

H.B. 1915 (Cain) – Firearms: would prohibit the possession of any weapon, including a handgun by a license holder, on any grounds or building owned by and under the control of a school or educational institution.

H.B. 1919 (Raymond) – Offense Against Peace Officers: would, among other things: (1) require a judge to make an affirmative finding of fact and enter it into the judgment if, at the guilt or innocent phase of the trial, the trier of fact determines beyond a reasonable doubt that the defendant intentionally selected the person against who the offense is committed because of the person’s service as a peace officer, firefighter, or emergency medical services personnel; (2) provide how a finding described in (1) impacts the punishment; (3) make confidential the home address, home telephone number, emergency contact information, social security number, and certain family information of a current or former peace officer, firefighter, or emergency medical services personnel; (4) make certain personal information of current or former peace officers, firefighters, or emergency medical personnel confidential when the individual has elected to keep the information confidential; and (5) make home address information of current or former firefighters or emergency medical services personnel in appraisal records confidential if the individuals has elected to keep the information confidential.

H.B. 1935 (Frullo) – Illegal Knives: would eliminate the offense of carrying an “illegal knife.”

H.B. 1966 (Paul) – Licensed Carry: would provide, among other things, that – unless possession of a handgun on a landlord’s property is prohibited by state or federal law – a landlord may not prohibit a tenant or a tenant’s guest (who holds a license to carry) from carrying a concealed handgun on the leased premises of a multifamily property as necessary to enter the tenant’s dwelling unit, to exit the leased premises, or to enter a vehicle on the leased premises.

H.B. 1969 (Neave) – City Marshals: would provide that: (1) a city may establish a marshal reserve force to be appointed by the city marshal; and (2) a reserve deputy marshal is considered a peace officer.

H.B. 1972 (Giddings) – School Districts: would, among other things, require a school district peace officer or a school resource officer who provides law enforcement at a school district with an enrollment of 5,000 or more students to complete certain education and training not later than 180 days after the officer’s commission by or placement in the district or campus.

H.B. 1988 (Larson) – Motorboats: would provide that a motorboat operator may not operate a motorboat less than 26 feet in length and equipped by the manufacturer with an engine cutoff switch without first verifying that the switch and other mechanisms are operational and fully functional.

H.B. 2006 (Anchia) – HIV Testing: would provide, among other things, that: (1) if a health care provider (presumably including emergency medical services personnel) determines that a person is at a high risk for contracting HIV infection, the provider may not reveal a negative test result to the person tested without giving that person the immediate opportunity for individual, face-to-face, post-test counseling and written information from a readily available source on various HIV information; and (2) a person who is injured by an intentional violation of (1) may bring a civil action for damages and may recover actual damages and attorney’s fees for each violation.

H.B. 2030 (Dutton) – Offense Report: would provide that an offense report prepared in the investigation of a criminal case must be signed by each peace officer who contributed to the report.

H.B. 2032 (Gervin-Hawkins) – Public Transit: would increase the criminal penalty for certain offenses committed on the premises of a public transportation system.

H.B. 2044 (S. Thompson) – Police Officers: would make various changes concerning peace officers, racial profiling, use of force, equipment, and disciplinary procedures, including the following:

1. require that a law enforcement agency include as part of its racial profiling policy the collection of information relating to any contraband or other evidence discovered in the course of a search conducted as part of a vehicle stop in which a citation is issued or an arrest is made;
2. require a law enforcement agency to include in its annual incident-based data report information about whether contraband or other evidence was discovered in the course of a search;
3. require that certain funds given to a law enforcement agency through the Texas Department of Public Safety (DPS) for audio and video equipment only be used to install video camera and transmitter-activated equipment in police vehicles and motorcycles regularly used to make motor vehicle stops, and require that a law enforcement agency certify to DPS that it is using the equipment during each motor vehicle stop that is capable of being recorded;
4. provide when a peace officer or a person acting in a peace officer’s presence and at the officer’s direction is justified in using nonlethal force;
5. provide that a peace officer is justified in using deadly force if the officer reasonably believes that the person for whom arrest is authorized poses an imminent threat of death or serious bodily injury, and the officer first attempts to use nonlethal force to make the arrest or prevent the person’s escape, unless the officer reasonably believes that nonlethal force is insufficient to mitigate the threat;
6. provide that a person acting in an officer’s presence and at the officer’s direction is justified in using deadly force if the actor reasonably believes that the person for whom arrest is authorized poses an imminent threat of death or serious bodily injury, and the actor first attempts to use nonlethal force to make or assist in making the arrest or to prevent or assist in preventing the person’s escape, unless the actor reasonably believes that nonlethal force is insufficient to mitigate the threat;

7. provide that a meet and confer agreement may not conflict with and does not supersede a statute, ordinance, order, civil service provision, or rule concerning the disciplinary actions that may be imposed on a police officer, and require that such an agreement implement a progressive disciplinary matrix;
8. make various changes in civil service cities (civil service cities should carefully review the bill's provisions), including the following:
 - (a) require a civil service commission to adopt rules that prescribe disciplinary actions that may be taken against a police officer under a progressive disciplinary matrix;
 - (b) in regard to an appeal by a police officer to the civil service commission for an incident that involves an individual who is a member of the public, require: (i) the name and address of the individual be included in the appeal; (ii) the commission to give the individual notice of the hearing and information about their right to attend and provide evidence to the commission; and (iii) give the individual the right to request the commission to subpoena information and witnesses pertinent to the case;
 - (c) prohibit a civil service commission from opening a promotional exam to a police officer who has sustained an excessive force complaint during a certain time period, and require that points be deducted from such an exam grade if the officer was the subject of disciplinary action within a certain time;
 - (d) provide that the head of the police department may suspend an officer for a violation of a civil service rule for a reasonable period not to exceed 30 calendar days or for an indefinite period (i.e., dismissal);
 - (e) provide the procedures that must be used in regard to a suspension described in (d), including how the suspension is communicated to the civil service commission and the officer and how a police officer may appeal the suspension;
 - (f) require a civil service commission, before refusing to grant a request for demotion of a police officer, to obtain from the department the contact information for any person involved in any incident related to the demotion recommendation, and notify any such person that they may request a public hearing and present reasons why the commission should grant the request;
 - (g) require a hearing examiner to presume a disciplinary action applied to a police officer under a progressive disciplinary matrix is reasonable unless the facts indicate that the department inappropriately applied a category of offense to the particular violation; and
 - (h) authorize a police department head to bring a charge against a police officer for a violation of civil service rules within 60 days after the date of final disposition of a criminal indictment or complaint;
9. require that the department head in a civil service city forward a document that relates to disciplinary action against a police officer for inclusion in the officer's personnel file (not the "(g) file"), and require that a record of a supervisory intervention procedure or inquiry be maintained in the same file;
10. provide that in a city with a population of 460,000 or more that operates under a city manager form of government an agreement affecting police officers may not conflict with and does not supersede a statute, order, ordinance, or rule concerning the disciplinary

actions that may be imposed on a police officer and that an agreement must implement a progressive disciplinary matrix; and

11. provide that in a city with a population of 1.5 million or more that has not adopted Chapter 174, an agreement may not conflict with and does not supersede an ordinance, order, statute, or rule concerning the disciplinary actions that may be imposed on a police officer and that an agreement must implement a progressive disciplinary matrix;
12. provide that The Fire and Police Employee Relations Act does not authorize the adoption or implementation of an agreement that conflicts with an ordinance, order, statute, or rule concerning the disciplinary actions that may be imposed on a police officer, and that an agreement adopted under the Act must implement a progressive disciplinary matrix; and
13. require the Bill Blackwood Law Enforcement Management Institute of Texas to develop a model progressive disciplinary matrix and associated training materials, and disseminate the model and materials to all law enforcement agencies and civil service commissions by January 1, 2018.

H.B. 2068 (Phillips) – Driver Responsibility Program/Traffic Fines: would, among other things: (1) repeal the driver responsibility program; (2) increase the state traffic fine imposed on moving violations from \$30 to \$60; (3) reduce from 5 to 2.5 percent the administrative portion a city may retain to administer the remission of the fine to the comptroller; (3) reallocate the state traffic fine allocation to give 58.5 percent to the state’s general fund (with certain “overflow” funds continuing to go to the Texas Mobility Fund) and 41.5 to the state’s designated trauma facility and emergency services account; (4) impose additional fines on driving while intoxicated and similar offenses, ranging from \$1,000 - \$2,000 per year; (5) increase the fine for driving without insurance to \$250 per year; and (6) provide that a city shall remit the fines in (4) and (5) to the comptroller each quarter for deposit into the trauma facility and emergency services account, and may retain 2.5 percent for administrative costs.

H.B. 2200 (Hinojosa) – Possession of Marihuana: would provide an affirmative defense to prosecution for a person who: (1) possesses marihuana if it was prescribed by a physician; or (2) is the primary caregiver of the patient prescribed marihuana. The bill would also prohibit a law enforcement agency from initiating an administrative, civil, or criminal investigation into a physician licensed to practice medicine in Texas if the physician discussed marihuana as a treatment option with a patient or discussed the potential benefits of marihuana.

S.B. 883 (Perry) – Life-Sustaining Treatment: would: (1) require a health care facility or treating physician to disclose in writing any policy they have relating to the provision of life-sustaining treatment to a patient; (2) prohibit a health care facility or treating physician from withholding, withdrawing, or restricting life-sustaining treatment to a minor patient unless: (a) authorized by an advanced directive or certain DNR orders; and (b) the facility or physician has complied with any request of the minor patient’s parent, guardian, or managing conservator to get another medical opinion or transfer the patient to another facility; (3) except a physician or facility from the prohibition in (2) if, after a reasonably diligent effort, the facility is unable to locate the parent, guardian or conservator within 72 hours of determining the treatment to be medically inappropriate; and (4) provide that the desire of a competent minor patient to receive life-sustaining treatment supersedes of the effect of an authorization described in (2) or a determination made by a physician/facility as described in (3).

S.B. 901 (West) – Drones: would: (1) with certain exceptions, provide that a person commits an offense if the person intentionally operates an unmanned aircraft near a correctional facility; and (2) provide an exemption from the various places that drones are prohibited under current law for a drone that is being used for a commercial purpose, if the operator is authorized by the Federal Aviation Administration to conduct operations over that airspace.

S.B. 908 (Creighton) - Medical Supply Transport Vehicles: would provide that: (1) a vehicle used by a medical supply distributor to transport prescription drugs and other medical supplies to an emergency care facility or pharmacy located in an area declared a disaster area by the governor may have access to highways, streets, and bridges as if the transport vehicle were an emergency vehicle if: (a) law enforcement officials in the disaster area can provide adequate security to prevent theft; (b) the weight of the transport vehicle will not jeopardize the structural integrity or any highway, street, or bridge located in the disaster area; and (c) the transport vehicle will not negatively impact evacuation activities; and (2) the Texas Division of Emergency Management shall establish procedures to assist medical supply distributors in accessing highways, streets or bridges and provide distributors with documentation specifying the distributors' access to highways, streets, and bridges. (Companion bill is **H.B. 1816** by **Metcalf**.)

Transportation

H.B. 1956 (Springer) – Off-Highway Vehicles: would: (1) make laws currently applicable to “all-terrain” vehicles applicable to “off-highway” vehicles, including a law that allows a peace officer to operate the vehicle on a public street under certain circumstances; (2) define “off-highway” vehicle to mean an all-terrain vehicle, recreational off-highway vehicle, or a utility vehicle; and (3) define “utility vehicle” to mean a vehicle that is not a golf cart or lawn mower and is: (a) equipped with side-by-side seating; (b) has four tires; (c) is designed for off-highway use only; and (d) is designed primarily for utility work and not for recreational purposes.

Utilities and Environment

H.B. 1837 (Springer) – Outdoor Burning: would allow the commissioners court of a county to require a person to notify a city, as specified by the commissioners court, before starting an outdoor fire in the county.

H.B. 1863 (Lucio) – Pollution Control: would: (1) limit the disbursement of state water pollution control funds to projects eligible for assistance under Section 603(c) of the Federal Water Pollution Control Act; and (2) extend the term of the loan from 20 years to the lesser of 30 years or the projected useful life of the project. (Companion bill is **S.B. 866** by **Perry**.)

H.B. 1874 (R. Anderson) – Battery Recycling Program: would require a producer of covered batteries to implement a stewardship program providing for the collection of covered batteries.

H.B. 1946 (Parker) – Water Districts: would provide that certain contracts or leases submitted to the attorney general by certain water districts are incontestable.

H.B. 1964 (Murphy) – Master Water Meters: would make various changes to the authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for submetered and nonsubmetered master metered water and wastewater services.

H.B. 1979 (Landgraf) – Emissions Reduction: would, among other things, establish a governmental alternative fuel fleet grant program to assist cities in purchasing or leasing new motor vehicles that operate primarily on an alternative fuel. (Companion bill is **S.B. 26** by **Estes**.)

H.B. 2005 (Larson) – Aquifer Storage and Recovery: would require the Texas Water Development Board to work with potential sponsors of aquifer storage and recovery projects identified in the state water plan to conduct a study and prepare a report of the most favorable areas for aquifer storage and recovery to be submitted to the governor, lieutenant governor, and speaker of the house.

H.B. 2046 (Walle) – Solid Waste Disposal Fee: would increase the amount of the solid waste disposal fee and the allocation of revenue from the fee.

H.B. 2086 (Walle) – TCEQ Standard Permits: would provide that a plot plan is required on an application for the issuance of a standard permit for air quality through the Texas Commission on Environmental Quality.

H.B. 2092 (Morrison) – Grease Trap Waste: would prohibit the Texas Commission on Environmental Quality from issuing a permit, registration, or other authorization for land application of grit or grease trap waste. (Note: this would not apply to a permit issue to an entity for the disposal of grit or grease trap waste at a municipal solid waste Type V facility.) (This bill is similar to **S.B. 746** by **Kolkhorst**.)

H.B. 2114 (Perez) – Bill Payment Assistance: would allow the Public Utility Commission to use information from the Health and Human Services Commission on persons who receive medical or nutritional assistance to assist a city-owned utility in providing bill payment assistance to customers.

S.B. 862 (Perry) – Groundwater Conservation District: would allow a prevailing party, in a suit in which a groundwater conservation district is a party, to seek attorney's fees.

S.B. 866 (Perry) – Pollution Control: would: (1) limit the disbursement of state water pollution control funds to projects eligible for assistance under Section 603(c) of the Federal Water Pollution Control Act; and (2) extend the term of the loan from 20 years to the lesser of 30 years or the projected useful life of the project. (Companion bill is **H.B. 1863** by **Lucio**.)

S.B. 873 (Creighton) – Master Water Meters: this bill is the same as **H.B. 1964**, above.

S.B. 939 (Bettencourt) – Environmental Rules: would: (1) require the Texas Commission on Environmental Quality to conduct a regulatory analysis that identifies the costs and environmental effects expected to result from implementation of and compliance with the rule; and (2) require TCEQ to incorporate a draft impact analysis describing the anticipated effects of the proposed rule into the fiscal note.

S.B. 960 (Nichols) – Outdoor Burning: would require the Texas Commission on Environmental Quality to authorize a certified and insured prescribed burn manager to direct a prescribed burn of waste. (Companion bill is **H.B. 1672** by **Ashby**.)

TML member cities may use the material herein for any purpose. No other person or entity may reproduce, duplicate, or distribute any part of this document without the written authorization of the Texas Municipal League.