



# Legislative UPDATE

January 25, 2019  
Number 4

## **Pulled the Trigger Too Soon?** **Still Looking for Certainty about Guns in Courthouses**

The dispute over licensed carry and courthouses continues. Last week, a Travis County judge in *Paxton v. City of Austin* [ordered](#) the City of Austin to allow licensed carry in its city hall, even though the building houses a courtroom. The judge also ordered that the city pay civil penalty of \$9,000 to the state for prohibiting license holders from entering prior to the order.

The story began when an attorney general opinion called into question Texas city attorneys' previous understanding of where firearms can be carried in and around city courts. [Tex. Att'y Gen. Op. No. KP-0047 \(2015\)](#) concluded that a person is prohibited from carrying a firearm only into the *room* that actually houses a court or court office. That opinion is contrary to what the League and most other attorneys had been advising for years under the concealed carry law.

Most governmental entities took that position because of the confusing nature of the law. In other words, because it wasn't (and still isn't) exactly clear into what "portion" of a building a licensee can carry, the licensee could (and still perhaps can) inadvertently commit a third degree felony for going to the wrong portion of the building.

The opinion states that “[w]hile we can’t be sure what the outside limits of the prohibition are, it is clear that ‘the legislature intended to prohibit concealed handguns from the rooms that house government courts and offices central to the business of the courts....in order to provide clarity, we construe subsection 46.03(a)(3) to encompass only government courtrooms and those offices essential to the operation of the government court.’”

On the heels of the opinion, the attorney general’s office filed a lawsuit against the City of Austin to require licensed carry at city hall, even though a municipal court is conducted there. More specifically, the Austin city hall houses the city’s municipal “community court.” Because of that, the city took the position that the entire building is off-limits to license holders carrying handguns. A “no guns” sign (a handgun with a slash through it) was posted on the window, and a guard posted at a metal detector provided verbal notice that licensed carry is not allowed.

The attorney general’s lawsuit asked the court to order the city to remove its sign and authorize licensed carry in city hall. It also sought civil penalties from the city. In 2018, the district court judge disagreed by issuing a denial of the attorney general’s motion for summary judgment, concluding that the attorney general has no jurisdiction under Government Code Section 411.209 to investigate, seek an injunction, or seek civil penalties for the display of any sign other than a 30.06 sign or verbal notice under that same section.

The judge also concluded at that time that: (1) the entire building that contains a court or offices utilized by the court is off limits to anyone – licensed or not – carrying a firearm; and (2) a building or portion of a building that houses a court or offices utilized is off limits to anyone – licensed or not – who is carry a firearm at all times (not just when court is in session).

The judge made a 180-degree turn when she issued last week’s formal order after a bench trial. We don’t know the reasoning for the order, so we can’t provide more analysis at this time. It is likely that the case will be appealed, and more explanation should be provided at that level.

## **Lt. Governor and Speaker Name Committees**

Lt. Governor Dan Patrick and Speaker Dennis Bonnen issued committee assignments this week. A full list is of the Senate appointments is available [here](#), and a full list of the House appointments is available [here](#).

## **Good Small Cell Bill Introduced in Congress**

Congresswoman Anna Eshoo (D – California) has introduced legislation to overturn the Federal Communications Commission’s preemptive “small cell order.” The “Accelerating Wireless Broadband Deployment by Empowering Local Communities Act of 2019” (H.R. 530), was endorsed on introduction by the City of San Jose, the National League of Cities, the National Association of Counties, and the National Association of Telecommunications Officers and Advisors. More details will follow.

## **Interim Report:** **House Committee on Government Transparency and** **Operations**

The House Committee on Government Transparency and Operations released its [interim report](#). One committee charge concerned the effects of two court cases on the Public Information Act (PIA):

Evaluate whether, in light of recent Texas Supreme Court rulings, the provisions of the Public Information Act are adequate to support transparency and accountability in government, particularly as it relates to government contracting and procurement.

The cases that brought about the interim charge are *Boeing v. Paxton* and *Greater Houston Partnership v. Paxton*.

The *Boeing* opinion dealt with the provision in PIA that exempts from disclosure information that would give advantage to a competitor or bidder. In the case, a requestor sought information from the Port of San Antonio (the city's defense base redevelopment entity) about a lease for hanger space with Boeing. Boeing argued that much of the information in the lease would, if released, reveal trade secrets that would benefit its competitors. The court agreed, and also concluded that the provision is designed to protect not only the governmental entity from which the information is requested, but also the private entity that could be harmed by it.

In relation to the *Boeing* opinion, the committee recommended that legislature should: (1) adopt the statutory definition of "trade secret" in the Uniform Trade Secret Act for use under the PIA; (2) add more detailed criteria to the existing exception in the PIA; and (3) improve notice to third parties like Boeing that may be affected by the PIA.

The *Greater Houston Partnership (GHP)* opinion reviewed whether private entities that receive government funding are subject to the PIA. A requestor submitted a request for financial information held by GHP, which is essentially a regional chamber of commerce consisting of governmental and private members. After a lengthy review of the law, the court concluded that GHP is not subject to the PIA because it is "a private entity engaged in economically delicate work should not be subjected to invasive disclosure requirements merely because it counts the government as one client among many."

As for the *GHP* opinion, the committee recommended that the legislature: (1) clarify that governmental entities must respond to PIA requests for those private and/or non-profit entities with which they contract; and (2) mandate that a contract between a private and/or non-profit entity and a governmental entity should be made public, including the funds, specifics of the contract, and audit and work product the private entity is to fulfill.

Legislation was filed last session to address these issues, but nothing passed. It will certainly be back this time around.

## **Interim Report:** **House Committee on Defense and Veterans' Affairs**

The House Committee on Defense and Veterans' Affairs released its [interim report](#), which contains city-related items. A summary of the relevant charges and the committee's recommendations are provided below.

**Interim Charge No. 1:** Evaluate the impact of Hurricane Harvey related to the Texas Military Department, Emergency Management Council, and the Texas Division of Emergency Management. Recommend any changes that could improve operational stability and the reaction of these agencies following a natural disaster and changes that would allow for a more effective response.

### **Recommendations:**

As recovery continues in communities across the Gulf Coast Region and beyond, the State of Texas continues to work with our federal partners to cut red tape and secure more and faster funding. Texas is committed to working for as long as it takes to help rebuild critical public infrastructure in our communities — roads, bridges, schools and other public facilities — damaged or destroyed by Hurricane Harvey or the flooding that followed. Specifically, the legislature should:

1. Communicate effectively with all stakeholders.
2. Provide real-time information resources for local officials.
3. Focus on needs that will have the greatest impact locally and regionally.

**Interim Charge No. 2:** Assess how the State of Texas can further aid federal military installations and their communities in order to minimize the negative consequences of a Base Realignment and Closure round by the federal government.

### **Recommendations:**

1. Promote legislation that protects military installations and their training routes (air and land) from encroachment.
2. Seek partnerships with local communities and state agencies to reduce barriers and costs to military installations through intergovernmental agreements or other public partnerships opportunities.

**Interim Charge No. 3:** Examine best practices related to use of the Defense Economic Adjustment Assistance Grant program to maximize support for military installations, and how the state can better serve military installations in Texas. Also, evaluate changes that would increase utilization of the Texas Military Revolving Loan Fund.

## **Recommendations:**

1. The Texas Military Value Revolving Loan Fund is in need of modifications in order to streamline and simplify the borrowing process. While this loan fund has a total authorized available amount of \$250 million, the program has been sparsely used to date.
2. Identify opportunities for streamlining the program in an attempt to bring it more in line with commercial lending practices that commonly see loan transactions occurring within 45 days, as opposed to the six-month timeframe some communities have experienced in pursuing transactions through The Military Value Revolving Loan Fund.
3. Assess loan programs in other states with defense installations. If they have a Military Loan Fund, review their process and utilization of the program.

## **Interim Report:** **House Committee on General Investigating and Ethics**

Last month, the House Committee on General Investigating and Ethics released its [interim report](#), which contains a number of city-related items. A summary of the relevant charges and the committee's recommendations are provided below.

**Charge No. 1 (Oversight of Hurricane Harvey Spending):** Maintain oversight of federal, state, local, and charitable funds spent in response to Hurricane Harvey. Investigate instances of waste, fraud, or abuse involving such funds. Ensure that the State of Texas is maximizing federal disaster aid.

## **Recommendations:**

1. Establish statewide revolving grant and loan programs for eligible entities in zones designated in a gubernatorial disaster proclamation that disburse funds in an expedited fashion to fast-track recovery while safeguarding funds from fraud, waste, and abuse.
2. Create a single statewide disaster case management software to streamline governmental entities' and nongovernmental organizations' responses to individuals affected by a disaster.
3. Implement a single inspection program that satisfies the inspection requirements for governmental entities and insurers to minimize duplication of effort and expedite the recovery process for individuals affected by a disaster.
4. Require training in emergency management for local emergency managers similar to the requirement for local elected officials.
5. Create a single state repository for local governmental budgets and spending for emergency preparedness, response, disaster mitigation, and capital improvements to allow the state to assess the actual cost of preparing for and responding to disasters.

**Charge No. 2 (Conflict of Interest Laws and Personal Financial Statements):** Review conflict of interest laws governing public officers and employees to ensure that laws are adequate to maintain the public's confidence in government decision-making. Review personal financial

statement requirements to ensure that the public has sufficient information on the private financial interests of public officers.

### **Recommendations:**

1. Monitor the following attorney general opinions for potential legislative action: [KP-0226](#) (regarding a state legislator's ability to receive payment from a unit of local government for lobbying activities) and [KP-0227](#) (regarding a state legislator's simultaneous service as president of a municipal management district operating under Chapter 375 of the Local Government Code).
2. Monitor legislative recommendations contained in the [Texas Ethics Commission's December 2018 report to the Legislature](#). Recommendations from the report include the following:
  - Allow certain campaign finance reports to be filed in black or blue ink or, alternatively, remove the requirement altogether.
  - Authorize the Texas Ethics Commission to disclose to law enforcement agencies information relating to a sworn complaint that shows possible criminal violations.
3. Amend the current Government Code prohibition on legislators' holding public office and simultaneously lobbying for compensation on behalf of persons and for-profit business entities to expressly extend the prohibition to other entities, including not-for-profit organizations and local governmental entities. (See Tex. Att'y Gen. Op. No. KP-0226, above.)
4. Direct the Texas Ethics Commission to review federal requirements governing the public reporting and disclosure of federal elected and appointed officials' personal financial information to determine if enhancing requirements at the state level would provide additional transparency regarding state officials' financial interests to Texas taxpayers.
5. Maximize transparency in personal financial statements by enhancing disclosure requirements surrounding candidates' and public officials' trust accounts and eliminating opportunities for candidates and public officials to avoid disclosing any assets and liabilities. (This would impact certain city officers and candidates in cities with a population of 100,000 or more who must file a personal financial statement under Texas Local Government Code Chapter 145.)

## **Don't Forget: Mandatory Hotel Occupancy Tax Reporting**

The 50-day window for reporting local hotel occupancy tax information opened January 1, 2019.

During the 2017 regular session, the legislature passed [S.B. 1221](#), which aims to improve transparency about the hotel occupancy tax by requiring cities to file an annual report with the comptroller that includes the city's hotel occupancy tax rate, the amount of revenue generated by the tax, and the amount and percentage of the revenue spent for each of the following purposes:

- Convention or information centers.
- Convention delegates registration.

- Advertising to attract tourists.
- Arts promotion and improvement.
- Historical restoration and preservation projects.
- Signage directing the public to sights and attractions.

Cities have two reporting options: (1) use the comptroller's online reporting form to submit all required information; or (2) clearly post and maintain all required information on the city's website and provide the comptroller's office with a link to the information. For cities selecting the second option, the comptroller provides an [optional format template](#) to post on the city's website.

For more information and access to the online reporting form, see the comptroller's hotel occupancy tax reporting [webpage](#). City officials with questions about the new requirements can also contact the comptroller's transparency team by email at [transparency@cpa.texas.gov](mailto:transparency@cpa.texas.gov) or (844) 519-5676.

## **Don't Forget:** **Mandatory Eminent Domain Reporting**

Legislation passed in 2015 requires cities to annually fill out a [web-based form](#) with the comptroller relating to each city's statutory eminent domain authority. (The failure to fill out the form could result in a \$1,000 penalty against a city.)

The 2018 reporting window opened on November 1. The entry should be, for almost every city, just an update of previously-filed information, including whether the city exercised its eminent domain authority in the preceding calendar year by filing a condemnation petition under Section 21.012, Property Code.

Of course, any city that never filled out the form as required should do so now. Detailed instructions on doing so are available in this [previous article](#). Questions should be directed to Ty Myrick, with the comptroller's data analysis and transparency division, at [transparency@cpa.texas.gov](mailto:transparency@cpa.texas.gov)

## **Get Involved:** **TML Grass-Roots Involvement Program**

The Texas Municipal League is once again implementing our Grass-Roots Involvement Program (GRIP). GRIP collects information about your relationship with your legislators and is one way TML staff contacts city officials regarding action on harmful legislation.

To participate in GRIP, go to <http://bit.ly/TMLGRIP2019> 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

### Property Tax

**H.B. 827 (Rose) – Property Tax Exemption:** would authorize the governing body of a taxing unit to exempt from taxation part or all of the assessed value of an improvement that is economically or physically necessary to support the continued use or existence of a structure or archeological site already exempted as a historical site and the land necessary for access to and use of the improvement if the improvement is: (1) located on the same parcel of property on which the structure or archeological site is located or on a parcel of property that is adjacent to the parcel where the structure or archeological site is located; and (2) constructed in a manner that is consistent with the architectural integrity of the structure or archeological site.

**H.B. 861 (Anchia) – Property Tax Appeals:** would provide that a property owner who has paid a portion of the property owner's property taxes prior to the final determination of an appeal is liable for the penalties and interest on the additional tax included in the supplemental tax bill, but only if the tax is not paid by the delinquency date for the additional tax.

**H.B. 878 (Bell) – Appraisal Cap:** would reduce the property tax appraisal cap on homesteads from ten to five percent, and apply the new appraisal cap to all real property. (See **H.J.R. 47**, below.)

**H.B. 905 (Bernal) – Property Tax Exemption:** would provide that a qualifying caregiver is entitled to a property tax exemption of the total appraised value of the qualifying caregiver's residence homestead for the period during which the qualifying individual for whom the qualifying caregiver provides care is on an interest list for long-term services and supports under the Medicaid program. (See **H.J.R. 48**, below.)

**H.B. 913 (Shaheen) – Rollback Rate:** would, for a taxing unit other than a school district, lower the property tax rollback rate to four percent.

**H.B. 945 (Metcalf) – Appraisal Cap:** would expand the application of the ten percent appraisal cap to all real property. (See **H.J.R. 50**, below.)

**H.B. 946 (Metcalf) – Appraisal Cap:** would reduce the property tax appraisal cap on residence homesteads from ten to five percent. (See **H.J.R. 51**, below.)

**H.B. 948 (Metcalf) – Property Tax Exemption:** would extend from six years to ten years the amount of time that a tract of land that is contiguous to the tract of land on which a religious organization's place of regular religious worship is located may be exempted from property taxes when the religious organization is expanding or constructing a new place of religious worship.

**H.B. 950 (Lucio) – Property Tax Appeals:** would provide that the appraisal review board may not determine the appraised value of the property that is subject of a protest to be an amount

greater than the appraised value of the property as shown in the appraisal records submitted to the board by the chief appraiser.

**H.J.R. 47 (Bell) – Appraisal Cap:** would amend the Texas Constitution to reduce the property tax appraisal cap on homesteads from ten to five percent and apply the new appraisal cap to all real property. (See **H.B. 878**, above.)

**H.J.R. 48 (Bernal) – Property Tax Exemption:** would amend the Texas Constitution to authorize the legislature to exempt from property taxes the total assessed value of the residence homestead of an unpaid caregiver of an individual who is eligible to receive certain long-term services. (See **H.B. 905**, above.)

**H.J.R. 50 (Metcalf) – Appraisal Cap:** would amend the Texas Constitution to authorize the legislature to expand the application of the ten percent appraisal cap on residence homesteads to all real property. (See **H.B. 945**, above.)

**H.J.R. 51 (Metcalf) – Appraisal Cap:** would amend the Texas Constitution to authorize the legislature to reduce the property tax appraisal cap on residence homesteads from ten to five percent. (See **H.B. 946**, above.)

**H.J.R. 52 (Lucio III) – Property Valuation:** would amend the Texas Constitution to require all real property and tangible personal property to be taxed in proportion to its market value.

**S.B. 411 (Hughes) – Property Tax Appraisal:** would modify the way that a retailer’s tangible personal property held for sale at retail is appraised for property tax purposes.

### **Sales Tax**

No city-related sales tax bills were filed this week.

### **Purchasing**

**S.B. 389 (Campbell) – Abortion:** would, with the exception of certain transactions subject to federal law, prohibit a governmental entity from entering into a taxpayer resource transaction or contract with an abortion provider or affiliate of an abortion provider.

### **Elections**

**H.B. 824 (Reynolds) – Voter Identification:** would, among other things, eliminate the photo identification requirement and expand the types of documentation that are considered acceptable forms of identification for purposes of voting. (Companion bills are **S.B. 104** by **Menendez** and **H.B. 526** by **Israel**.)

**H.B. 831 (Huberty) – Candidate Residency:** would provide that: (1) for purposes of satisfying the continuous residency eligibility requirement, a person who claims an intent to return to a residence after a temporary absence may establish that intent only if the person: (a) has made a reasonable and substantive attempt to effectuate that intent; and (b) has a legal right and the practical ability to return to the residence; and (2) the criteria for establishing an intent to return after a temporary absence under (1), above, does not apply to a person displaced from the person’s residence due to a declared local, state, or national disaster.

**H.B. 898 (Israel) – Provisional Voting:** would require the voter registrar to electronically submit to the secretary of state a notation of whether a voter voted provisionally and the reason the voter cast a provisional ballot.

**H.B. 933 (Bucy) – Election Notice:** would, among other things, provide that the authority responsible for giving notice of an election must post a copy of the notice, which must include the location of each polling place, on the county’s Internet website and may post a copy of the notice on the bulletin board used for posting notices of the meetings of the governing body of the political subdivision that the authority serves.

**S.B. 391 (Miles) – Voter Registration:** would, for a voter whose registration is challenged based on residence: (1) require the registrar to deliver the voter a written confirmation notice requesting confirmation of the voter’s current residence if the voter fails to appear or submit an affidavit at a scheduled hearing on the challenge; and (2) prohibit the registrar from making a determination.

### **Open Government**

**H.B. 921 (Rosenthal) – Animal Shelter Records:** would require each animal shelter operated by a city and any public or private animal pound, shelter, or humane organization operated in the state to (1) prepare and maintain records on the intake and disposition in the care of the shelter or agency; (2) prepare the records in (1) each month; (3) maintain the records in (1) for at least three years; and (4) make the records in (1) available on the internet or, if the shelter, city, or agency does not have a website, make the records available for inspection and copying in the form regularly maintained by the shelter, city, or agency.

**S.B. 402 (Hinojosa) – Public Information:** would: (1) require disclosure of information relating to the receipt or expenditure of public or other funds by a governmental body for a parade, concert, or other entertainment event open to the general public and paid for in whole or part with public funds; and (2) provide that a person, including a governmental body, may not include a provision in a contract related to an event described by the bill that prohibits or would otherwise prevent the disclosure of information described by this subsection.

## **Other Finance and Administration**

**H.B. 914 (S. Thompson) – Bingo Regulation:** would: (1) provide that cities could impose a bingo prize tax if the governing body votes to impose the tax before November 1, 2019; (2) authorize the Texas Lottery Commission (Commission) to make a determination that a licensed bingo organization engages in illegal gambling and is detrimental to other licensed bingo organizations; (3) terminate a city's entitlement to its share of a bingo prize tax if the Commission makes the determination in (2), above, and provide a process for a city to challenge the Commission's determination; and (4) provide that a city currently entitled to receive a bingo prize fee (cities that had a gross receipts tax on charitable bingo operations in place as of January 1, 1993) may only continue to receive those funds if: (a) a majority of the governing body approves the continued receipt of the funds and notifies the Commission of that decision no later than November 1, 2021; and (b) notifies each licensed authorized bingo organization within the city of the continued imposition of the tax.

**H.B. 952 (Hernandez) – Diaper Changing Stations:** would require a person that is constructing or renovating a building that has one or more public restrooms to provide a diaper changing station in at least one restroom designated for each gender or in at least one restroom not designated by gender.

**H.J.R. 49 (Dutton) – Casino Gambling:** would amend the Texas Constitution to allow up to five casinos in this state pursuant to a county approval election.

**S.B. 367 (Watson) – Eligibility for Office:** would: (1) provide that a registered lobbyist is not eligible to be a candidate for, or elected or appointed to, a public elective office; and (2) except from the prohibition in (1): (a) an office of a political subdivision with a population of 150,000 or less, other than the office of presiding officer, if the officeholder does not receive a salary or wage for that office; and (b) the office of presiding officer of the governing body of a political subdivision with a population of 50,000 or less, provided that the presiding officer does not receive a salary or wage for that office.

**S.B. 400 (West) – Medical Marijuana:** would authorize the possession, use, cultivation, distribution, transportation, and delivery of medical cannabis for medical use by patients with certain debilitating medical conditions and terminal illnesses and the licensing of dispensing organizations and cannabis testing facilities.

## **Municipal Courts**

**H.B. 929 (Anchia) – Magistrates:** would require magistrates to inform the person arrested that a plea of guilty or nolo contendere for offense charged may affect the person's eligibility for enlisting or reenlisting in the U.S. armed forces or may result in the person's discharge from the U.S. armed forces.

## **Community and Economic Development**

**H.B. 874 (Walle) – Payday Lending:** would provide that a credit services organization or a representative of a credit services organization may not, unless the credit services organization or representative of the credit services organization has extrinsic evidence sufficient prove that the consumer has committed theft or issued a bad check: (1) file a criminal complaint or threaten to file a criminal complaint related to an extension of consumer credit against the consumer; or (2) refer or threaten to refer a consumer to a prosecutor for the collection and processing of a check or similar sight order that was issued in relation to an extension of consumer credit. (Companion bill is **S.B. 182** by **Miles**.)

**H.B. 969 (Springer) – Brush and Plant Removal:** would prohibit a city from adopting an ordinance or rule that prohibits a landowner from removing noxious brush or a noxious or invasive plant species located on the landowner’s property.

**S.B. 376 (Hall) – Eight-Liners:** would, among other things: (1) amend the definition of “gambling device” in the Texas Penal Code to include an eight-liner; (2) provide a defense to prosecution for using certain gambling devices; and (3) repeal county authority to regulate eight-liners.

**S.B. 404 (Birdwell) – Annexation:** would modify the provisions of S.B. 6 (2017) that authorize a countywide election to adopt Tier 2 status to provide that a city must suspend any pending annexation if it receives notice from the county clerk of a verified petition.

**S.B. 408 (Birdwell) – Annexation:** would essentially eliminate most unilateral annexations by any city, regardless of population or location. Specifically, the bill would: (1) eliminate the distinction between Tier 1 and Tier 2 cities and counties created by S.B. 6 (2017); (2) eliminate existing annexation authority that applied to Tier 1 cities and make most annexations subject to the three consent annexation procedures created by S.B. 6 (2017), which allow for annexation: (a) on request of the each owner of the land; (b) of an area with a population of less than 200 by petition of voters and, if required, owners in the area; and (c) of an area with a population of at least 200 by election of voters and, if required, petition of landowners; and (3) authorize certain narrowly-defined types of annexation (e.g., city-owned airports, navigable streams, etc.) to continue using a service plan, notice, and hearing annexation procedure. (Companion bill is **H.B. 347** by **P. King**.)

## **Personnel**

**H.B. 820 (C. Turner) – Minimum Wage:** would, among other things, require an employer to pay a minimum wage that is not less than the greater of \$10.10 an hour or the federal minimum wage (currently at \$7.25 per hour). (See **S.J.R. 5**.) (Companion bill is **S.B. 113** by **Menéndez**.)

**H.B. 850 (E. Johnso) – Discrimination:** would prohibit discrimination in employment on the basis of gender identity or expression and sexual orientation.

**H.B. 964 (Cole) – Employment Benefit Claims:** would provide that a person who: (1) manages or administers an employee benefits plan or program, including a self-funded or insured health benefit plan; and (2) contracts with a political subdivision to manage or administer an employee benefits plan or program for the subdivision’s employees is liable for a claim against the administrator regardless of whether the political subdivision has governmental immunity if: (a) the claim arises from the duty of the administrator under the contract; and (b) the administrator would otherwise be liable to the claimant under law.

**H.B. 971 (Clardy) – Peace Officer Training:** would require the Texas Commission on Law Enforcement to adopt rules allowing an officer who has served in the military to receive credit toward meeting any training hours required for an intermediate, advanced, or master proficiency certificate based on that military service.

**H.J.R. 45 (C. Turner) – Minimum Wage:** would amend the Texas Constitution to provide that, with limited exceptions, an employer shall pay an employee not less than the greater of \$10.10 an hour or the federal minimum wage (currently at \$7.25 per hour). (Companion bill is **S.J.R. 22** by **Menéndez**.)

**S.B. 370 (Watson) – Jury Service:** would: (1) prohibit an employer, including a city, from discharging, threatening to discharge, intimidating, or coercing any permanent employee because the employee serves as a juror, attends or has a scheduled attendance in connection with the jury service, in any court in the United States; and (2) provide that such employee is entitled to return to the same employment that the employee held when summoned for jury service if the employee, as soon as practical after release from jury service, provides the employer actual notice that the employee intends to return.

## **Public Safety**

**H.B. 828 (Rose) – Misdemeanor Fines:** would, in cases involving misdemeanors punishable by fine only, require a justice or judge imposing fines and costs against a criminal defendant to credit that defendant for any time the defendant was confined in jail or prison while serving a sentence for another offense if that confinement occurred after the commission of the misdemeanor. (Companion bill **S.B. 336** by **West**.)

**H.B. 830 (Israel) – Public Intoxication ]:** would provide that a peace officer may, in lieu of arresting an individual who commits the offense of public intoxication, release the individual if the individual verbally consents to voluntary admission to a facility that provides a place for individuals to become sober under supervision, and the facility admits the individual for supervision. (This bill is identical to **H.B. 818** by **Cole**.) (The companion bill is **S.B. 306** by **Watson**.)

**H.B. 833 (Hernandez) – Statewide Alert System:** would: (1) require the Texas Department of Public Safety to develop and implement a statewide alert system to be activated on behalf of a missing military member who suffers from a mental illness or traumatic brain injury; and (2) require law enforcement agencies to take various actions to activate an alert described in (1).

**H.B. 875 (Allen) – School Reporting of Restraints, Arrests, and Complaints:** would (1) require a school district or open enrollment charter school to report data regarding restraints administered to, complaints filed against, citations issued to, and arrests made of students; and (2) require a school district that enters into a memorandum of understanding with a local law enforcement agency for the provision of regular police presence on campus to designate in the MOU which entity will be responsible for collecting the data required for the report.

**H.B. 887 (Thompson of Harris) – Use of Force:** would:

1. require each law enforcement agency to adopt a policy by June 1, 2020, regarding de-escalation and proportionate response that is designed to affirm the sanctity of human life and safely reduce the use of force by the agency's peace officers;
2. require that the Texas Commission on Law Enforcement, in consultation with law enforcement agencies and community organizations, develop and make available a model policy and associated training materials regarding de-escalation and proportionate response that are designed to affirm the sanctity of human life and safely reduce the use of force by peace officers;
3. require that the policy in (1) must: (1) require that each peace officer complete training regarding: (i) conflict de-escalation techniques; (ii) the use of force at a level not to exceed that which is proportional to the threat faced by the officer or to the society interest at stake; and (iii) strategies to achieve law enforcement objectives in the manner least injurious to peace officers and persons suspected of committing an offense; and (b) include procedures designed to minimize frequency and severity of violent incidents involving peace officers;
4. allow law enforcement agencies to adopt their own policy or adopt the model policy developed by the Texas Commission on Law Enforcement in (2);
5. state 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, including acting in accordance with the policy in (1);
6. 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; and
7. provide that a person acting in an officer's presence and at the officer's direction is justified in using deadly force in certain circumstances.

**H.B. 900 (Israel) – Smoking in Vehicle with Child:** would: (1) create a civil penalty for smoking tobacco in a vehicle with a child present; and (2) prohibit a peace officer from stopping or detaining a person who is the operator or an occupant of a passenger vehicle for the sole purpose of determining whether the person might be liable for a civil penalty under the bill.

**H.B. 901 (Hefner) – Red Light Cameras:** would prohibit a county assessor-collector or the Texas Department of Motor Vehicles from refusing to register a motor vehicle alleged to have been involved in a violation detected by a photographic traffic signal enforcement system solely

because the owner of the vehicle is delinquent in the payment of a related civil penalty. (Companion bill is **S.B. 413** by **Hall**.)

**H.B. 940 (S. Davis) – Unlawful Restraint of Dog:** would: (1) create the offense of unlawful restraint of a dog; and (2) provide that the bill does not preempt a local regulation relating to the restraint of a dog or affect the authority of a political subdivision to adopt or enforce an ordinance or requirement relating to the restraint of a dog if the regulation, ordinance, or requirement: (a) is compatible with and equal to or more stringent than a requirement prescribed by the bill; or (b) relates to an issue not specifically addressed by the bill. (Companion bill **H.B. 295** by **Lucio**.)

**H.B. 943 (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. 962 (Miller) – Bicycles and Pedestrians:** would impose certain requirements on the operator of a motor vehicle when passing a pedestrian or person operating a bicycle on a highway or street.

**H.B. 976 (Metcalf) – Multihazard Emergency Operations Plan:** would require school districts or public junior college districts to consult with the Department of State Health Services, local emergency management agencies, law enforcement, health departments, and fire departments when developing its multihazard emergency operations plan.

**S.B. 372 (Campbell) – Charter School Security:** would allow an open-enrollment charter school to employ security personnel and commission peace officers and enter into a memorandum of understanding with a local law enforcement agency to assign a school resource officer.

**S.B. 378 (Hall) – Firearms:** would provide that: (1) the bill applies to state agencies and political subdivisions, including the governing body of a city, an officer or employee of the city, the municipal attorney, the municipal police department, or “other body that is part of a city;” (2) an entity described by (1) may not 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; (3) an entity may not 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 if the entity, by consistent actions, requires the enforcement of any federal statute, order, rule, or regulation or an international law; (4) 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; (5) any citizen residing in the jurisdiction of an entity may file a complaint with the attorney general if the citizen offers evidence to support an allegation that the entity has violated the bill; (6) if the attorney general determines that a complaint 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 with the bill; and (7) the attorney general shall defend any entity described by (1) that the federal government attempts to sue or prosecute for an action or omission consistent with the requirements of the bill.

**S.B. 381 (Hall) – Licensed Carry:** would: (1) reduce the Class C criminal penalty for trespass by handgun license holders from \$200 to \$5; and (2) provide that the offense is punishable by a fine of up to \$200 if it is shown on the trial of the offense that, after entering the property, the license holder was personally given the notice by oral communication and failed to depart promptly.

**S.B. 403 (Birdwell) – Licensed Carry:** would: (1) add municipal and assistant municipal attorneys to the current list of attorneys who may establish handgun proficiency for licensing purposes through an instructor approved by the Texas Commission on Law Enforcement; and (2) authorize a municipal or assistant municipal attorney who holds a license to carry a handgun essentially anywhere.

### **Transportation**

No city-related transportation bills were filed this week.

### **Utilities and Environment**

**H.B. 856 (Hinojosa) – Plastic Bag Regulation:** would delete the provision in Health and Safety Code Section 361.0961 that the Texas Supreme Court construed as preempting city plastic bag regulations.

**H.B. 907 (Huberty) – Aggregate Production Penalties:** would increase the penalties for aggregate production operations operating without being registered to: (1) an annual range of \$10,000 to \$20,000; and (2) over three or more years to \$50,000.

**H.B. 908 (Huberty) – Aggregate Production Penalties:** would provide that: (1) the amount of the penalty against a facility operator for operating an aggregate production operation in violation of a permit issued by the Texas Commission on Environmental Quality may not exceed \$50,000 a day for each day a violation continues; and (2) the penalty would be deposited to the credit of the water resources management account.

**H.B. 909 (Huberty) – Aggregate Production Best Management Practices:** would require the Texas Commission on Environmental Quality to adopt and make available best management practices for aggregate production operations to comply with applicable environmental law and rules.

**H.B. 924 (Zedler) – Concrete Batch Plants:** would allow a commissioners court to require the owner of a concrete batch plant operating in the county to file a surety bond conditioned that the

owner will pay to the county an amount to repair any damage to a highway caused by the operation of vehicles used in the operation of the plant.

**H.B. 928 (Anchia) – Climate Change:** would, among other things: (1) establish the Texas Climate Change Mitigation and Adaptation Commission to study and address the impacts of climate change in Texas; and (2) provide for the appointment of a representative of the municipal electricity sector to the commission.

**H.B. 944 (Dutton) – Permit Posting:** would require applicants for wastewater, injection wells, and solid waste permits to place a sign at the site of the facility or proposed facility that states: (1) that an application for a permit for a facility at the site has been filed; and (2) the manner in which the Texas Commission on Environmental Quality may be contacted for further information.

**S.B. 396 (Perry) – Flood Planning:** would, among other things, require: (1) that the Water Development Board prepare and adopt, by September 1, 2024, and before the end of each successive five-year period after that date, a comprehensive state flood plan that incorporates approved regional flood plans; (2) adoption of a regional flood plans by representatives of the governing body of each county that is located wholly or partly in a flood planning region after obtaining input from interested persons, including members of the public and other political subdivisions located in that county; and (3) the Soil and Water Conservation Board to prepare an adopt a ten-year plan describing the repair and maintenance needs of flood control dams in the state, and deliver, each year, to the Water Development Board, a report regarding progress made on items listed in the plan.

**S.B. 397 (Perry) – Flood Planning:** would, among other things: (1) require that the Soil and Water Conservation Board prepare an adopt a ten-year plan describing the repair and maintenance needs of flood control dams in the state, and deliver, each year, to the Water Development Board, a report regarding progress made on items listed in the plan; and (2) create a trust to be funded from the money appropriated to the state flood plan implementation fund for use by the Water Development Board, without further legislative appropriation, to implement the state flood plan and dam repair and maintenance projects administered by the Soil and Water Conservation Board.

**S.J.R. 28 (Perry) – Disaster Fund:** would amend the Texas Constitution to create a \$1.2 billion special fund to be administered and used, without further appropriation, by the Texas Water Development Board or its successor to implement the state flood plan and to fund flood control dam repair and maintenance projects administered by the state.

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