



# Legislative UPDATE

February 6, 2015  
Number 6

## **What Happened to School Property Tax Relief?**

It was probably a matter of time. Just as state leaders have begun to talk about possible school property tax relief this legislative session, business interest groups are complaining that other local governments – such as cities and counties – will “gobble up the savings” through tax increases of their own. That’s what they said we did in response to the 2006 school property tax buy-down that replaced some school taxes with a new business franchise tax.

What actually happened to city tax rates after the 2006 school finance reforms? Nothing. Statewide, the average city property tax rate in October 2005 was \$0.4863/\$100. In October 2006, the first city levy after the school tax reform, the average rate went up microscopically to \$.4865/\$100. A year later, the average city tax rate went down slightly to \$.4858/\$100.

In other words, cities took no notice whatsoever of school tax reform when setting their rates. The real answer to what happened to the school tax reform is neatly provided by the chart below.



The chart shows total property tax levy by local government type in the years before and after the 2006 reforms. As you can see, school property taxes dwarfed city and county property taxes, and school collections increased steadily even after the 2006 school finance “reforms.” In fact, in the first tax year after the 2006 reforms kicked in, the school levy jumped back ahead of where it had been two years before. In the past two years, the school levy has shot up dramatically.

Here’s the takeaway: City and county taxes didn’t chew up the school tax cut; *school taxes chewed up the school tax cut.*

And it’s even unfair to lay the blame at the feet of schools. Most schools tax what they do because the state forces them to. School property taxes are, in essence, the state’s property tax, and it’s been the state’s property tax that’s driven the so-called property tax crisis.

School tax relief may or may not advance this session. But in no case should it be said that cities are part of the property tax problem.

## **The Good (And Some Not So Good) News in the State Budget**

The Texas House and Senate have released their proposed budgets, which will serve as a starting point for negotiations throughout the session. As filed, both budgets contain some good news for

cities, including more money from mixed beverage tax reimbursements, local parks grants, and aid to local libraries.

Both H.B. 1 and S.B. 2 contain an additional \$101 million in mixed beverage tax reimbursements to aid local law enforcement in curtailing drunk driving and other alcohol related offenses. (The legislature appropriated \$307 million for the current biennium and both H.B. 1 and S.B. 2 propose \$408 million for the 2016-2017 biennium.)

The legislature appropriated approximately \$16 million for local parks grants for the current biennium. Although H.B. 1 would hold the line on local parks grants with the same appropriation, S.B. 2 would appropriate almost \$59 million.

Local libraries would also see a slight increase in state funding as both bills would appropriate \$800,000 more in local library aid than was appropriated in the current biennium.

However, as in biennia past, certain state agencies are required to raise revenue over and above the amount needed to run the agency. For example, S.B. 2 requires the Texas Commission on Fire Protection to raise an additional \$3 million over the cost of running the agency to be transferred to the state's general revenue fund. The House budget writers took a step towards stopping the "hidden tax on firefighters," so H.B. 1 takes that "revenue rider" out. Similarly, the Department of State Health Services (DSHS), on a recommendation by the Sunset Commission, will likely issue temporary surcharges on licensees (including those for city code enforcement officers and sanitarians) to cover a \$1.6 million shortfall from the discontinuation of regulatory programs within DSHS.

The appropriations process is ever-changing and nothing is final until the budget passes the legislature, usually during the final days of the legislative session. City officials who support the funding levels found in H.B. 1 and S.B. 2, or who oppose the trend of increasing fees on cities to fund state operations, should contact members of the House Appropriations and Senate Finance Committees.

## **Senate Finance Committee Discusses State and Local Debt**

This week, the Senate Finance Committee heard testimony from the Legislative Budget Board and Texas Bond Review Board regarding both state and local debt. During the hearing, Senator Kirk Watson (D – Austin) highlighted a reality that exists in the state today. The responsibility for the infrastructure needs of the state's rapidly growing population has been passed from the state to cities and other local governments. It is local governments, rather than the state, that are expected to step up to the plate and build the roads, water systems, sewer systems, drainage systems, schools, police and fire stations, and all the other basic facilities that make Texas succeed. Click [here](#) to watch a one minute video of Senator Watson's comments.

## **Speaker Announces House Committee Assignments**

Last Wednesday, Speaker of the House Joe Straus released the Texas House of Representatives Committee assignments for the 2015 session. For a full list, click [here](#).

## **TML Names Legislator of the Month for January**

Representative Lyle Larson is the TML Legislator of the Month for January 2015. Representative Larson represents House District 122, which includes San Antonio, Fair Oaks Ranch, Shavano Park, and Hill Country Village.

First elected in 1991, Representative Larson served on the San Antonio City Council for two terms and as a Bexar County Commissioner from 1997-2008. In 2010, Representative Larson was elected to the Texas House and has served on the House Committee on Natural Resources, where he has been a tireless advocate for securing our state's future water needs.



This session, Representative Larson has filed H.B. 814, which would allow a city to post notice of a meeting on the internet in lieu of the newspaper. The passage of H.B. 814 would save millions of taxpayer dollars and result in increased transparency.

We hope city leaders across Texas, and particularly those in Representative Larson's district, will express their appreciation to this outstanding leader.

## **More Interim Legislative Reports Released**

Legislative committees are given items to study during the interim, and each committee then reports its recommendations on those items. Previous editions of the *Legislative Update* summarized several reports that had been released. Additional city-related committees have issued reports, and the following is a brief summary of those reports. More reports will be issued in the coming weeks, and will be summarized as well.

### **House Committee on Homeland Security and Public Safety**

*Charge (Emergency Management Generally):* Assess the level of preparedness among critical infrastructure entities, state and local emergency planning organizations, first response efforts, and overall coordination of jurisdictions across the state. Include a review of the state's role in preparing, resourcing, and coordinating with local emergency response, specifically in rural areas or areas that depend largely on volunteer response efforts.

*Recommendations:* Seek additional funding for emergency management planning and preparedness, especially for rural areas, and work with the Texas Agricultural Extension to provide additional training for volunteer fire fighters.

*Charge (City of West Fertilizer Plant Explosion):* Investigate the fatal explosion in West, Texas, in April 2013, for deficiencies in safety, risk management, and disaster planning by chemical facilities and state entities. Determine if any changes should be made to existing laws and rules relating to inspection, investigation, and enforcement, and make specific recommendations on how to reduce likelihood for damage, injury, or death.

*Recommendations:* The committee had many recommendations related to how to improve local emergency management planning and response. These included: (1) moving fertilizer reporting from the Department of State Health Services to the Texas Commission on Environmental Quality; (2) allowing the state fire marshal's office as well as local fire authorities access to fertilizer storage facilities for safety inspections; (3) providing additional support to local emergency planning committees; (4) allowing both paid and volunteer fire chiefs to have reporting and inspection authority related to fertilizer facilities; and (5) requesting additional funding for volunteer fire fighter training. The chairman of this committee, Representative Joe Pickett, has already filed legislation reflective of these recommendations in the form of H.B. 417.

### **House Committee on Natural Resources**

*Charge:* Evaluate the availability, management, and development of groundwater in the state. Consider the economic, environmental, and social impacts of groundwater usage and production in the agricultural, municipal, and energy sectors. In particular, examine methods to facilitate further development of brackish groundwater resources and to improve the consistency and certainty of permitting by groundwater districts without undercutting reasonable regional and local regulation of groundwater.

*Recommendations:*

- The legislature should encourage groundwater conservation districts to maximize permitting of groundwater resources, whether for in-district or out-of-district purposes.
- The legislature should avoid any legislative changes this session that would require groundwater districts to operate under "statewide" uniform substantive rules. Continue to support local control of the groundwater resource within regional efforts.
- The legislature should support collaborative efforts among the groundwater community to find a reasonable legislative solution to long-term permitting and automatic renewal processes that allow permittees certainty in creating water projects while simultaneously allowing districts the ability to monitor and manage groundwater resources.
- The legislature should encourage further regulatory streamlining for the permitting of brackish groundwater from regulation based solely on total dissolved solid (TDS) levels, and focus instead on finding ways to incentivize use of brackish water that would reduce the pressures on fresh groundwater use while also meeting the state's growing water needs.
- The legislature should support collaborative efforts amount the groundwater community to create rules and procedures for the expansion of ASR facilities across the state.

*Charge:* Examine strategies to enhance the use of aquifer storage and recovery (ASR) projects, including a review of existing ASR facilities in Texas and elsewhere.

*Recommendations:*

- The legislature should consider streamlining state statutory regulations to incentivize the implementation of aquifer storage and recovery projects in the state, where feasible.
- The legislature should develop a mechanism for the clear determination of the reasonable ownership rights of water stored in aquifer storage projects, considering adequate, necessary buffer zones and existing ownership rights.
- The legislature should continue to monitor and evaluate the science of aquifer storage and recovery technologies across the state and globally.

### **The House Committee on Criminal Jurisprudence**

*Charge:* Study the classification of 17-year-olds as adults in the criminal justice system of Texas.

*Recommendations:*

- The legislature should raise the age of criminal responsibility from 17 to 18 for all offenses if appropriate funding to support the change in law is provided.
- The legislature should provide a minimum of one year for a transition period before the age raise goes into effect.

*Charge:* Study the impact of S.B. 1289 from last session relating to business entities engaged in the publication of mug shots. Examine the sale of criminal histories that may be erroneous as well as the lasting impact that arrest records have on individuals who are arrested but not charged or convicted. Assess the need for revision of existing statute and consider designating an agency responsible for regulating entities involved in the industry.

*Recommendation:* The legislature should require all government agencies to provide easily accessible information to the public revealing who the agencies have sold criminal records to in bulk.

*Charge:* Examine the current pecuniary loss thresholds associated with graffiti offenses. Study the costs of enhancing the penalties associated with the offense of graffiti, as well as a study of pretrial diversion programs that exist in other states and are specific to persons convicted of graffiti offenses. Study the existing Graffiti Abatement Programs in Texas.

*Recommendations:*

- The legislature should support legislation that would expand the number of graffiti abatement programs across the state.
- The legislature should adjust graffiti offense thresholds to reflect inflation. (Note: The committee stated that stakeholders supported the idea of a Class C misdemeanor with a fine amount of \$200-\$250.)

### **Senate State Affairs Committee**

*Charge:* Examine possible measures to protect the personal privacy of Texas residents from governmental and commercial surveillance, including: (1) any necessary limits on warrantless search and seizure of data from electronic devices and wireless providers, including digital content and geolocation data; (2) any necessary protections against non-consented video and audio recordings collected by private handheld and wearable mobile devices and other private surveillance; and (3) any necessary limits on warrantless monitoring of the physical location of

individuals through the use of biometrics, RFID chips, facial recognition, or other technologies. Examine related measures proposed or passed in other states

*Recommendations:* There are no further necessary limits on the warrantless search or seizure of digital data because the search or seizure of that type of information now requires a warrant pursuant to federal or state law. Necessary limits, however, may need to be placed on the warrantless search of geolocational data, especially historic cell-site location-data. In deciding and determining what, if any, limits are necessary, the legislature must continue to balance the needs of Texas law enforcement and the reasonable privacy expectations of Texans.

There are numerous provisions in Texas law that protect against non-consented audio and video recordings, whether or not collected by private handheld and wearable mobile devices or not. However, if the legislature decides to establish additional protections, it must balance the interest of technological innovation that, among other applications, may ease the capture of nonconsent recordings with the need to protect Texans' reasonable expectations of privacy.

Lastly, the legislature should continue to monitor government use of biometrics, radio frequency identification, and facial recognition to track the physical location of individuals and, if necessary, find a balance that preserves a reasonable expectation of privacy and the appropriate use of those technologies.

*Charge:* Review the types and scope of personal data collected by governmental and commercial entities and consider methods to minimize the government's collection of data on its citizens. The study should include whether sufficient protections exist for DNA samples and information, including whether there should be a prohibition on the creation of DNA databases, except for felons and sex offenders.

*Recommendation:* Texas law currently protects DNA samples and information by limiting who is required to submit a sample, the purposes for which the sample may be used, and the laboratories in which the samples can be processed. The legislature should continue to monitor this issue to determine whether these protections are sufficient and work with stakeholders to decide if the expansion of compulsory DNA collection is necessary.

*Charge:* Examine possible reforms designed to increase citizens' ability to know what data is being collected about them by governmental and commercial entities and with whom that data is being shared, including an analysis of consumer informed consent. Examine related measures proposed or passed in other states.

*Recommendation:* Based on prior legislative measures both federally and in different states, there are several possible ways to reform Texas law to increase a citizen's ability to know what data is being collected about them by governmental and commercial entities. The Legislature should consider some or all of the following proposals:

1. Make state agencies, before selling database information, acquire the consent of any individual whose data is to be released;

2. Require companies and state agencies to give users access to the personal data the agency or company has stored on them – as well as a list of all the other companies with whom that original company or agency has shared the users' personal data – when a user requests it; and
3. Prohibit data resale and anonymous purchasing by third parties.

### **Senate Transportation Committee**

*Charge:* Evaluate Texas Department of Transportation and metropolitan planning organization progress in reducing congestion on the 100 most congested roadway segments and make recommendations to advance the development of the remaining congestion relief projects.

*Conclusion:* With the expected growth in Texas' population and funding challenges for many of the traditional solutions in Texas' large metropolitan regions, congestion will worsen. There is a generally accepted path toward improvement. State and local transportation agencies must do a good job with the funding, policies, and priorities.

The Texas Department of Transportation, metropolitan planning organizations, metropolitan transit authorities, and private entities all pursue alternative congestion relief strategies; however, some challenges still remain. The legislature should continue to monitor the implementation of alternative congestion relief strategies, and further explore means to mitigate congestion on Texas' 100 most congested roadways.

### **Senate Select Transportation Funding Committee**

*Charge:* Review the current state of transportation funding expenditures and new methods to finance our future transportation needs.

*Conclusion:* The committee did not make any formal recommendations on new transportation funding measures, but rather it encourages the legislature to make a commitment to providing adequate funding for our aging and congested transportation system. There are numerous options available to the Legislature, including the following:

- Options Utilizing Existing Revenues: (1) the Texas Emissions Reduction Plan account is currently at \$950 million, and this money could be used for transportation projects; (2) end the “diversion” of gasoline tax to purposes other than transportation; and (3) use the revenue from the motor vehicle sales tax to fund transportation projects.
- Options Utilizing New Revenue: (1) index the gasoline tax to inflation; (2) increase the vehicle registration fee; and (3) add a drivers' license surcharge fee to be used for transportation projects.

## **TML E-List Project: Choose Your Area of Interest**

The Texas Municipal League is once again implementing the TML E-List project by gathering email addresses from city officials (elected and appointed) who: (1) may be willing to provide testimony during the 2015 legislative session; (2) want to be kept “in the loop” on certain subject

matters; and/or (3) are willing to simply provide their perspective on a particular legislative matter.

The “E-lists” are one way TML staff contacts city officials regarding harmful legislation and are an invaluable grassroots tool. In many cases, bills will be set for committee hearings with essentially no notice. When that happens, an email will go out to the appropriate E-list asking for information or action on your part. Legislators need to hear from their city officials more than from TML staff.

To participate in the E-List project, go to <http://www.tml.org/genform/E-List.asp> and fill out the online form. If you have any questions, please contact JJ Rocha at [jj@tml.org](mailto:jj@tml.org) or 512-231-7400.

## **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](#).

### **Property Tax**

**H.B. 992 (D. Bonnen) – Property Tax Exemption:** would provide a complete residence homestead property tax exemption for the surviving spouse of a 100 percent or totally disabled veteran who died before the law authorizing a residence homestead exemption for such a veteran took effect, but only if the surviving spouse has not remarried since the death of the disabled veteran. (See **H.J.R. 75**, below.)

**H.B. 994 (Anchia) – Property Tax Exemption:** would make permanent the property tax exemption for landfill-generated gas conversion facilities.

**H.B. 1003 (Y. Davis) – Tax Exemptions:** would: (1) require the Sunset Advisory Commission to evaluate various tax exemptions, including property tax and sales tax exemptions, that are not explicitly provided by the Texas Constitution; (2) require the Sunset Advisory Commission to present its evaluation and recommendations on retaining or repealing exemptions to the legislature; and (3) provide that a tax exemption is repealed on December 31 of the year in which the commission presents its evaluation to the legislature unless the legislature retains the exemption.

**H.B. 1022 (Moody) – Property Tax Exemption:** would provide, for purposes of the residence homestead property tax exemption, that a residence homestead includes a property occupied by an property owner’s surviving spouse who has a life estate in the property.

**H.B. 1028 (Farias) – Property Tax Exemption:** would provide that an organization that provides affordable housing for female veterans and their dependents is entitled to a property tax exemption for improved or unimproved real property owned by the organization.

**H.B. 1086 (Isaac) – Property Tax:** would modify the verbal motion to adopt an ordinance setting a property tax rate that exceeds the effective tax rate to read as follows: “I move that a tax rate of (specify tax rate) be adopted, which exceeds the effective tax rate by (insert percentage by which the proposed tax rate exceeds the effective tax rate) percent.”

**H.J.R. 75 (D. Bonnen) – Property Tax Exemption:** would amend the Texas Constitution to permit the legislature to provide a complete residence homestead property tax exemption for the surviving spouse of a 100 percent or totally disabled veteran who died before the law authorizing a residence homestead exemption for such a veteran took effect, but only if the surviving spouse has not remarried since the death of the disabled veteran. (See **H.B. 992**, above.)

### **Sales Tax**

**H.B. 1078 (Paul) – Sales Tax:** would repeal the state law prohibiting the state comptroller from crediting to the Parks and Wildlife Department or the Texas Historical Commission any amount of taxes imposed on the sale of sporting goods in excess of the amounts appropriated to the department or commission, respectively.

**H.B. 1087 (Bohac) – Sales Tax Exemption:** would: (1) exempt from sales and use taxes the sale of an article of clothing, footwear, school supply, or school backpack that costs less than \$200 and is sold during certain timeframes (current law sets exemption amount at an item less than \$100); and (2) exempt the sale or storage, use, or other consumption of an e-reader, personal computer, or tablet computer from sales and use taxes if the device is purchased during a specified weekend preceding the beginning of the school year and not purchased over the Internet. (Companion bill is **S.B. 426** by **Ellis**.)

**S.B. 426 (Ellis) – Sales Tax Exemption:** would: (1) exempt from sales and use taxes the sale of an article of clothing, footwear, school supply, or school backpack that costs less than \$200 and is sold during certain timeframes (current law sets exemption amount at an item less than \$100); and (2) exempt the sale or storage, use, or other consumption of an e-reader, personal computer, or tablet computer from sales and use taxes if the device is purchased during a specified weekend preceding the beginning of the school year and not purchased over the Internet. (Companion bill is **H.B. 1087** by **Bohac**.)

### **Purchasing**

**H.B. 996 (Parker) – Public Work Contracts:** would provide that a governmental entity, including a city, when awarding a public work contract funded with state money, may not: (1) prohibit, require, discourage, or encourage a bidder from entering into or adhering to a collective bargaining agreement related to the project; or (2) discriminate against a person based on a person's involvement in a collective bargaining organization or agreement. (Companion bill is **S.B. 303** by **Hancock**.)

## Elections

**S.B. 405 (Rodriguez) – Elections:** would provide that: (1) a person who would be eligible to vote in an election, but who is not registered, shall be accepted for voting during early voting by personal appearance for the precinct of the person’s residence if the person submits a voter registration application and presents proof of identification that establishes the person’s residence; (2) an election officer serving a polling place for early voting by personal appearance is a deputy voter registrar; and (3) that an authority holding an election that does not include a statewide or federal election is not required to comply with (1) and (2) above.

**S.B. 406 (Rodriguez) – Elections:** among other things, would: (1) establish a Bipartisan Election Commission to study methods to reduce election fraud, increase voter turnout, and improve election practices in the state; (2) require the secretary of state and attorney general to jointly conduct election integrity training for election officers, law enforcement personnel, and prosecutors in at least four different regions of the state; and (3) make it a class B misdemeanor for a person to knowingly deceive another person regarding the time, place, or manner of conducting an election, or the qualifications for or restrictions governing voter eligibility for an election.

**S.B. 407 (Rodriguez) – Elections:** among other things, would: (1) require an election officer who doesn’t accept a voter to provide the voter with a statement signed by the election officer listing all reasons why that voter was not accepted and the circumstances under which that voter may vote a provisional ballot; (2) significantly expand the types of acceptable identification for voting to include various forms of photo and non-photo identification; (3) provide that for a local election held on the uniform election date in November, the timeframe for the local canvass is to be conducted between the 11th and 14th day after election day; and (4) provide that for a local election held on the uniform election date in May, the local canvass shall be conducted not later than the 14th day after election day (current law requires the canvass occur not later than the 11th day after election day.)

## Open Government

**S.B. 392 (Burton) – Meeting Notice:** would provide that: (1) a governmental body that is required by law to post notice of a meeting in a newspaper may instead post notice of the meeting on the Internet; and (2) a governmental body that is required by law to post notice of a meeting on the Internet is not required to post notice in a newspaper. (Companion bill is **H.B. 814** by **Larson**.)

**S.B. 434 (Burton) – Closed Meeting:** would repeal the statutory authorization in the Open Meetings Act for a governing body to conduct a closed meeting for deliberations regarding economic development negotiations.

## Other Finance and Administration

**H.B. 1059 (C. 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, including requirements related to: reporting cash gifts; the time period for which certain information must be reported; and reporting all sources of earned or unearned income, including pension and retirement income.

**S.B. 399 (Campbell) – Local Debt:** would require a proposition in an election to issue local debt to state: (1) the purpose for which the debt obligations are to be authorized; (2) the principal amount of the debt obligations to be authorized; (3) that taxes sufficient to pay the annual principal and interest of the debt obligations may be imposed; (4) the estimated tax rate if the debt obligations are authorized or the maximum interest rate of the debt obligations or any series of the debt obligations, based on the market conditions at the time of the election order; (5) the maximum maturity date of the debt obligations to be authorized or that the debt obligations may be issued to mature over a specified number of years not to exceed 40; (6) the aggregate amount of the outstanding interest on debt obligations of the political subdivision as of the beginning of the fiscal year in which the election is ordered; and (7) the ad valorem debt service tax rate for the political subdivision at the time the election is ordered.

### **Municipal Courts**

**H.B. 1005 (Davis) – Juror Polling:** would allow the judge to assign each juror an identification number to use in place of the juror's name when the state or the defendant request that the jury be polled after delivering a verdict.

**H.B. 1024 (Dutton) – Offense Reports:** would require an offense report prepared in the investigation of a criminal case to be signed by each peace officer who contributes information to the report.

**H.B. 1069 (Rodriguez) – Court Interpreters:** would: (1) allow a person who holds an interpreter's license issued by another jurisdiction to obtain a comparable certificate without taking an examination; and (2) provide administrative penalties for failure to obtain a certification license from the Department of Assistive and Rehabilitative Services.

**S.B. 108 (Whitmire) – Failure to Attend School:** would: (1) require a municipal court to dismiss a complaint against an individual if the individual presents to the court proof that the individual has obtained a high school diploma or equivalency certificate; (2) allow an individual convicted of a failure to attend school violation to apply to the court to have his or her record expunged; and (3) require a municipal court to expunge an individual's records for the offense after receiving an application.

**S.B. 377 (Rodriguez) – Prostitution:** would provide that the offense of knowingly offering to engage, agreeing to engage, or engaging in sexual conduct for a fee is a Class C misdemeanor, unless the actor has been previously convicted of the offense.

## **Community and Economic Development**

**H.B. 1020 (Giddings) – Payday and Auto Title Lending:** this bill makes extensive modifications to the payday and auto title lender laws. It would, among other things:

1. require the consumer credit commissioner to establish and implement a database for the compilation of information relating to payday loans;
2. provide that payday and auto title lenders are subject to the same level of state regulation and oversight as other credit services organizations (i.e., currently-regulated consumer lenders that don't provide payday or auto title loans);
3. prohibit a credit services organization from assisting a consumer in obtaining an extension of consumer credit in any form other than in the form of a single-payment payday loan, multiple-payment payday loan, single payment auto title loan, or multiple-payment auto title loan;
4. provide that a credit services organization may obtain or assist a consumer in obtaining a payday or auto title loan only if the loan is made by a third-party lender that is unaffiliated with the credit services organization and does not have any ownership, directors, officers, members, or employees in common with the credit services organization;
5. prohibit total charges imposed under a payday or auto title loan from exceeding the permissible interest, fee, and other charges for certain consumer loans under current law;
6. prohibit a credit access business that is subject to a city ordinance regulating payday and auto title loans from evading the city ordinance by: (a) requiring that any part of the transaction occur in a location outside the city limits; or (b) transferring the business's obligations and rights under a payday or auto title loan contract to a branch of the business or another business located outside the city limits;
7. provide that if a credit access business evades a municipal ordinance as provided by (6), above, that the contract between the business and the consumer is void and unenforceable, including any requirement that the consumer pay fees or other consideration;
8. provide that the term of an extension of consumer credit, including all renewals and refinances, obtained for a military borrower may not exceed 90 days for a payday or single-payment auto title loan or 180 days for a multiple-payment auto title loan;
9. provide that the term of an extension of consumer credit by a credit access business may not exceed 180 days;
10. provide that, at any given time, a consumer may have only one outstanding debt from a payday loan and one outstanding debt from an auto title loan;
11. provide that the proceeds of a repossessed motor vehicle that secured an auto title loan shall satisfy all outstanding and unpaid indebtedness under that extension of consumer credit;
12. provide that a local ordinance regulating a credit access business is not preempted if the ordinance is compatible with and equal to or more stringent than a requirement in the bill;

13. provide that a single-payment payday loan: (a) may not exceed 20 or 25 percent of the consumer's gross annual income depending on the income level; (b) may not have a term of less than 10 days or longer than 35 days; and (c) may not be refinanced more than three times;
14. provide that a multiple-payment payday loan: (a) may not exceed 10 or 15 percent of the consumer's gross monthly income, depending on the income level; (b) may not have an original term of more than 180 days if it is payable in more than 12 installments; and (c) with regard to the first installment, may not be due before the 10th day after the loan is agreed upon, and any other installment may not be due before the 14th day or after the 31st day after the date a previous installment is due;
15. provide that a single-payment auto title loan: (a) may not exceed the lesser of 70 percent of the retail value of the motor vehicle securing the debt, or the lesser of six or eight percent of the consumer's gross annual income, depending on the income level; (b) may not have a term of less than 30 days or longer than 35 days; and (c) may not be refinanced more than three times;
16. provide that a multiple-payment auto title loan: (a) may not exceed 70 percent of the retail value of the motor vehicle securing the debt; (b) may not impose a sum of all fees, principal, interest, and other amounts that exceeds 20 or 30 percent of the consumer's gross monthly income, depending on the income level; (c) may not be payable in more than six installments; (d) may not require the first installment to be paid before the 10th day after the date the consumer enters into the loan agreement; (e) may not require subsequent installments to be due before the 28th day after the date the previous installment of the loan was due; and (f) may not have a total term of more than 180 days;
17. require an extended payment plan that: (a) provides for payment in four substantially equal installments with respect to a single-payment payday or auto title loan; (b) provides for payment in two substantially equal installments with respect to multiple-payment payday and auto title loans; (c) has a period between installment payments that are not shorter than 10 days for a single-payment payday loan or 30 days for a multi-payment payday loan or any auto title loan; and (d) provides for the first payment to be due not before the 10th day after the date the consumer requests an extended payment plan; and
18. require any refinance of a payday or auto title loan to meet all requirements applicable to the original loan.

(Companion bill is **S.B. 121** by **West**.)

**S.B. 427 (Ellis) – Concrete Crushing Facilities:** would require the Texas Commission on Environmental Quality by rule to prohibit the operation of a concrete crushing facility within 440 yards of certain buildings or facilities, including a place of business where employees of the business perform outdoor work near the facility or a park or other outdoor recreational facility, including a playing field.

## **Personnel**

**H.B. 997 (Y. Davis) – E-Verify:** would: (1) require an employer, including a city, that voluntarily uses E-Verify to: (a) ensure that an employee is trained in the use of E-Verify before allowing an employee to use it; (b) follow certain procedures to obtain information about E-Verify; and (c) post notices related to the use of E-Verify in the workplace; (2) create a penalty for an employer who does not follow proper E-Verify procedures in voluntarily using E-Verify; and (3) make it an unlawful employment practice if an employer makes an employment decision with E-Verify without following the above procedures regarding the E-Verify Program.

**H.B. 1090 (Herrero) – Juror Exemption:** would give an exemption for jury duty to any individual who is a paid police officer, paid fire fighter, police chief, or fire chief.

**H.B. 1094 (Geren) – Death Benefits:** would extend the time that a remarried spouse of a first responder who died in the course and scope of employment may receive workers' compensation death benefits from two years from remarriage to life.

**S.B. 376 (Rodriguez) – Employee Background Checks:** would prohibit an employer, including a city, from asking about an employment applicant's criminal history record information unless: (1) the applicant has been first offered a conditional offer of employment or an interview; or (2) a criminal history information check is required by other law.

**S.B. 401 (Schwertner) – E-Verify for State Contractors:** would require any entity that contracts with the state for goods or services (including a city) to enroll in E-Verify for the pendency of the contract. (Companion bill is **H.B. 889** by **Dale**.)

**S.B. 436 (Lucio) – Death Benefits:** would increase the amount of state death benefits given to the families of public safety employees killed in the line of duty.

### **Public Safety**

**H.B. 1012 (Canales) – Felony Forfeiture Property:** would raise the burden of proof from preponderance of the evidence to clear and convincing evidence for the state to prove property is subject to felony forfeiture.

**H.B. 1025 (Dutton) – Peace Officer Training:** would require that any peace officer training or education materials, including continuing education materials, be approved by the Texas Commission on Law Enforcement.

**H.B. 1034 (Geren) – Red Light Cameras:** would prohibit a county assessor-collector and the Texas Department of Motor Vehicles from refusing to register a motor vehicle because of a delinquency in the payment of a civil penalty imposed as a result of a violation detected by a photographic traffic signal enforcement system.

**H.B. 1035 (Johnson) – Filming of Police Officers:** would: (1) in regard to the offense of interfering with a peace officer in the performance of his duty, provide that it is a defense to prosecution that the conduct engaged in by the defendant consisted only of filming, recording,

photographing, documenting, or observing a peace officer so long as any lawful orders by a peace officer to change proximity or position were obeyed; (2) provide that the requirement to comply with a lawful order or direction of a peace officer does not apply to an order or direction to cease filming, recording, photographing, documenting, or observing a peace officer while the officer is engaged in the performance of official duties, but provide that an officer may give an order or direction to change the person's proximity or position; and (3) provide that it is a third degree felony for a law enforcement officer or employee of a law enforcement agency, after taking possession or custody of another person's audio, video, or photographic recording of police operations, to alter, destroy or conceal that recording without the written consent of the owner.

**H.B. 1036 (Johnson) – Injury or Death Caused by Police Officer:** would: (1) require that within 72 hours of an officer-involved injury or death a report of the incident be submitted to the attorney general; (2) require a law enforcement agency to conduct an internal investigation into an officer-involved injury or death and, 72 hours after the conclusion of such investigation, submit to the attorney general a copy of the agency's file or a summary of the agency's findings on the investigation; (3) provide that not later than five days after the receipt of the report described in (1), above, the attorney general shall post to the office's website a copy of the report along with a summary of the agency's findings, as described in (2), above; and (4) require the attorney general to prepare an annual report regarding officer-involved injuries or deaths.

**H.B. 1057 (J. Rodriguez) – Graffiti:** would increase the hours of community service required for certain graffiti offenses for which the defendant is placed on community supervision or probation.

**H.B. 1064 (Sheffield) – Sex Offenders:** would: (1) define "child safety zone" for purposes of the state sex offender registration program; (2) require a judge, as a condition of community supervision, to prohibit certain sex offender defendants from working or residing within or going in or within a child safety zone; (3) with certain exceptions, prohibit a person who is required to register because of a conviction or adjudication for a sexually violent offense involving a victim younger than 17 years of age and who is not enrolled as a student at a primary or secondary school from working or residing within or going in a child safety zone; (4) provide that it is a third degree felony for a defendant to fail to comply with the prohibition in (3), above; and (5) require a parole panel, as a condition of parole or mandatory supervision, to prohibit certain sex offender defendants from working or residing within or going in or within a child safety zone.

**H.B. 1082 (Fletcher) – Obstructing a Highway:** would raise the penalty for the offense of obstructing a highway from a class B to a Class A misdemeanor, if the actor used a device that is intended to hinder removal of an obstruction.

**S.B. 393 (Burton) – Offenses Against Property or Public Administration:** would alter the punishment for various offenses, including criminal mischief, interference with railroad property, graffiti, theft, theft of service, organized retail theft, trademark counterfeiting, false statement to obtain property or credit in the provision of certain services, hindering secured creditors, fraudulent transfer of a motor vehicle, credit card transaction record laundering, illegal recruitment of an athlete, misapplication of fiduciary property or property of financial institution,

securing execution of document by deception, breach of computer security, unauthorized use of telecommunications service, theft of telecommunications service, money laundering, insurance fraud, Medicaid fraud, and abuse of official capacity.

**S.B. 411 (Ellis) – Grand Jury Proceedings:** would: (1) require that a grand jury proceeding must be recorded either by a stenographer or by use of an electronic device if: (a) the person who is suspected or accused was employed as a peace officer at the time of the offense with which the person is suspected or accused; and (b) the offense with which the person is suspected or accused is said to have been committed during the course and scope of the person’s duties as a peace officer; and (2) provide that if the grand jury finds no bill of indictment the record described in (1), above, must be made public. (This bill is identical to **H.B. 865** by **Dutton**.)

**S.B. 417 (West) – Drug Court Program:** would expand the eligibility of persons to participate in a drug court program by removing the restriction that offenses cannot involved carrying, possessing, or using a firearm, the use of force against another person, or the death or serious bodily injury to another.

**S.B. 419 (Ellis) – Controlled Substances:** would provide, in regard to a state jail felony offense for possession of a substance in Penalty Group 1, that a usable quantity is more than 0.02 grams but less than one gram.

**S.B. 437 (Creighton) – Metal Recycling:** would require a metal recycling entity to pay for a purchase of regulated material by check, mailed to the seller at the address shown on the seller’s personal identification document. (Companion bill is **H.B. 876** by **Phelan**.)

**S.B. 438 (Hall) – Firearms:** would provide that:

1. Neither the state or a political subdivision of the state (including a city) may use public funds to enforce a federal statute, order, rule, or regulation or an international law purporting to regulate a firearm, a firearm accessory, or firearm ammunition, or the carrying of those items, if the federal statute, order, rule, or regulation or international law imposes a prohibition, restriction, or other regulation, such as a capacity, size, or configuration limitation, that does not exist under the laws of this state.
2. Neither the state or a political subdivision of the state may receive state grant funds if the entity adopts a rule, order, ordinance, or policy under which the entity requires the enforcement of any federal statute, order, rule, or regulation or an international law or, by consistent actions, requires the enforcement of any federal statute, order, rule, or regulation or an international law prohibited by the bill.
3. State grant funds for the entity shall be denied for the fiscal year following the year in which a final judicial determination in an action brought under the bill is made that the entity has intentionally required the enforcement of any federal statute, order, rule, or regulation or an international law prohibited by the bill.
4. Any citizen may file a complaint with the attorney general if the citizen offers evidence to support an allegation that an entity has adopted a rule, order, ordinance, or policy under which the entity requires the enforcement of any federal statute, order, rule, or regulation or an international law prohibited by the bill.

5. If the attorney general determines that a complaint against an entity is valid, the attorney general may file a petition for a writ of mandamus or apply for other appropriate equitable relief in a district court in Travis County or in a county in which the principal office of the entity is located to compel the entity to comply.
6. The attorney general may recover reasonable expenses incurred in obtaining relief under the bill, including court costs, reasonable attorney's fees, investigative costs, witness fees, and deposition costs.
7. The attorney general shall defend any entity, including a city, that the federal government attempts to sue or prosecute for an action or omission consistent with the requirements of the bill.

**S.B. 439 (Hall) – Firearms:** would authorize any person to carry a firearm on the property or in the car or boat of another with that person's consent.

**S.B. 442 (Watson) – Motorcycles:** would allow a motorcycles rider to "split lanes" under certain circumstances.

### **Transportation**

**H.B. 1031 (Leach) – Roadway Funding:** would: (1) create the clean air roadway project account in the state's general revenue fund; (2) provide that the comptroller shall transfer certain funds collected for the Texas emissions reduction plan fund to the account; (3) provide that money in the account may be appropriated only to fund roadway projects designed to improve or prevent the deterioration of ambient air quality, but may not be appropriated to fund a toll road; and (4) the Texas Department of Transportation, in consultation with the Texas Commission on Environmental Quality, shall determine which roadway projects are eligible to be funded by money appropriated from the account.

**H.B. 1081 (Paul) – Transportation Funding:** would provide that, in each state fiscal year beginning on or after September 1, 2017, the comptroller shall deposit to the credit of the state highway fund all money received from the state's motor vehicle sales tax.

**S.B. 422 (Watson) – Motor Bus Pilot Program:** would: (1) require the Texas Department of Transportation (TxDOT), in consultation with the Department of Public Safety, and in conjunction with the elective participation of certain local mass transit entities, including a city transit department, to establish and operate a motor-bus-only lane pilot program for state highways that have shoulders of sufficient width and structural integrity; (2) provide that a highway designated as part of the pilot program described in (1), above, be located in Bexar, El Paso, Tarrant or Travis County, or certain adjacent counties; (3) provide that the program described in (1), above: (a) allow motor buses to use highway shoulders as a low-speed bypass of congested highway lanes when the speed of vehicles being operated on the main traveled part of the adjacent highway is 35 miles per hour or less; (b) limit the maximum speed of a motor bus being operated in a motor-bus-only lane; (c) provide for attainment of local operation experience with the conversion of existing highway shoulders to motor-bus-only lanes during peak traffic periods; (d) be limited only to public transit motor buses operated by mass transit entities in the

specified counties; and (e) include certain training, education, rules, roadside signs, and pavement markings; and (4) require TxDOT and the participating local mass transit entities to fund the implementation of the pilot program; require TxDOT to report on the results of the program; and authorize TxDOT to cancel the program if it finds increased vehicular accidents attributable to the program.

### **Utilities and Environment**

**H.B. 1106 (Phillips) – Texas Energy Commission:** would rename the Texas Railroad Commission as the Texas Energy Commission. (See **H.J.R. 76**, below.)

**H.B. 1113 (Clardy) – Contested Case Hearings:** would permit a court to reverse and remand a determination of standing in a contested case hearing only if the court finds that the Texas Commission on Environmental Quality: (1) failed to consider a factor required by law to be considered, (2) considered an irrelevant factor, or (3) considered only relevant factors required by law to be considered but reached an unreasonable result.

**H.J.R. 76 (Pickett) – Texas Energy Commission:** would amend the Texas Constitution to rename the Texas Railroad Commission as the Texas Energy Commission. (See **H.B. 1106**, above.)

**S.B. 394 (Perry) – Supplemental Environmental Project:** would require the Texas Commission on Environmental Quality to approve a supplemental environmental project in lieu of an administrative penalty for a local government that had not previously committed the same violation.

**S.B. 413 (Seliger) – Texas Water Development Board:** would: (1) replace the requirement that one member of the Texas Water Development Board have experience in the field of law or business with the requirement that one member must have experience in the field of production agriculture; and (2) require that one member of the Board resides in a rural area and is a registered voter of a county with a population of less than 155,000.

**S.B. 440 (Burton) – Hydraulic Fracturing:** would prohibit a city from banning hydraulic fracturing treatment of oil or gas wells.

*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.*