The Texas Municipal League Legislative Program for 2019 – 2020

Introduction

City officials across the state are well aware of the fact that many significant decisions affecting Texas cities are made by the Texas Legislature, not by municipal officials.

During the 2017 session, more than 6,500 bills or significant resolutions were introduced; more than 2,000 of them would have affected Texas cities in some substantial way. In the end, over 1,200 bills or resolutions passed and were signed into law; almost 300 of them impacted cities in some way.

The number of city related bills as a percentage of total bills filed rises every year. Twenty years ago, around 17 percent of bills filed affected cities in some way. By 2017, that percentage had almost doubled to 30 percent. In other words, almost a third of the legislature’s work is directed at cities, and much of that work aims to limit municipal authority.

There is no reason to believe that the workload of the 2019 session will be any lighter; it may be greater. And for better or worse, city officials will have to live with all the laws that may be approved by the legislature. Thus, the League must make every effort to assure that detrimental bills are defeated and beneficial bills are passed.

The TML approach to the 2019 session is guided by principles that spring from a deeply rooted TML legislative philosophy:

- The League will vigorously oppose any legislation that would erode the authority of Texas cities to govern their own local affairs.

- Cities represent the level of government closest to the people. They bear primary responsibility for provision of capital infrastructure and for ensuring our citizens’ health and safety. Thus, cities must be assured of a predictable and sufficient level of revenue and must resist efforts to diminish their revenue.

- The League will oppose the imposition of any state mandates that do not provide for a commensurate level of compensation.

In setting the TML program for 2019-2020, the Board recognized that there is a practical limit to what the League can accomplish during the legislative session. Because the League (like all associations) has finite resources and because vast amounts of those resources are necessarily expended in defeating bad legislation, the Board recognized that the League must very carefully select the bills for which it will attempt to find sponsors and seek passage.

The Board considered approximately 50 initiatives that had been recommended by the membership-at-large. Each initiative was subjected to several tests:
• Does the initiative have wide applicability to a broad range of cities of various sizes (both large and small) and in various parts of the state?

• Does the initiative address a central municipal value, or is it only indirectly related to municipal government?

• Is this initiative, when compared to others, important enough to be part of TML’s list of priorities?

• Will the initiative be vigorously opposed by strong interest groups and, if so, will member cities commit to contributing the time and effort necessary to overcome that opposition?

• Is this initiative one that city officials, more than any other group, should and do care about?

The Board placed each legislative issue into one of four categories of effort. Those five categories are:

• **Seek Introduction and Passage** – the League will attempt to find a sponsor, will provide testimony, and will otherwise actively pursue passage. Bills in this category are known as “TML bills.”

• **Support** – the League will attempt to obtain passage of the initiative if it is introduced by some other entity.

• **Oppose** – the League will actively and vigorously attempt to defeat the initiative because it is detrimental to member cities.

• **No Position** – the League will take no action.

**Our Highest Priority: Oppose Bad Bills**

The Board determined that TML’s highest priority goal for 2019-2020 will be the defeat of legislation deemed detrimental to cities. As a practical matter, adoption of this position means that the beneficial bills will be sacrificed, as necessary, in order to kill detrimental bills.

**The TML Priority Package**

The Board determined that the TML Priority Package will include the following items in priority order:
1. Defeat any legislation that would erode municipal authority in any way, impose an unfunded mandate, or otherwise be detrimental to cities, especially legislation that would:

   a. erode municipal authority in any way, impose an unfunded mandate, or otherwise be detrimental to cities.

   b. provide for state preemption of municipal authority in general.

   c. impose a revenue and/or tax cap of any type, including a reduced rollback rate, mandatory tax rate ratification elections, lowered rollback petition requirements, limitations on overall city expenditures, exclusion of the new property adjustment in effective rate and rollback rate calculations, or legislation that lowers the rollback rate and gives a city council the option to re-raise the rollback rate.

   d. erode the ability of a city to issue debt.

   e. erode municipal authority related to development matters, including with respect to the following issues: (1) annexation, (2) eminent domain, (3) zoning, (4) regulatory takings, (5) building codes, (6) tree preservation, and (7) short-term rentals.

   f. erode the authority of a city to be adequately compensated for the use of its rights-of-way and/or erode municipal authority over the management and control of rights-of-way, including by state or federal rules or federal legislation.

   g. require the reporting of lobbying activities beyond the requirements in current law; limit or prohibit the authority of city officials to use municipal funds to communicate with legislators; or limit or prohibit the authority of the Texas Municipal League to use any revenue, however derived, to communicate with legislators.

2. Passage of any legislation that would:

   a. eliminate reauthorization provisions for the collection and use of street maintenance sales and use tax and authorize cities to reimburse themselves from sales and use tax collections for actual election costs required for tax implementation.

   b. allow cities the option of using either an official newspaper or a website for the publication of legal notices.

**Support**

The Board voted to support legislation that would:
1. simplify the effective tax rate calculation for notice purposes only, provided the legislation would have no effect on either the underlying effective tax rate and rollback tax rate calculations themselves, or upon the hold harmless exemptions to those rates.

2. extend the sunset date for Chapter 312 tax abatement authority only if the business lobby groups whose members benefit from tax abatement agreements refrain from any support for harmful revenue and expenditure caps.

3. make beneficial amendments to the equity appraisal statute; close the “dark store” theory of appraisal loophole; and require mandatory disclosure of real estate sales prices.

4. authorize a council-option property tax exemption of a portion of the appraised value of property damaged by a disaster.

5. authorize a council-option city homestead exemption expressed as a percentage or flat-dollar amount.

6. support legislation that would convert the sales tax reallocation process from a ministerial process into a more formalized administrative process.

7. expand municipal annexation authority.

8. authorize a city council to opt-in to requiring residential fire sprinklers in newly constructed single-family dwellings.

9. expressly authorize any city to regulate and enforce building codes, including related permitting, plan reviews, inspections, and the collection of fees for theses and other necessary services, within its extraterritorial jurisdiction.

10. expand the applicability of Texas Local Government Code Chapter 43, Municipal Annexation, Subchapter F Limited Purpose Annexation, to all cities.

11. simplify processes, reduce unnecessary bureaucracy, and increase potential efficiency of the subdivision platting process.

12. allow for greater flexibility by cities to fund local transportation projects; amend or otherwise modify state law to help cities fund transportation projects; or provide cities with additional funding options and resources to address transportation needs that the state and federal governments are unable or unwilling to address.

13. provide additional funding to the Texas Department of Transportation for transportation projects that would benefit cities and provide local, state, and federal transportation funding for rail as one component of transportation infrastructure.
14. expand the use of public, educational, and government (PEG) fees to include operational and related costs associated with PEG channels, including federal legislation, and that would allow a city to choose to not receive the PEG fees.

15. in relation to municipal courts, allow a more equitable way of distributing court fines that would result a higher percentage of fines being kept local, where the laws are enforced, the court is held, and the fines collected.

16. provide additional appropriations for the Texas Veterans Commission and the Texas Workforce Commission skills for veterans initiative that dedicates state funding to address the training needs of veterans returning home and entering the Texas workforce.

17. in relation to federal transit funding: (1) clarify federal congressional intent of federal transit law to protect cities across the United States from being penalized due to a population drop suffered as a direct result of a natural disaster, retroactive to 2000; (2) explicitly state that only presidentially declared major disasters are covered, in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 100-707); and (3) protect federal transit funding streams for urbanized areas until the execution of the next decennial census.

18. increase funding for the Texas Intrastate Fire Mutual Aid System to $3 million annually.

19. allow a city to lower the prima facie speed limit from 30 to 25 miles per hour without the need for a traffic study.

20. restore funding to the TCEQ in the FY 2020-2021 General Appropriations Act for air quality programs in all near non-attainment communities.

21. establish that expenditures of Community Development Block Grant funds by cities are a governmental function.

22. extend the authority granted under Section 214.33 of the Local Government Code to all cities seeking to adopt and ordinance requiring owners of vacant buildings to register their buildings by filing a registration form with the designated municipal official.

23. require city consent before TCEQ is authorized to issue a standard permit for a rock crushing operation, cement crushing operation, or any similar activity that may be authorized under a standard air permit from TCEQ within the corporate limits or ETJ of a city. (Alternatively, or in addition, such legislation may: (a) authorize a city to restrict, prevent, or regulate the locating of such activities in the city’s corporate limits or ETJ in other manners, such as imposing minimum distance from such operations and schools, hospitals, churches, and residences; (b) require TCEQ to provide notice of applications for standard permits to cities for activities proposed in
the city’s corporate limits or ETJ and require TCEQ to address any and all comments received from the City as required by Sec. 382.112 of the Texas Health & Safety Code; or (c) prohibit TCEQ from issuing a standard permit for activities proposed in the city’s corporate limits or ETJ unless the city verifies that the proposed in the city’s corporate limits or ETJ unless the city verifies that the proposed activity is authorized under the city’s zoning ordinance or comprehensive plan to locate at the proposed location.

24. grant cities the right to obtain information and the right to receive notice of incidents affecting public health from state agencies, especially when that information is vital to both the protection of the general public and first responders.

25. provide consistency and uniformity in the compliance deadlines and fees for compliance dismissals of Class “C” misdemeanors.

26. provide courts with access to TexasSure database to verify financial responsibility.

27. provide additional funding through the Municipal Court Building and Security Fund and the Municipal Court Technology Fund.

28. with regard to municipal ballot propositions, level the playing field for all participants.

**Oppose**

The Board voted to oppose legislation that would:

1. negatively expand appraisal caps but take no position on legislation that would authorize a council-option reduction in the current ten-percent cap on annual appraisal growth.

2. impose new property tax or sales tax exemptions that substantially erode the tax base.

3. limit or eliminate the current flexibility of the Major Events Reimbursement Program as a tool for cities to attract or host major events and conventions.

4. limit the type of incentives available to the city or that would limit any use of incentives by a city.

5. impede the city’s ability to manage long term planning, growth and development in a manner necessary to hinder or mitigate for potential flooding and to pay for city related costs, including preemption of annexation, tree removal, regulation of development projects, issuance of permits, and city spending.

6. erode municipal authority over billboards or place any unfunded mandate on cities relating to billboards.
7. further erode local control as it pertains to retirement issues.

8. substantively change or expand the scope of the current disease presumption law, unless doing so is supported by reputable, independent scientific research.

9. require candidates for city office to declare party affiliation in order to run for office.

10. eliminate any of the current uniform election dates.

11. impose additional state fees or costs on municipal court convictions or require municipal courts to collect fine revenue for the state.

12. alter the common law understanding of which topics are appropriate for the initiative and referendum process.

13. preempt city charter provisions relating to municipal ballot propositions.

14. restrict city authority to validate petition signatures.

15. restrict city authority to draft ballot propositions in such a way that reflects the full fiscal impact of the proposition.

16. restrict city authority to divide initiated questions to allow a vote on a single issue.

17. require preclearance of city ballot propositions by a state agency.

**Take No Position**

The Board voted that TML take no position on legislation that would:

1. standardize red light photo enforcement systems, so long as the underlying authority is not eliminated. (Further, the committee recommends that TML defer to the Texas Red Light Coalition on more detailed matters relating to revisions to red light camera policy.)

2. amend the affected provisions of the Texas Government Code relating to the Texas Municipal Retirement System to allow for greater flexibility in retiree pension increases and provide for a forgiveness provision for cities that stopped the regular repeating COLA payments without reference to a cost of living index.

3. relate to immigration matters, so long as it does not impose new and substantial unfunded mandates or unavoidable liabilities on cities.
Other

The Board voted that TML take the following additional actions:

1. seek the guidance of the TML executive committee in relation to tax abatement agreements should the “support” position included elsewhere in this program no longer encompass evolving scenarios.

2. take no position on *Wayfair*-related legislation that impacts local sourcing of sales and use taxes, but seek the guidance of the TML executive committee to address any unforeseen issues concerning the statewide implementation of the *Wayfair* decision.

3. concur with the [legislative program](#) of the Texas Recreation and Park Society, but disapprove the provision in that program relating to prohibiting firearms at certain types of city events.

4. work with the City of Leary on legislation that would reduce cost drivers for small city audits, so long as appropriate statutory safeguards remain in place.

5. with regard to economic development: (1) take no position on legislation that would broaden the authority of Type A or Type B economic development corporations; and (2) oppose legislation that would limit the authority of Type A or Type B economic development corporations statewide, but take no position on legislation that is regional in scope and that is supported by some cities in that region.

6. support the Texas State Library and Archives Commission and the work it does to advance fundamental and diverse state interests and respectfully request that the Texas Sunset Commission recommend reauthorization of the Texas State Library and Archives Commission so that it may continue its essential work on behalf of all Texans.