



# Legislative UPDATE

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## **Eighty-Third Texas Legislature: Back to Basics**

The final days of a regular session of the Texas Legislature are often characterized by a flurry of activity in both chambers: a rush to meet deadlines, hastily drafted amendments tacked onto any bill that's moving, and sunset bills that become dump trucks for all kinds of bad ideas. The Eighty-Third Legislature was much different. Having focused on a few core issues like education and water infrastructure, the final days seemed almost calm. Historically, it was what you might call an "ordinary" session, but it stands out like a sore thumb because so many recent sessions have been fraught with partisanship and fighting that this one seemed anything but ordinary.

How did cities fare this session? Not too badly overall—we sustained a few minor nicks and scratches. For instance, city health authority over health and safety at farmers markets was circumscribed. (Please see **H.B. 1382** in the **Public Safety** section.) A series of attorney general's opinions holding that personal email accounts can be made public if they contain emails about public business were codified into state law. (Please see **S.B. 1368** in the **Open Government** section.) And there were a few other bills that passed that were less than ideal from a city perspective.

Of course, many filed bills would have, if passed, seriously undermined city authority. Among those were revenue cap bills, appraisal cap bills, and bills that would have eliminated city authority to prevent the clear cutting of trees. There were bills filed to eliminate original city jurisdiction over utility ratemaking, and bills that would have expanded the vested rights statute to the detriment of sensible city land use authority. Fortunately, all these bills (and many more) died a well-deserved death at various points in the process.

Meanwhile, beneficial legislation passed dealing with water. **H.B. 4** and related bills will, if voters approve the concept in November, move \$2 billion from the state's Rainy Day Fund to a new revolving loan account for water infrastructure projects and conservation projects. Cities have Rep. Allan Ritter and Sen. Troy Fraser to thank for passing this important legislation that paves the way for new water capacity and, just as important, doesn't resort to tap fees (city water taxes) to make it happen.

With regard to the state budget, some money (\$15.5 million) was restored to local parks grant programs that was cut under the current budget, but the amount remains less than half of that under the 2010-11 budget.

The League helped pass beneficial legislation that will assist cities struggling with "fire flow" problems posed by non-city water utilities. (Please see **H.B. 1973** in the **Public Safety** section.)

Cities were unsuccessful in passing legislation that would have permitted publication of notices on the Internet instead of in print newspapers. Two of these good bills were filed and heard in committee, but the newspaper lobby made it their main mission to kill this cost-saving idea and the bills never made it to the House floor.

Finally, a contentious back-and-forth battle was fought all session over whether, and how, to regulate the growing payday lending industry. The powerful payday lobby first supported a bill, **S.B. 1247** by Sen. Carona, that would have imposed some substantive regulation. It would also have preempted city regulation entirely. When the bill got seriously toughened up on the Senate floor, however, the industry pulled their support. The result? No substantive regulations at the state level, but cities are free for now to pass regulatory ordinances as they deem it necessary.

### The Important Numbers

In the 2013 session, lawmakers filed fewer bills than in previous sessions. All told, 6,061 bills and proposed constitutional amendments were filed, compared to 6,303 filed in 2011. At one point in the session, the League was tracking over 1,700 of those bills that could have affected city authority.

In 2011, lawmakers passed 22.4 percent of bills filed; this year, 23.7 percent made the cut. Thus, fewer bills were filed but a greater percentage made it through. More bills filed and passed affected cities than in the previous session, but as pointed out earlier the harmful effect of such city-related bills was relatively modest.

<u>Year</u>	<u>Total Bills Introduced*</u>	<u>Total Bills Passed</u>	<u>City-Related Bills Introduced</u>	<u>City-Related Bills Passed</u>
1993	4,560	1,089	800+	140+
1995	5,147	1,101	800+	140+
1997	5,741	1,502	1,100+	130+
1999	5,908	1,638	1,230+	130+
2001	5,712	1,621	1,200+	150+
2003	5,754	1,403	1,200+	110+
2005	5,369	1,397	1,200+	105+
2007	6,374	1,495	1,200+	120+
2009	7,609	1,468	1,500+	120+
2011	6,303	1,410	1,500+	160+
2013	6,061	1,437	1,700+	220+

\*Includes bills and proposed Constitutional amendments; regular session only.

### Looking Ahead

As of this writing, a special session is already underway to deal with legislative and congressional redistricting. It's possible that other issues will be added to the special session agenda, and the League will monitor any such items closely.

The following sections contain summaries of the major city-related bills passed by the Eighty-Third Legislature. The governor has until June 16 to sign bills, veto them, or let them become law without his signature. The effective date of each bill is noted in a parenthetical following each bill described below. Some of the bills will become effective as soon as they are signed (e.g., "effective immediately"); others (unless vetoed) will become effective on September 1.

Future issues of the *TML Legislative Update* or *Texas Town & City* magazine will provide additional details on some of the bills described here, may include summaries of "straggler" bills that for various reasons weren't summarized at the time of printing, and will provide other updates as appropriate.

## **Finance and Administration**

### **Property Tax**

**H.B. 97 (Perry/Van de Putte) – Property Tax Exemption:** this bill provides, among other things: (1) that a disabled veteran who has a disability rating of less than 100 percent is entitled to an exemption from taxation of a percentage of the appraised value of the disabled veteran’s residence homestead equal to the disabled veteran’s disability rating if the residence homestead was donated to the disabled veteran by a charitable organization at no cost to the disabled veteran; and (2) that the exemption in (1), above, continues for the surviving spouse of the veteran if: (a) the surviving spouse has not remarried; (b) the property was the residence homestead of the surviving spouse when the disabled veteran died; and (c) the property remains the residence homestead of the surviving spouse. (Effective January 1, 2014, but only if **H.J.R. 24**, summarized below, is approved by the voters.)

**H.B. 242 (Otto/Hegar) – Property Tax Notice:** requires a chief appraiser to provide certain property tax notices relating to agricultural land by certified mail. (Effective January 1, 2014.)

**H.B. 315 (Otto/Estes) – Property Tax Appraisal:** amends the definition of “dealer” to relieve certain motor vehicle dealers from monthly vehicle inventory tax reporting requirements if the dealer: (1) does not sell motor vehicles that are self-propelled and designed to transport persons or property on a public highway; (2) meets either of the following requirements: (a) total annual sales from the dealer’s motor vehicle inventory, less sales to dealers, fleet transactions, and subsequent sales, are 25 percent or less of the total revenue from all sources during the 12-month period corresponding to the preceding tax year; or (b) the dealer did not sell a motor vehicle to a person other than another dealer during the 12-month period corresponding to the preceding tax year and the dealer estimates that the total annual sales will be 25 percent or less of the dealer’s total revenue from all sources during that period; (3) files with the chief appraiser and comptroller a declaration stating that the dealer elected not to be treated as a dealer under state law; and (4) renders the dealer’s motor vehicle inventory in the current tax year by filing a rendition with the chief appraiser. (Effective January 1, 2014.)

**H.B. 316 (Otto/Williams) – Property Tax:** allows taxpayer appeals from appraisal review board determinations to be heard by the State Office of Administrative Hearings if the property is located in the following cities: Amarillo, Austin, Beaumont, Corpus Christi, El Paso, Fort Worth, Houston, Lubbock, Lufkin, McAllen, Midland, San Antonio, Tyler, and Wichita Falls. (Effective January 1, 2014.)

**H.B. 326 (Dutton/Huffman) – Appraisal Review Board:** allows a person who served all or part of three consecutive terms as a member of an appraisal review board to serve another term, so long as the person did not serve a consecutive fourth term. (Effective immediately.)

**H.B. 561 (Workman/Seliger) – Property Tax Exemption:** provides that no additional property tax is imposed on land owned by an organization that qualifies as a school if the organization

converts the land to a use for which the land is eligible for a property tax exemption. (Effective immediately.)

**H.B. 585 (Villarreal/Eltife) – Appraisal Process**: this bill, among other things, modifies the procedural requirements relating to the appraisal of property taxes by:

1. imposing additional training requirements on the chief appraiser of an appraisal district;
2. requiring the comptroller to prepare model hearing procedures for appraisal review boards;
3. providing that an individual is ineligible to serve on an appraisal district board if the individual has engaged in the business of appraising property for compensation or representing property owners in appraisal review board proceedings in the preceding five years;
4. requiring a person to be certified as a registered professional appraiser, to possess a professional designation from the Appraisal Institute, or to possess a professional designation from the International Association of Assessing officers in order to be eligible to serve as a chief appraiser;
5. requiring the comptroller to appoint a person eligible to be a chief appraiser for an appraisal district whose chief appraiser is ineligible to serve;
6. requiring the taxpayer liaison officer for an appraisal district to be responsible for providing clerical assistance to the local administrative district judge in the selection of appraisal review board members;
7. providing that a chief appraiser or another employee or agent of an appraisal district commits a Class A misdemeanor if the person communicates with a member of the appraisal review board for the appraisal district, a member of the board of directors of the appraisal district, or (in county with a population of more than 120,000) the local administrative district judge regarding a ranking, scoring, or reporting of the percentage by which the appraisal review board or a panel of the board reduces the appraised value of property;
8. requiring a property owner who wishes to receive an allocation of value to reflect the use of certain types of personal property in Texas to submit an application with the chief appraiser in the appropriate appraisal district;
9. providing that a property owner who submits a late application for allocation under (8), above, is liable to each taxing unit for a penalty in an amount equal to ten percent of the difference between the amount of tax imposed by the taxing unit on the property without the allocation and the amount of tax imposed on the property with the allocation;
10. allowing a city council of a city located inside an area declared to be a disaster area (as opposed to a “natural disaster” area) to authorize the reappraisal of all property damaged in the disaster at its market value immediately after the disaster;
11. providing that a replacement structure is not considered to be a new improvement for property tax appraisal cap purposes if, to satisfy the requirements of an authorized disaster recovery program, it was necessary that: (a) the square footage of the replacement structure exceed that of the replaced structure; or (b) the exterior of the replacement structure be of higher quality construction and composition than that of the replaced structure;

12. authorizing a taxpayer to sue a taxing unit in district court to compel payment of a tax refund, and be awarded the costs of court and reasonable attorney's fees in an amount not to exceed \$1500 or 30 percent of the total amount of the refund as determined by the court;
13. for property valued at more than \$1 million, placing the burden on the appraisal district to establish the value of property by clear and convincing evidence presented at a hearing for protests of the determination of the appraised value of property or the unequal appraisal of property, provided that the appraised value was lowered in the preceding tax year and the property owner delivers sufficient information to the appraisal review board and appraisal district to allow for a determination of market value;
14. eliminating the expedited arbitration process for a property owner to appeal a decision of the appraisal review board;
15. allowing a property owner to pay the amount of taxes imposed on the property in the preceding tax year before the delinquency date when appealing an appraisal if that amount is less than: (a) the amount of taxes due on the portion of the taxable value of the property that is not in dispute; and (b) the amount of taxes due on the property under the order from which an appeal is taken;
16. allowing evidence, argument, or other testimony offered at an appraisal review board hearing to be admissible in an appeal only if: (a) the evidence, argument, or other testimony is offered to demonstrate that there is sufficient evidence to deny a no-evidence motion for summary judgment or is necessary to determine the merits of a motion for summary judgment on another ground; (b) the property owner or agent is designated as a witness for purposes of trial and the testimony offered at the appraisal review board hearing is offered for impeachment purposes; or (c) the evidence is the plaintiff's testimony at the appraisal review board hearing as to the value of the property; and
17. authorizing attorney's fees for a property owner who prevails in an appeal to the court of a determination of an appraisal review board of a protest of the denial of an exemption relating to cemeteries, disabled veterans, nonprofit community business organizations, historic sites, and other miscellaneous exemptions.

(Portions of the bill are effective immediately and others are effective September 1, 2014.)

**H.B. 709 (Isaac/Deuell) – Property Tax Payment Process:** this bill: (1) allows a city to apply property tax overpayments to delinquent amounts from a tax year other than the year from which a tax refund arises if the delinquent taxpayer was the sole owner of the property in both years; and (2) allows disabled veterans, rather than just the surviving spouses of disabled veterans, to pay property taxes in four installments. (Effective January 1, 2014.)

**H.B. 826 (Harless/Eltife) – Property Tax Appraisal:** this bill provides that: (1) banks, savings banks, savings and loan associations, credit unions, and other finance companies do not qualify as heavy equipment inventory dealers for purposes of the property taxes imposed on heavy equipment inventory; (2) the term “dealer” does not include a person who renders the person's inventory of heavy equipment for taxation in that tax year by filing a rendition statement or property report in accordance with state law; and (3) a “dealer's heavy equipment inventory” means all items of heavy equipment that a dealer holds for sale, lease, or rent in this state during a 12-month period. (Effective January 1, 2014.)

**H.B. 1287 (Hilderbran/Estes) – Property Tax Exemption:** this bill: (1) provides that an application for a residence homestead exemption need not include a copy of the applicant’s driver’s license or personal identification certificate if the applicant: (a) is a resident of a facility that provides services related to health, infirmity, or aging; or (b) is certified for participation in the address confidentiality program; and (2) allows a chief appraiser to waive the requirement that an address of the property for which the exemption is claimed correspond to the address listed on the applicant’s driver’s license or personal identification certificate if the applicant: (a) is an active duty member of the armed services or the spouse of an active duty member and the application includes a copy of the military identification card and a copy of the utility bill for the property subject to the claimed exemption; or (b) holds a license issued to a federal judge, state judge, spouse of the judge, or peace officer that omits the residence address if the application for that license to the Department of Transportation is included in the application for the exemption. (Effective September 1, 2013.)

**H.B. 1597 (N. Gonzalez/Hinojosa) – Property Tax Delinquency:** this bill: (1) allows an individual who is disabled or at least 65 years of age and qualifies for a residence homestead exemption or a disabled veteran to make four installment payments of property taxes without penalty or interest if the first installment is paid before the delinquency date and is accompanied by proper notice that the remaining taxes will be paid in three equal installments; (2) requires the tax collector for a taxing unit to enter into an installment agreement for the payment of property taxes, penalties, and interest on a residence homestead if requested by a person who is delinquent in the payment of property taxes and who has not entered into an installment agreement with the taxing unit in the previous 24 months; (3) requires the installment agreement to provide for installment payments in equal amounts and a period of at least 12 months; (4) provides that a delinquency penalty does not accrue on the unpaid balance of property taxes during the period of the agreement if the property is a residence homestead, unless the property owner fails to make a payment as required by the agreement; (5) requires a notice of delinquency sent by a taxing unit to contain specific language regarding the ability to enter into an installment agreement; (6) requires a tax collector for a taxing unit to deliver notice of delinquency to a person who is in breach of an installment agreement and to any other owner of an interest in the property before the collector may seize and sell the property or file a suit to collect a delinquent tax subject to the agreement; and (7) provides that a debtor is not in default under a deed of trust or other contract lien on real property used as the debtor’s residence for the delinquent payment of property taxes if the debtor has given notice of the installment agreement to the mortgage servicer and the property is protected from seizure and sale and a suit may not be filed to collect a delinquent tax. (Effective September 1, 2013.)

**H.B. 1712 (Lozano/Zaffirini) – Property Tax Exemption:** this bill provides both a property tax exemption and a sales and use tax exemption for personal property that a person owns or leases and that is used, constructed, acquired, stored, or installed solely as part of an offshore spill response containment system and personal property used solely for the development, improvement, storage, development, repair, maintenance, or testing of such a system if the system is being stored while not in use in a county bordering on the Gulf of Mexico, a bay, or other body of water immediately adjacent to the Gulf of Mexico. (Effective immediately.)

**H.B. 1897 (Eiland/Carona) – Property Tax Exemption:** provides that, for purposes of the “Prop 2” property tax exemption for pollution control property: (1) the executive director of the Texas Commission on Environmental Quality (TCEQ) must issue a determination letter to a person seeking an exemption and the TCEQ shall take final action on the initial appeal of an exemption not later than the first anniversary of the date the executive director declares the application to be administratively complete; (2) a property owner is not entitled to a refund resulting from the final determination of an appeal of the denial of an exemption unless: (a) the property owner pays the taxes before the final determination of an appeal that ultimately decreases the property owner’s tax liability; or (b) has entered into a written agreement with the chief appraiser that authorizes the refund pending a final determination by the TCEQ; (3) not later than the 10th day after the date a property owner and the chief appraiser into a written agreement under (2), above, the chief appraiser shall provide to each taxing unit that taxes the property a copy of the agreement, and the agreement is void if a taxing unit objects in writing to the agreement within 60 days after the date the taxing unit receives a copy; and (4) a person is entitled to a property tax exemption for pollution control equipment through December 31, 2015, for landfill-generated gas conversion facilities. (Effective September 1, 2013.)

**H.B. 1913 (Bohac/Williams) – Delinquent Taxes:** this bill: (1) allows a city council to waive penalties and interest on a delinquent tax that relates to a date preceding the date on which the property owner acquired the property if: (a) the owner or another person liable for the tax pays the tax not later than 181 days after the date the property owner receives notice of the delinquent tax; and (b) the delinquency is the result of taxes imposed on omitted property entered into the appraisal records, erroneously exempted property or appraised value added to the appraisal roll, or property added to the appraisal roll under a different account number or parcel when the property was owned by a prior owner; and (2) authorizes a city to waive penalties and interest on a delinquent tax if the taxpayer submits evidence sufficient to show that the taxpayer delivered payment for the tax before the delinquency date. (Effective September 1, 2013.)

**H.B. 2500 (Bohac/Carona) – Property Tax Exemption:** requires the chief appraiser to use the cost method of appraisal to determine the market value of solar energy property constructed or installed on or after January 1, 2014. (Effective January 1, 2014.)

**H.B. 3121 (Harper-Brown/Deuell) – Freeport Property Tax Exemption:** for purposes of the Freeport property tax exemption, authorizes a city council to extend the date by which Freeport goods (that are aircraft parts) must be transported outside the state to a date not later than 730 days after the date the person acquired or imported the property in the state. (Effective January 1, 2014, but only if **H.J.R. 133**, summarized below, is approved by the voters.)

**H.B. 3438 (Otto/Lucio) – Appraisal Review Board:** prohibits a person from serving on an appraisal review board of an appraisal district established for a county having a population of more than 100,000 if the person appeared before the appraisal review board for compensation during the two-year period preceding the date the person is appointed. (Effective September 1, 2013.)

**H.J.R. 24 (Perry/Van de Putte) – Property Tax Exemption:** would amend the Texas Constitution to provide that the legislature by general law may provide that a partially disabled

veteran is entitled to an exemption from ad valorem taxation of a percentage of the market value of the disabled veteran's residence homestead that is equal to the percentage of disability of the disabled veteran if the residence homestead was donated to the disabled veteran by a charitable organization at no cost to the disabled veteran. (Election to be held on November 5, 2013.)

**H.J.R. 62 (Turner/Van de Putte) – Property Tax Exemption:** would amend the Texas Constitution to authorize the legislature by general law to: (1) provide that the surviving spouse of a member of the armed services of the United States who is killed in action is entitled to a property tax exemption of the total appraised value of the surviving spouse's residence homestead if the surviving spouse has not remarried since the death of the member of the armed services; and (2) a surviving spouse who qualifies for an exemption that subsequently qualifies a different property as the surviving spouse's residence homestead is entitled to a property tax exemption of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption for the former homestead if the surviving spouse has not remarried. (Election to be held on November 5, 2013.)

**H.J.R. 133 (Harper-Brown/Deuell) – Freeport Property Tax Exemption:** for purposes of the Freeport property tax exemption, would amend the Texas Constitution to authorize a city council to extend the date by which Freeport goods (that are aircraft parts) must be transported outside the state to a date not later than 730 days after the date the person acquired or imported the property in the state. (Election to be held on November 5, 2013.)

**S.B. 163 (Van de Putte/C. Turner) – Property Tax Exemption:** provides that: (1) the surviving spouse of a member of the armed services of the United States who is killed in action is entitled to a property tax exemption for the total appraised value of the surviving spouse's residence homestead if the surviving spouse has not remarried since the death of the member of the armed services; and (2) a surviving spouse who qualifies for an exemption that subsequently qualifies a different property as the surviving spouse's residence homestead is entitled to a property tax exemption of the subsequently qualified homestead in an amount equal to the dollar amount of the exemption for the former homestead if the surviving spouse has not remarried. (Effective January 1, 2014, but only if **H.J.R. 62**, summarized above, is approved by the voters.)

**S.B. 193 (West/Otto) – Property Tax Exemption:** provides that: (1) a community housing development organization must deliver a copy of its audit to the Texas Department of Housing and Community Affairs and the chief appraiser to qualify for a property tax exemption; and (2) a chief appraiser may extend the deadline for submission of an audit for good cause shown. (Effective January 1, 2014.)

**S.B. 247 (Carona/Villarreal) – Property Tax Lending:** this bill, among other things: (1) prohibits a property owner from waiving or limiting a requirement imposed on a property tax lender by state law; (2) provides certain requirements for any solicitation or advertisement provided by a property tax lender; (3) prohibits a person from selling, transferring, assigning, or releasing rights to a property tax loan to a person who is not licensed by the state; (4) requires the Finance Commission of Texas to create a form for a lender with an existing recorded lien on the property to use to request a payoff statement; (5) provides that a contract between a transferee of a tax lien and a property owner that purports to authorize payment of taxes that are not

delinquent at the time of payment, or that lacks the proper authorization from the property owner, is void; (6) prohibits the transfer of a tax lien if: (a) the real property has been financed, wholly or partly, with a grant or below market rate loan provided by a governmental program or nonprofit organization and is subject to the covenants of the grant or loan; or (b) the real property is encumbered by a substandard building lien; and (7) provides that that the only method a transferee of a tax lien may use to foreclose the lien is the judicial foreclosure process. (Effective immediately.)

**S.B. 359 (Hinojosa/Eiland) – Appraisal Districts:** authorizes junior college districts to participate in the selection of members to serve on the board of directors of an appraisal district. (Effective immediately.)

**S.B. 1224 (Taylor/G. Bonnen) – Property Tax Payment Process:** allows a property owner to make a payment or to file or deliver a report, application, statement, or other document by sending the document by common or contract carrier that bears a receipt mark indicating a date earlier than or on the specified due date or the owner otherwise furnishes satisfactory proof that it was deposited with the common or contract carrier on time. (Effective immediately.)

**S.B. 1255 (Patrick/Murphy) – Appraisal Process:** this bill: (1) authorizes a property owner to appeal through binding arbitration an appraisal review board order if the property is the owner's residence homestead and is valued at \$1 million or less; and (2) requires an arbitrator to complete a training program on property tax law before conducting a hearing on an arbitration relating to the appeal of an appraisal review board order determining a protest under (1), above. (Effective immediately.)

**S.B. 1256 (Patrick/Bohac) – Appraisal Process:** for a residential property in a county with a population of more than 150,000, provides that a sale is not considered to be a comparable sale for property tax purposes unless the sale occurred within 36 months of the date as of which the market value of the property is to be determined, regardless of the number of comparable properties sold during that period. (Effective January 1, 2014.)

**S.B. 1508 (Hegar/Workman) – Appraisal Process:** authorizes a secured party, with the consent of the property owner, to render for property taxation any property of the property owner in which the secured party has a security interest on January 1. (Note: This provision applies only to property that has a historical cost, when new, of more than \$50,000.) (Effective January 1, 2014.)

**S.B. 1510 (Hinojosa/Hilderbran) – Truth-in-Taxation:** this bill: (1) provides a new and simplified method of publishing notice of property tax rates to replace the method in current law, except that a city that is considered to have a low tax levy (total property tax rate of 50 cents per \$100 or less and total tax levy of less than \$500,000) may continue to provide notice in the current manner provided in the Tax Code; (2) requires that the notice to be provided by a city that does not adopt a property tax rate that exceeds the lower of the effective tax rate or the rollback rate contain specific language relating to: (a) the proposed rate, preceding year's rate, and effective tax rate; (b) the amount of taxes owed by each individual taxpayer; and (c) contact information for the tax assessor-collector; (3) requires that the notice to be provided by a city that

adopts a property tax rate that exceeds the lower of the effective tax rate or the rollback rate contain specific language relating to: (a) the proposed rate, preceding tax year's rate, effective tax rate, and rollback rate; (b) the amount of taxes owed by each individual taxpayer; (c) contact information for the tax assessor-collector; and (d) notice of two public hearings on the tax rate; (4) provides that a city must either: (a) publish notice under (2) or (3), above, not later than September 1 in a newspaper having general circulation in the county in which the city is located that may not be smaller than one-quarter page of a standard-size or tabloid-size newspaper with a headline that must be in 24-point or larger type; or (b) mail the notice to each property owner in the city; (5) requires a city to post notice under (2) or (3), above, on the city's website, if applicable, beginning not later than September 1 and continuing until the city adopts a tax rate; and (6) requires a city that to provide certain tax rate information required by the Tax Code upon request. (Effective January 1, 2014.)

**VETOED S.B. 1606 (Zaffirini/Strama) – Property Tax Liens**: provides that a tax lien on inventory, furniture, equipment, or other personal property attaches to all such property that is owned on January 1 of the year the lien attaches, irrespective of whether the personal property is located within the boundaries of the taxing unit in whose favor the lien attaches. (Effective immediately.)

**S.B. 1662 (Eltife/Otto) – Appraisal Process**: would eliminate the expedited arbitration process for a property owner to appeal a decision of the appraisal review board. (Effective January 1, 2014.)

### **Sales Tax**

**H.B. 78 (Simpson/Eltife) – Sales Tax Exemption**: exempts from sales taxes the sale of any gold, silver, or numismatic coins, or platinum, gold, or silver bullion. (Effective October 1, 2013.)

**H.B. 697 (Springer/Duncan) – Sales Tax Exemption**: exempts food products, meals, soft drinks, and candy from sales and use taxes if they are served or sold at an event sponsored or sanctioned by an elementary or secondary school or a school district at a concession stand operated by a booster club or other school support organization, but only if the proceeds benefit the school or school district. (Effective September 1, 2013.)

**H.B. 800 (Murphy/Deuell) – Sales Tax Exemption**: this bill, among other things, provides a sales tax exemption for certain personal property used in research and development activities. (Effective January 1, 2014.)

**H.B. 3169 (Bohac/Lucio) – Sales Tax Exemption**: this bill: (1) broadens the types of activities that can be classified as “destination management services” for purposes of qualifying an entity as a “qualified destination management company” that is considered to be a consumer of taxable items sold as opposed to a provider of taxable services; (2) expands the types of products to be considered “intravenous systems” and “hospital beds” for sales and use tax exemption purposes; and (3) amends the definition of “newspaper” for purposes of a sales tax exemption to include a newsprint publication for which each copy over a 30-day period does not exceed \$3.00. (Note: The threshold cost for an exemption under current law is \$1.50.) (Effective September 1, 2013.)

**H.B. 3572 (Hilderbran/Williams) – Mixed Beverage Sales Taxes:** this bill, among other things: (1) lowers the mixed beverage sales tax from a rate of 14 percent on the gross receipts of a permittee to a rate of 6.7 percent; (2) imposes a tax of 8.25 percent of the sales price on each mixed beverage sold, prepared, or served by a permittee in this state and on ice and each nonalcoholic beverage sold, prepared, or served by a permittee for the purpose of being mixed with an alcoholic beverage and consumed on the premises of the permittee; and (2) requires the comptroller to issue to each incorporated city at least 10.7143 percent of tax revenue generated within the incorporated city during each quarter under the taxes described by (1) and (2), above. (Effective January 1, 2013.)

**S.B. 485 (Ellis/Parker) – Sales Tax Exemption:** changes the date for the current sales tax holiday for clothing and footwear to the Friday before the 15th day preceding the fourth Monday in August, without regard for any exception granted to a school district to begin instruction on a different date, and ending at midnight on the following Sunday. (Effective immediately.)

**S.B. 1151 (Hinojosa/Bohac) – Sales Tax Exemption:** exempts snack items from sales and use taxes, but provides that snack items that are sold through vending machines or in individual-sized portions are subject to sales and use taxes. (Effective September 1, 2013.)

**S.B. 1533 (Carona/Ratliff) – Sales Tax Allocation:** provides that local sales taxes may be sourced to an outlet, office, facility, or location if the outlet, office, facility, or location provides significant business services, beyond processing invoices, to the contracting business, including logistics management, purchasing, inventory control, and other vital business services. (Effective September 1, 2013.)

### **Purchasing**

**H.B. 194 (Farias/Hinojosa) – Historically Underutilized Businesses:** provides that a veteran with at least a 20-percent service-connected disability is eligible to be listed as a historically underutilized business by the state. (Effective September 1, 2013.)

**H.B. 1050 (Callegari/Fraser) – Construction Contracts:** this bill: (1) prohibits a local government from entering into a contract to purchase construction-related goods or services through a purchasing cooperative in an amount greater than \$50,000 unless a person designated by the local government certifies in writing that: (a) the project for which the construction-related goods or services are being procured does not require the preparation of plans and specifications by an architect or engineer under current law; or (b) if current law requires plans and specifications to be prepared by an architect or engineer, that has been done; (2) provides that a governmental entity may not award a governmental contract to a nonresident bidder unless the nonresident underbids the lowest bid submitted by a responsible resident bidder by an amount that is not less than the amount by which a resident bidder would be required to underbid the nonresident bidder to obtain a comparable contract in: (a) the state in which the nonresident's principal place of business is located; or (c) a state in which the nonresident is a resident manufacturer; (3) authorizes a governmental entity with a population of 500,000 or more within the entity's geographic boundary or service area to enter into design-build contracts for not more than six civil works projects in any fiscal year; (4) provides that a design-build firm responding

to a request for detailed proposals must identify its project team and may not make changes to that team, except under limited exceptions; (5) if the design-build firm makes team changes in violation of (4), above, provides that any cost savings resulting from the change accrue to the governmental entity and not to the design-build firm; (6) if a change order for a public works contract in a city with a population of 300,000 (current law is 500,000) or more involves a decrease or an increase of \$100,000 or less, or a lesser amount as provided by ordinance, provides that the governing body of the city may grant general authority to an administrative official of the municipality to approve the change order; and (7) repeals the requirement that a governmental entity make a formal finding on the criteria used for selection of a design-build firm for civil works projects before preparing a request for qualifications. (Effective September 1, 2013.)

**S.B. 1430 (Hinojosa/Herrerro) – Construction Contracts:** this bill: (1) authorizes a governmental entity with a population of 500,000 or more within the entity’s geographic boundary or service area to enter into design-build contracts for not more than six civil works projects in any fiscal year; and (2) if a change order for a public works contract in a city with a population of 300,000 (current law is 500,000) or more involves a decrease or an increase of \$100,000 or less, or a lesser amount as provided by ordinance, provides that the governing body of the city may grant general authority to an administrative official of the municipality to approve the change order. (Effective immediately.)

## **Elections**

**H.B. 195 (Farias/Van de Putte) – Campaign Reports:** requires the clerk of a city with a population of 500,000 or more to post on the city’s website reports of political expenditures and contributions that are filed with the clerk by the mayor or a member of the city council not later than the fifth business day after receipt of the report. (Effective September 1, 2013.)

**H.B. 259 (Simmons/Paxton) – Electioneering:** prohibits a city that owns a building used as a polling place from restricting electioneering during early voting and on Election Day, including the posting, use, or distribution of political signs or literature on the building’s premises outside the prescribed limits, but allows a city to enact reasonable regulations concerning the time, place, and manner of electioneering. (Effective September 1, 2013.)

**H.B. 396 (Thompson/Huffman) – Absentee Voting:** would provide that: (1) a person may apply with a single federal postcard application for a ballot for any one or more elections in which the person is eligible to vote; (2) an application that does not identify the election for which a ballot is requested shall be treated as if it requests a ballot for each general or special election held by a county, city, or independent school district in the calendar year in which the application is received and in which the person is eligible to vote; and (3) if an application described in (2) above, indicates the person is eligible to vote in an election in which the early voting clerk who received the application does not conduct early voting, the clerk shall forward a copy of the application in a form prescribed by the secretary of state to each early voting clerk who conduct early voting for an election in which the person is eligible to vote. (Effective September 1, 2013.)

**H.B. 506 (Lozano/Hinojosa) – Elections:** requires a city to designate any early voting polling place established by the county and located in the city as an early voting polling place for an election held on the November uniform election date if: (1) the city is not holding a joint election with a county; and (2) the city has not executed a contract with a county elections officer under which the city and the county share early voting polling places for the city. (Effective September 1, 2013.)

**H.B. 666 (R. Miller/Huffman) – Voting by Mail:** provides that an early voting by mail application is considered to be an application for a ballot for each election in which the county clerk serves as early voting clerk if the application: (1) is submitted to the county clerk indicating the grounds of eligibility as age or disability; and (2) does not specify the election for which a ballot is requested. (Effective January 1, 2014.)

**H.B. 983 (Elkins/Patrick) – Election Officers:** provides that an election official or worker whose total compensation is less than \$1,000 in a calendar year is not subject to the Texas Unemployment Compensation Act. (Effective September 1, 2013.)

**H.B. 985 (Elkins) – Elections:** provides that, for an election held on the November uniform election date, the local canvass may be set not later than the 14th day after the election day. (Note: For an election held on the May uniform election date, the local canvass must occur not later than the 11th day after election day.) (Effective September 1, 2013.)

**H.B. 1129 (White/Van de Putte) – Email Ballots:** this bill: (1) allows the secretary of state to implement a pilot program to allow members of the United States armed forces on active duty overseas and eligible for hostile fire pay to cast an early voting ballot by email until September 1, 2015; (2) provides that the secretary of state shall select a county to participate in the program that desires to participate in the program and is determined by the secretary of state to have the appropriate technological capabilities; and (3) provides that, no later than January 1, 2015, the secretary of state shall file a report with the legislature on the future use of the program. (Effective September 1, 2013.)

**H.B. 2006 (Klick/Hancock) – Elections:** provides that an employee of a city that adopts or owns a voting system is eligible for appointment as the counting station manager. (Effective September 1, 2013.)

**H.B. 2110 (Kolkhorst/Campbell) – Election Officers:** provides that: (1) a person is ineligible to serve as an election judge or clerk in an election if the person is employed by or related within the second degree to an officer in any precinct in which the office appears on the ballot; and (2) each election officer shall be issued a form of identification by the secretary of state to be displayed by the officer during the officer's hours of service at the polling place. (Effective September 1, 2013.)

**H.B. 2233 (Simmons/Estes) – Early Voting:** provides that the early voting board may determine acceptance of a ballot by comparing signatures with any two or more signatures of the voter made within the preceding six years and on file with the voter registrar to confirm the signatures are of the same person. (Effective September 1, 2013.)

**H.B. 2373 (Klick/Estes) – Elections:** provides that a signature roster may be in the form of an electronic device approved by the secretary of state that is capable of capturing a voter's signature next to the voter's name on the device. (Effective September 1, 2013.)

**H.B. 2465 (Farias/Ellis) – Voter Information:** provides that any website maintained by the secretary of state that permits a person to determine his or her voter registration status shall indicate if the person is or may be on the suspense list. (Effective September 1, 2013.)

**H.B. 2475 (R. Miller/Huffman) – Voter Assistance:** provides that a person providing assistance to a voter must swear that he or she is not the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs. (Effective September 1, 2013.)

**S.B. 160 (Huffman/R. Miller) – Poll Watchers:** provides that, upon accepting a watcher for service, the election officer shall provide the watcher with a form of identification, prescribed by the secretary of state, to be displayed by the watcher during the watcher's hours of service at the polling place. (Effective September 1, 2013.)

**S.B. 553 (Uresti/Johnson) – Student Early Voting Clerks:** allows: (1) a school district to adopt a policy excusing a student from attending school for service as a student early voting clerk in an election for a maximum of two days in a school year; (2) the early voting clerk to appoint not more than four student early voting clerks at an early voting polling place; and (3) the secretary of state to initiate or assist in the development of a statewide program promoting the use of student early voting clerks. (Effective September 1, 2013.)

**VETOED S.B. 722 (Ellis/Johnson) – Interpreters:** allows the authority ordering an election to either use an interpreter selected by a voter or to select an interpreter for a voter, and provides that to be eligible to serve as an interpreter, a person: (1) if selected by the voter, may be any person other than the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs; or (2) if appointed to serve as an interpreter by the authority ordering the election, must be a registered voter of the county in which the voter needing the interpreter resides or a registered voter of an adjacent county. (Effective immediately.)

**S.B. 904 (Van de Putte/Morrison) – Military and Overseas Voter Empowerment (MOVE) Act:** this bill provides, among other things, that: (1) the secretary of state shall make a checklist or similar guidelines available for optional use by early voting clerks in processing an application and providing balloting materials to a military or overseas voter; (2) the deadline for a candidate to withdraw from an election is five days after the deadline for filing the candidate's application for a place on the ballot; and (3) that the secretary of state may not adjust or modify election dates or procedures affected by the state implementation of the MOVE Act after December 31, 2016. (Effective September 1, 2013.)

**S.B. 910 (Duncan/Morrison) – Elections:** this bill, among other things, provides that: (1) the delivery, submission, or filing of an election document may be transmitted by telephonic

facsimile machine; (2) a voter registration application submitted by telephonic facsimile machine must be followed by a copy by mail that must be received by the registrar not later than the fourth business day after the received transmission; (3) information required to be filed for a voter's death must be filed electronically with the secretary of state; (4) documents relating to a complaint submitted by the secretary of state to the attorney general are considered public when the secretary of state makes a determination that the complaint does not warrant an investigation; (5) the secretary of state may prescribe the form and content of a ballot for an election using a voting system, including an electronic voting system or a voting system that uses direct recording electronic voting machines, to conform to the formatting requirements of the system; (6) if a voter is early voting by personal appearance outside the early voting polling place and is physically unable to enter an early voting polling place without personal assistance or likelihood of injuring the voter's health, an election officer shall deliver a ballot to the voter at the polling place entrance or curb; (7) a candidate's name shall be placed on the ballot if the candidate is declared ineligible after 5 p.m. on the third day after the deadline for filing the candidate's application for place on the ballot; (8) except as otherwise provided by state law, a special election to fill a vacancy shall be held on the first authorized uniform election date occurring on or after the 45th day after the date the election is ordered; (9) a candidate's application for a place on a special election ballot must be filed no later than the 45th day before election day if the election day is on or after the 57th day and before the 70th day after the date of the election is ordered. (Effective September 1, 2013.)

### **Open Government**

**H.B. 367 (Martinez/Davis) – Public Information:** provides that: (1) if a legislator or the lieutenant governor discloses to a governmental unit that is a “covered entity” for purposes of medical records privacy all or part of certain communications between the legislator or lieutenant governor and residents of this state, the record or information in the possession of the governmental unit is confidential and may only be disclosed to another person to the extent that the member of the legislature or lieutenant governor elects to disclose the record or information; (2) if a governmental unit that is a covered entity for purposes of medical records privacy receives a request for public information and the responsive information is information described in (1), above, the governmental unit must promptly notify the legislator or lieutenant governor that the request was received. (Effective immediately.)

**H.B. 2414 (Button/Deuell) – Open Meetings:** provides that: (1) for purposes of the Open Meetings Act, “videoconference call” is defined to mean a communication conducted between two or more persons in which one or more of the participants communicate with the other participants through duplex audio and video signals transmitted over a telephone or data network; (2) a member or employee of a governmental body may participate remotely in a meeting of the governmental body by means of a videoconference call if the video and audio feed of the member's or employee's participation, as applicable, is broadcast live at the meeting and complies with the provisions of the bill; (3) a member of a governmental body who participates in a meeting as provided by (2), above, shall be counted as present at the meeting for all purposes; (4) a meeting of a governmental body may be held by videoconference call only if: (a) the governmental body makes available to the public at least one suitable physical space located in or within a reasonable distance of the geographic jurisdiction, if any, of the governmental body that is equipped with videoconference equipment that provides an audio and

video display, as well as a camera and microphone by which a member of the public can provide testimony or otherwise actively participate in the meeting; (b) the member of the governmental body presiding over the meeting is present at that physical space; and (c) any member of the public present at that physical space is provided the opportunity to participate in the meeting by means of a videoconference call in the same manner as a person who is physically present at a meeting of the governmental body that is not conducted by videoconference call; (5) the notice of a meeting to be held by videoconference call must specify as a location of the meeting the location of the physical space described by (4)(a), above; (6) the physical location specified under (4)(a), above, shall have two-way audio and video communication with each member who is participating by videoconference call during the entire meeting, and that each participant in the videoconference call, while speaking, shall be clearly visible and audible to each other participant and, during the open portion of the meeting, to the members of the public in attendance at the physical location and at any other location of the meeting that is open to the public; (7) the audio and video signals perceptible by members of the public at each location of the meeting be of sufficient quality so that members of the public at each location can observe the demeanor and hear the voice of each participant in the open portion of the meeting; and (8) essentially the same provisions as those found in **S.B. 1297**, summarized below and related to online communications amongst members of a governmental body, are included in the bill. (Effective immediately.)

**S.B. 457 (Rodriguez/Márquez) – Autopsy Records**: authorizes a governmental body to withhold a photograph or x-ray included in certain autopsy reports without requesting a decision from the attorney general. (Effective September 1, 2013.)

**S.B. 458 (Rodriguez/Márquez) – Motor Vehicle Records**: adds motor vehicle title or registration information to the list of confidential motor vehicle records that a governmental body may redact without requesting a decision from the attorney general. (Effective immediately.)

**S.B. 471 (Ellis/Harper-Brown) – Recording of Meeting**: defines the term “recording,” in regard to meetings, to mean a tangible medium on which audio or a combination of audio and video is recorded, including a disc, tape, wire, film, electronic storage drive, or other medium now existing or later developed. (Effective immediately.)

**S.B. 983 (Ellis/Harper-Brown) – Public Information Lawsuits**: provides that: (1) in a suit filed under the Public Information Act, the information at issue (i.e., the information held by a governmental body that forms the basis of the suit) may be filed with the court for in camera inspection; (2) a court, upon receipt of information for in camera inspection under (1), above, must: (a) enter an order preventing the release to or access by any person other than the court, a reviewing court of appeals, or parties permitted to inspect the information pursuant to a protective order; (b) append to the order the information at issue and transmit it to the clerk for filing as “information at issue;” (c) maintain the information in a sealed envelope or in a manner that precludes disclosure; and (d) transmit the information to any court of appeals as part of the clerk’s record; and (3) information filed with the court under (1), above, does not constitute “court records” and shall not be made available by the clerk or any custodian of record for public inspection. (Effective September 1, 2013.)

**S.B. 1297 (Watson/Branch) – Electronic Communications:** in regard to the Open Meetings Act, this bill: (1) provides that a communication or exchange of information between members of a governmental body about public business or public policy over which the governmental body has supervision or control does not constitute a meeting or deliberation for purposes of the Act if: (a) the communication is in writing; (b) the writing is posted to an online message board of similar Internet application that is viewable and searchable by the public; and (c) the communication is displayed in real time and displayed on the online message board or similar Internet application for no less than 30 days after the communication is first posted; (2) allows a governmental body to have only one online message board or Internet application as described in (1), above, and requires that it be owned or controlled by the governmental body, prominently displayed on the body’s primary Internet web page, and no more than one click away from the body’s primary Internet web page; (3) allows the online message board or Internet application described in (1), above, to be used only by: (a) members of the governmental body; or (b) staff members of the body who have received specific authorization from a member of the body, and who include their name and title in the post; (4) requires a governmental body that removes from the online message board or Internet application described in (1), above, a communication that has been posted for at least 30 days to maintain the posting for a period of six years, and provides that such information is public information under the Act; and (5) prohibits a governmental body from voting or taking any action required to be taken at a meeting by posting a communication on an online message board or similar Internet application. (Effective September 1, 2013.)

**S.B. 1368 (Davis/Alvarado) – Public Information Act:** provides that: (1) in addition to the definition in current law, “public information” means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business “for a governmental body and the governmental body: (a) owns the information; (b) has a right of access to the information; or (c) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information;” (2) in addition to the definition in current law, “public information” means information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business “by an individual officer or employee of a governmental body in the officer’s or employee’s official capacity and the information pertains to official business of the governmental body;” (3) information is in connection with the transaction of official business if the information is created by, transmitted to, received by, or maintained by an officer or employee of the governmental body in the officer’s or employee’s official capacity, or by a person or entity performing official business or a governmental function on behalf of a governmental body, and pertains to official business of the governmental body; (4) the definition of “public information” applies to and includes any electronic communication created, transmitted, received, or maintained on any device if the communication is in connection with the transaction of official business; (5) in addition to definitions in current law, the media on which public information is recorded include and device that can store an electronic signal any physical material on which information may be recorded; (6) in addition to definitions in current law, the general forms in which the media containing public information exist include email, Internet posting, text message, instant message, other electronic communication; and (7) “official business” means any matter over which a

governmental body has any authority, administrative duties, or advisory duties. (Effective September 1, 2013.)

**S.B. 1512 (Ellis/Vo) – Crime Scene Images**: makes a sensitive crime scene image confidential and not subject to disclosure under the Public Information Act. (Effective September 1, 2013.)

### **Other Bills**

**H.B. 7 (Darby/Williams) – Dedicated State Revenue**: this bill: (1) develops and implements a process to review the dedication, appropriation, and accumulation of general revenue dedicated funds and requires the Legislative Budget Board to incorporate into budget recommendations appropriate measures to reduce reliance on available dedicated revenue for certification; (2) reduces certain solid waste disposal “tipping” fees by approximately one quarter and would prohibit tipping fees from being applied to materials that are processed at composting and mulch processing facilities, except for materials that are utilized in the operation of or are disposed of in a landfill; (3) increases the allocation of tipping fee revenue deposited to the general revenue dedicated waste management account 549 from 50 to 66.7 percent and expands the purposes for which money in the account may be appropriated to include site remediation; and (4) expands the purposes for which money in the general revenue dedicated 9-1-1 service fees account 5050 may be appropriated to include maintaining 9-1-1 service levels during transitions to newer technology, planning and deploying certain emergency network systems, and updating geospatial mapping technologies. (Effective immediately.)

**H.B. 86 (Callegari/Lucio) – Sunset Review of Licensing Agency**: relates to the review by the Sunset Advisory Commission of a state agency that licenses an occupation, and provides that: (1) in an assessment of an agency that licenses an occupation or profession, the commission and its staff shall consider: (a) whether the licensing program serves a meaningful, defined public interest and provides the least restrictive form of regulation that will adequately protect the public interest; (b) the extent to which the regulatory objective of the licensing program may be achieved through market forces, private or industry certification and accreditation programs, or enforcement of other law; (c) the extent to which any licensing criteria ensure that applicants have occupational skills sets or competencies that correlate with a public interest and the impact those criteria have on applicants, especially those with low income, seeking to enter the occupation or profession; and (d) the impact of the regulation, including the extent to which the program stimulates or restricts competition and affects consumer choice and the cost of services; (2) a legislator may submit proposed legislation that would create or affect an occupational licensing program to the commission for review and analysis; (3) if the commission reviews a legislative proposal described in (2), above, the commission shall submit a report to the legislature before the next legislative session; and (4) if the commission analyzes a legislative proposal to create a new licensing program, it must determine whether: (a) the unregulated practice of the occupation would be inconsistent with the public interest; (b) the public can reasonably be expected to benefit from an assurance of initial and continuing professional skill sets or competencies; and (c) the public can be more effectively protected by means other than state regulation. (Effective September 1, 2013.)

**H.B. 278 (Craddick/Seliger) – Liability**: limits a city’s liability for space flight activities conducted at a municipal airport. (Effective September 1, 2013.)

**H.B. 489 (Menendez) – Assistance Animals**: this bill, among other things: (1) provides that a person is not entitled to make demands or inquiries relating to the qualification or certifications of an assistance animal for purposes of admittance to a public facility except to determine the basic type of assistance provided by the animal to a person with a disability; (2) provides that a person, including a public organization or the agent of a public organization, who violates (1), above, is guilty of a misdemeanor with an up to \$300 fine and 30 hours of community related to disabilities and is deemed to have deprived a person with a disability of his or her civil liberties; and (3) make it a misdemeanor with an up to \$300 fine and 30 hours of community service related to disabilities for a person to misrepresent that an animal is a specially trained assistance animal by using a harness or leash of the type commonly used by persons with disabilities. (Effective January 1, 2014.)

**H.B. 581 (Howard/Lucio) – Nurses**: waives governmental immunity of a city, or other governmental entity, that operates a hospital for certain employment cases involving nurses. (Effective September 1, 2013.)

**H.B. 1025 (Pitts/Williams) – Supplemental State Appropriations**: makes supplemental appropriation increases and decreases for various purposes, including: (1) a \$2 billion appropriation from the Economic Stabilization Fund to the Texas Water Development Board to finance projects in the state water plan; (2) \$450 million from general revenue for certain projects within the state highway system and various county transportation projects; and (3) \$15 million from the Economic Stabilization Fund to the Office of the Governor for: (1) wildfire recovery, remediation, and mitigation activities related to wildfires in Bastrop, Cass, and Marion Counties; (b) addressing the needed repair and rehabilitation of roads, bridges, culverts, and parks, and to complete hazardous debris removal and fire risk-mitigation activities in Bastrop County; and (c) recovery activities related to the plant explosion in West. (Effective immediately.)

**H.B. 1493 (King/Hegar) – Texas Department of Rural Affairs**: this bill makes changes to certain programs of the Texas Department of Rural Affairs (TDRA) and transfers them to the Department of Agriculture. Of particular interest to cities, the bill eliminates the TDRA's: (1) annual report on the condition of rural communities; and (2) role of assisting fire departments in rural areas with the recruitment and retention of volunteer firefighters. (Effective September 1, 2013.)

**H.B. 1717 (Price/Nichols) – Texas Board of Architectural Examiners**: this is the Texas Board of Architectural Examiners (TBAE) Sunset bill, which continues the functions of the TBAE until 2025. (Effective September 1, 2013.)

**H.B. 1724 (Bohac/Seliger) – Hotel Occupancy Taxes**: this bill, among other things: (1) imposes a statute of limitations of four years for a city to bring a suit to for delinquent hotel occupancy taxes, except that a city may bring suit at any time if: (a) with intent to evade the tax, a person files a false or fraudulent report with the city; or (b) a person has not filed a report for the tax with the city; and (2) limits the amount of interest on delinquent hotel occupancy taxes to

either: (a) the prime interest rate plus one percent; or (b) the rate imposed by the city on January 1, 2013. (Effective September 1, 2013.)

**H.B. 1734 (Gutierrez/Uresti) – Type A City Special Meetings:** would provide that a mayor in a type A general law city must call a special meeting on the application of three aldermen. (Note: Previous law made it the mayor’s option.) (Effective immediately.)

**H.B. 1791 (J. Davis/Deuell) – Liability:** this bill, among other things, limits the liability of a city and certain private entities for space flight activities. Specifically, the bill: (1) defines a “space flight entity” as a person who conducts space flight activities and who, to the extent required by federal law, has obtained the appropriate Federal Aviation Administration license or other authorization, including safety approval and a payload determination and provides that the term includes: (a) a manufacturer or supplier of components, services, spacecraft, launch vehicles, or reentry vehicles used by the entity and reviewed by the Federal Aviation Administration as part of issuing the license or other authorization; (b) an employee, officer, director, owner, stockholder, member, manager, advisor, or partner of the entity, manufacturer, or supplier; (c) an owner or lessor of real property on which space flight activities are conducted, including a city, county, political subdivision, or spaceport development corporation with a contractual relationship with a space flight entity; and (d) a city, county, economic development organization, or other political subdivision in the territory or extraterritorial jurisdiction of which space flight activities are conducted; (2) provides that a space flight entity is not liable to any person for damages resulting from nuisance arising from testing, launching, reentering, or landing or subject to any claim for nuisance arising from testing, launching, reentering, or landing; (3) provides that a space flight entity is not liable to any person for a space flight participant injury or damages arising out of space flight activities if the space flight participant has signed the agreement required by current law (as modified by this bill) and given written consent as required by federal law; (4) allows liability for a space flight participant injury caused by gross negligence or intentional acts; and (5) provides that noise arising from space flight activities, if lawfully conducted, does not constitute “unreasonable noise” for purposes of the Penal Code. (Effective September 1, 2013.)

**H.B. 1869 (Price/Duncan) – Health Care Subrogation:** changes subrogation law to: (1) allow a health plan, including an employee benefits pool, to contract to be subrogated and have a right of reimbursement against a third party who causes covered injuries to one of the plan’s covered individuals; (2) allow a health plan that covers an individual injured by a third party, in cases where the injured individual is not represented by an attorney, to recover the lesser of one-half of the covered individual’s recovery or the total cost of benefits paid for the injured individual due to the injury; (3) allow a health plan that covers an individual injured by a third party, in cases where the injured individual is represented by an attorney, to recover the lesser of one-half of the covered individual’s recovery less attorney’s fees and procurement costs or the total cost of benefits paid for the injured individual due to the injury less attorney’s fees and procurement costs; (4) make inapplicable the rule that an insured individual has to be made whole before the health plan gets paid under a lawsuit; (5) require the health benefit plan that is the payor of benefits to an individual who is injured by a third party to pay the individual’s attorney an agreed-to fee and a pro rata share of expenses if the health benefit plan is not represented by a separate attorney during the personal injury litigation; (6) require a court to divide the fee

between both attorneys if both the individual and health plan have attorney representation at the personal injury suit and cap such fee to one third of the health plan’s recovery; and (7) prohibit a health plan from pursuing recovery against a covered individual’s first-party recovery. (Effective January 1, 2014.)

**H.B. 1908 (Eiland/Hancock) – Venue Projects/Hotel Occupancy Taxes:** this bill: (1) requires a ballot proposition authorizing the imposition of a hotel occupancy tax to support a venue project to include specific ballot language that lists the maximum hotel occupancy tax rate imposed from all sources; and (2) prohibits a city or county from proposing a hotel occupancy tax rate that would cause the combined hotel occupancy tax rate imposed from all sources at any location in the city or county to exceed 17 percent of the price paid for a room in a hotel, but the following may not be included in calculating the combined hotel occupancy tax rate: (a) an assessment for a public improvement district composed of territory in which the only businesses are hotels with 100 or more rooms ordinarily used for sleeping; (b) an assessment by a municipal management district; or (c) a fee collected by a hotel to recover the cost of an assessment under (a) or (b). (Effective September 1, 2013.)

**H.B. 2021 (E. Rodriguez/Hinojosa) – Debt Collection:** authorizes a county or city to contract with a private attorney or public or private vendor for the collection of a debt owed in relation to a civil case if the debt is more than 60 days overdue, and to collect a fee of not more than 30 percent of the amount collected in order to compensate the attorney or vendor. (Effective Immediately.)

**H.B. 2472 (Cook/Birdwell) – Department of Information Resources:** this is the Department of Information Resources sunset bill, which continues that department until 2021. Of interest to cities, it provides that the department shall adopt a process to determine the amount of the administrative fee the department charges to administer any of its programs. (Effective September 1, 2013.)

**H.J.R. 87 (Muñoz/Hinojosa) – Vacancies:** proposes an amendment to the Texas Constitution that will authorize a home rule city whose governing body has terms of office of more than two years to provide in its charter the procedure for filling a vacancy on the governing body for which the unexpired term is 12 months or less. (Effective if approved at the election on November 5, 2013.)

**S.B. 169 (Hegar/Morrison) – Venue Project Election:** amends the required ballot language for an election to approve and finance a municipal or county venue project to read: “impose a new” or “authorize the use of the existing” tax. (Effective September 1, 2013.)

**S.B. 1 (Williams/Pitts) – State Budget:** this is the state budget. The following chart shows the differences over the coming biennium in city-related items from the current budget:

Budget Item	SB1	2012-2013 appropriated	Change
Mixed Beverage Tax	\$307,296,000	\$246,020,807	\$61,275,193
Library Resource Sharing	\$24,170,709	\$14,534,904	\$9,635,805

Local Library Aid	\$4,114,692	\$9,720,097	\$(5,605,405)
Local Parks Grants	\$16,368,960	\$881,460	\$15,487,500
TCEQ Solid Waste Grants	\$15,625,679	\$15,616,454	\$9,225
LEOSE Training Funds	\$12,000,000	\$0	\$12,000,000
Total:	\$379,576,040	\$286,773,722	<b>\$92,802,318</b>

**S.B. 204 (Nichols/Price) – Texas Board of Professional Engineers:** this is the Texas Board of Professional Engineers (TBPE) Sunset bill. Of particular interest to cities, the bill continues the functions of the TBPE until 2025 and provides that, if it appears to the TBPE that a person who is not licensed, certified, or registered as an engineer is violating the engineering law, a rule adopted under the law, or another state statute or rule relating to the practice of engineering, the TBPE, after notice and opportunity for a hearing, may issue a cease and desist order prohibiting the person from engaging in the activity. (Effective September 1, 2013.)

**S.B. 211 (Nichols/Dutton) – Texas Facilities Commission:** this is the Texas Facilities Commission sunset bill. Among other things, the bill continues the commission until September 1, 2021, and provides that: (1) the commission is authorized to use public-private partnerships (P3s) for the construction of state buildings; (2) not later than the 30th day before the date the commission is scheduled to meet and vote on a P3 project to develop or improve state property in a city, the commission staff must: (a) place the project on the commission’s meeting agenda to provide the public with notice of the meeting and an opportunity to comment; and (b) present sufficient information to commission members to enable the members to adequately prepare for the meeting and to address the members’ questions and concerns; (3) with regard to surplus state property that the commission donates to a political subdivision, the political subdivision may not lease, lend, bail, deconstruct, encumber, sell, trade, or otherwise dispose of the property before the second anniversary of the date the property was acquired; (4) a political subdivision that violates (3), above, shall remit to the commission the amount the political subdivision received from the lease, loan, bailment, deconstruction, encumbrance, sale, trade, or other disposition of the property unless the commission authorizes the action taken by the political subdivision with respect to the property; and (5) various changes to the existing P3 statute available to the state and certain political subdivisions are made, including: (a) if the state intends to develop or operate a P3 project under state law, the state entity proposing to develop or operate the project adopts a development plan on the real property associated with the project; (b) the plan must address local land use planning ordinances; (c) the plan must comply with existing rules, regulations, orders, or ordinances for real property development to the extent the rules, regulations, orders, or ordinances are not detrimental to the interests of the state as determined by the special board of review provided for in (j), below; (d) the state entity shall notify the local government to which the plan will be submitted of the state entity's intent to prepare a development plan and provide the local government with information relating to the location of the real property to be offered for sale or lease, the highest and best use of the real property, and the process for preparing the development plan; (e) not later than the 30th day after the date the local government receives the notice, the local government may request the state entity to hold a public hearing to solicit public comment; (f) the local government shall provide notice of the hearing to real property owners in at least the same manner that notice is provided for adopting zoning regulations or subdivision requirements in the local government’s jurisdiction;

(g) if the local government does not request a public hearing, the state entity may hold a hearing to solicit public comment; (h) detailed provisions for how the hearing under (f) or (g), above, is conducted; (i) the development plan shall ultimately be submitted to any local government having jurisdiction over the real property in question for consideration, at which time the local government shall evaluate the plan and either accept or reject the plan not later than the 120th day after the date the state entity submits the plan, or waive any right to do so; (j) if the local government denies a rezoning request submitted under the bill, the matter may be appealed to a special board of review consisting of the following members: (i) the land commissioner; (ii) the mayor of the city within whose corporate boundaries or extraterritorial jurisdiction the real property is located; (iii) the county judge of the county in which the qualifying project is located; (iv) the executive director of the state entity that proposes to develop or operate the qualifying project; and (v) a member appointed by the governor; (k) if after the hearings the special board of review determines that local zoning requirements are detrimental to the best interest of the state, the board shall issue an order establishing a development plan to govern the use of the real property that shall be final and binding on the state, its lessees, successors in interest and assigns, and affected local governments or political subdivisions unless revised by the special board of review. (Effective immediately.)

**VETOED S.B. 219 (Huffman/Bonnen) – Texas Ethics Commission:** among other things, this bill: (1) makes various changes in regard to the functions and duties of the Texas Ethics Commission, including: (a) changing the system by which ethics violations/alleged violations are categorized and handled; and (b) requiring the commission to design forms that may be used for filing a financial statement with an authority other than the commission (e.g., a city); (2) changes the financial disclosure statement requirements in cities with 100,000 or more in population to provide that: (a) a statement may be filed with the city clerk or secretary by electronic mail, and the clerk or secretary may prescribe guidelines for filing by electronic mail; and (b) a financial statement that is not filed by electronic mail is timely filed if it is properly addressed and placed in the U.S. post office or with a common or contract carrier not later than the last day for filing; and (3) amends the definition of “political advertising” to include communications transmitted by an automated dial announcing device and adds some political advertising disclosure requirements. (Effective September 1, 2013, except as otherwise provided in the bill.)

**S.B. 251 (West/Carter) – Unsworn Declaration:** allows a government employee, including a city employee, who uses a job-related unsworn declaration in lieu of written sworn declaration, verification, certification, oath, or affidavit to use language in the statement regarding their employment with the governmental entity instead of using their personal information. (Effective September 1, 2013.)

**S.B. 353 (West/Dukes) – Emergency Shelters:** exempts an emergency shelter facility that provides shelter or care to a minor and the minor’s children from the requirement that a child-care facility or child-placement agency be operated with a license if the emergency shelter is currently under a contract with a state or federal agency or meets certain requirements for a family violence shelter. (Effective immediately.)

**S.B. 360 (Watson/Lucio) – Euthanasia:** this bill: (1) prohibits an animal shelter from euthanizing a dog or cat by administering compressed carbon monoxide; and (2) requires the executive commissioner of the Health and Human Services Commission, rather than the State Board of Health, to adopt rules not later than December 1, 2013, regarding the use of compressed carbon monoxide to euthanize animals other than dogs or cats. (Effective immediately, but compliance is not required earlier than January 1, 2014.)

**S.B. 531 (Duncan/Smithee) – Self-Insurance:** allows: (1) a governmental unit, including a city to purchase reinsurance for a risk covered by self-insurance; (2) a self-insurance fund to satisfy any statutory or regulatory insurance coverage requirements; and (3) a certificate of coverage issued on behalf of a governmental unit, including a city, demonstrating adequate required coverage, to satisfy any statutory or regulatory requirement that proof of insurance be shown. (Effective September 1, 2013.)

**S.B. 581 (Carona/Villarreal) – Public Funds Collateral Act:** this bill: (1) for a deposit of public funds under a pooled collateral program, requires a custodian of the collateral to deliver a trust receipt for the collateral to the comptroller; (2) for any other deposit of public funds, allows a custodian to issue and deliver a trust receipt for the pledged security to the public entity's depository and instruct the depository to deliver the trust receipt to the public entity officer immediately; (3) requires the custodian to issue and deliver the trust receipt as soon as practicable on the same business day on which the investment security is received; and (4) requires a custodian of collateral to provide a list of all investment securities pledged to the public entity at the request of the public entity. (Effective immediately.)

**S.B. 637 (Paxton/Flynn) – City Debt:** this bill: (1) requires the document ordering a bond election to distinctly state: (a) the proposition language that will appear on the ballot; (b) the purpose for which the bonds are to be authorized; (c) the principal amount of the bonds to be authorized; (d) that taxes sufficient to pay the annual principal and interest on the bonds may be imposed; (e) a statement of the estimated tax rate if the bonds are authorized or of the maximum interest rate of the bonds based on the market conditions at the time of the election order; (f) the maximum maturity date of the bonds to be authorized or that the bonds may be issued to mature over a specified number of years not to exceed 40; (g) the aggregate amount of outstanding principal of the city's debt obligations secured by property taxes as of the beginning of the fiscal year in which the election is ordered; (h) the aggregate amount of the outstanding interest on debt obligations secured by property taxes of the city as of the beginning of the fiscal year in which the election is ordered; and (i) the debt service property tax rate for the city at the time the election is ordered, expressed as an amount per \$100 valuation of taxable property; and (2) requires the document ordering a bond election to be posted: (a) in a prominent location at each polling place on election day and during early voting; (b) in three public places within the city limits not later than 21 days before the election; and (c) prominently on the city's Internet website (if it maintains one) along with the notice of the election and contents of the proposition during the 21 days before the election. (Effective September 1, 2013.)

**S.B. 656 (Paxton/Button) – Budget and Tax Rate Adoption:** this bill: (1) requires the city council's vote to adopt a budget to be a record vote; (2) requires an adopted budget to contain a cover page that includes: (a) a specific statement on the whether the budget raises more, less, or

the same amount of property tax revenue compared to the previous year's budget; (b) the record vote of each member of the governing body by name voting on the adoption of the budget; (c) the city property tax rates for the preceding and current fiscal years, including the adopted rate, effective tax rate, effective maintenance and operations tax rate, rollback tax rate, and debt rate; and (d) the total amount of city debt obligations secured by property taxes; (3) requires a city with a website to post the cover page in (2), above, on the city's website, and keep the record vote information on the city's website for at least one year after the budget is adopted; and (4) requires the city council to amend the cover page to include the property tax rate information for the current fiscal year if the rates are not included on the cover page when the budget is filed with the city secretary. (Effective September 1, 2013.)

**S.B. 866 (Paxton/Elkins) – Technology Centers:** provides that: (1) the Texas Department of Information Resources (DIR) may establish or expand a statewide technology center to include participation by a local government; (2) a local government, including a city, may submit a request to DIR to receive services or operations through a statewide technology center; (3) DIR shall conduct a cost and requirements analysis for the local government requesting the services of a technology center; (4) if it selected for participation, a local government may contract with DIR to receive the identified services; and (4) two or more local governments that are parties to an interlocal agreement may apply to the department and participate in a statewide technology center. (Effective immediately.)

**S.B. 1040 (Taylor/Bohac) – Automated Dialing Devices:** exempts cities from the restrictions regarding automated dialing devices, which include notice, hours, permits, and content, so long as the messages sent by automated dialing are to deliver information to citizens of the city regarding a public health, safety, or welfare issue. (Effective September 1, 2013.)

**S.B. 1125 (Carona/Smithee) – Insurance Purchasing Groups:** provides that: (1) a purchasing group composed primarily of employees of a political subdivision, including a county, municipality, or school district, may purchase first-party indemnity coverage, in addition to the liability coverage, on a group basis for other risks to which members may be exposed provided that the aggregate coverage limit per group member for the risk does not exceed three percent of the per member coverage limit for liability coverage; and (2) a purchasing group shall notify the Commissioner of Insurance of the group's intent to purchase such coverage not later than the 60th day before the date the policy that includes the coverage is initially issued, with certain exceptions. (Effective September 1, 2013.)

**S.B. 1437 (Paxton/Sanford) – Electronic Filing:** allows a municipal clerk to file documents electronically for recording with a county clerk that accepts electronic filing and recording. (Effective immediately.)

**S.B. 1610 (Schwertner/Kolkhorst) – Breach of Computer Data:** allows: (1) notice of a breach of computer system security to a resident of another state when that state requires a person conducting business to disclose breaches of sensitive personal information to be provided: (a) as required under that state's law; or (b) as required by Texas law; and (2) a business required to disclose a breach of system security to give notice by providing, among other options, written

notice at the last known address of the individual whose sensitive personal information is believed to have been acquired. (Effective immediately.)

## **Municipal Courts**

**H.B. 528 (Turner/Whitmire) – Juveniles:** this bill makes confidential all records and files that relate to: (1) a criminal case for a fine-only misdemeanor offense (other than a traffic offense) that is committed by a child and appealed; and (2) a child who is charged with, convicted of, found not guilty of, had a charge dismissed for, or is granted deferred disposition for a fine-only misdemeanor (other than a traffic offense). (Effective January 1, 2014.)

**H.B. 2302 (Hunter/West) – Electronic Filing:** permits a local government that uses the electronic filing system established by the Supreme Court of Texas to charge a fee of \$2 for each electronic filing transaction if: (1) the fee is necessary to recover the actual system operating costs reasonably incurred by the local government to accept electronic payments of interface with other technology information systems; (2) the fee does not include an amount to recover local government employee costs, other than costs for directly maintaining the system; (3) the governing body approves the fee; and (4) the local government annually certifies to the Office of Court Administration on a form prescribed by the office that the amount of the fee is necessary to recover the actual system operating costs. (Effective September 1, 2013.) (Note: This provision expires on September 1, 2019.)

**H.B. 2679 (Guillen/Rodriguez) – Defendant’s Plea:** this bill: (1) allows a municipal court judge to: (a) permit a defendant in jail to enter in a plea; (b) accept the plea entered; and (c) assess the defendant’s punishment; and (2) requires the judge to grant a motion for a new trial made by a defendant who enters in a plea while in jail, if made not later than 10 days after the judgment and sentence are entered. (Effective September 1, 2013.)

**H.B. 3561 (Murphy/Patrick) – Court Proceedings:** allows the municipal court of a city with a population of 3,500 or less to conduct its proceedings within the city limits of a contiguous incorporated city. (Effective immediately.)

**S.B. 107 (West/Johnson) – Municipal Court Records:** prohibits a municipal court from disclosing to the public any information that is the subject of an order of nondisclosure. (Effective September 1, 2013.)

**S.B. 181 (Hegar/Guillen) – Proof of Financial Responsibility:** provides that: (1) a motor vehicle operator may provide evidence of financial responsibility in electronic format displayed on a wireless communication device; (2) the display of motor vehicle financial responsibility information on a wireless communication device does not constitute effective consent for an officer, or any other person, to access the contents of the wireless communication device except to view the financial responsibility information; (3) the authorization in (1), above, does not prevent a court or the commissioner of insurance from requiring a person to provide a paper copy of financial responsibility at later proceedings; and (4) if a peace officer has access to a

verification program, the officer may not issue a citation for a failure to provide proof of motor vehicle financial responsibility unless the officer attempts to verify through the program that financial responsibility has been established for the vehicle and is unable to make that verification. (Effective immediately.)

**S.B. 390 (West/Lewis) – Court Costs:** repeals the provision in current law regarding the implementation dates of new or amended courts costs. (Note: The effect of the bill is to repeal the exception so that all new legislatively-enacted criminal costs become effective on January 1 following the legislative session.) (Effective immediately.)

**S.B. 393 (West/Lewis) – Juvenile Offenders:** this bill: (1) allows a municipal court to permit a child defendant to choose to elect to discharge a fine or cost by either paying the fine or cost as allowed under current law or by performing community service or receiving tutoring; (2) requires that the defendant's election under (1), above, be made in writing, signed by the defendant and, if present, the defendant's parent, guardian, or managing conservator and entered in the record, with a copy provided to the defendant; (3) provides that all records and files relating to a child who is convicted of a fine-only misdemeanor other than a traffic offense and has satisfied the judgment or who has received a dismissal after deferral of disposition are confidential; (4) allows a court to waive payment of a fine or cost imposed on a defendant who defaults in payment if the court determines that the defendant is a child and discharging the fine or cost in an alternative method, including performing community service, would impose an undue hardship; (5) authorizes a municipal court, with approval of the city council, to employ one or more juvenile case managers to provide prevention and early intervention services to juveniles considered at-risk of entering the juvenile justice system or engaged in misconduct prior to cases being filed; (6) requires that a municipal court dismiss a complaint or referral made by a school district if the complaint is not filed correctly by the school district; (7) prohibits a peace officer from issuing a citation to a child who is alleged to have committed a school offense; (8) allows a school district to develop graduated sanctions against a child alleged to have committed a school offense that are required to be imposed before a complaint is filed with the court; (9) specifies certain requirements in relation to a complaint alleging the commission of a school offense; (10) allows an attorney representing the state to adopt rules pertaining to the filing of a complaint for a school offense; and (11) prohibits a person younger than 10 years of age from being prosecuted for a fine-only misdemeanor or city ordinance violation. (Effective September 1, 2013.)

**S.B. 394 (West/Herrero) – Juvenile Records:** provides that records and files relating to a child who has received a dismissal after deferral of disposition for a misdemeanor offense punishable by fine only (other than a traffic offense) are confidential and may not be disclosed to the public. (Effective September 1, 2013.)

**S.B. 395 (West/Herrero) – Fines and Court Costs:** this bill: (1) allows a municipal court to permit a defendant who is a child to elect to discharge a fine or cost by either paying the fine or cost as allowed under current law or by performing community service; (2) requires that the defendant's choice under (1), above, be made in writing, signed by the defendant and the defendant's parent, guardian, or managing conservator, if present, and entered in the record; and (3) allows a court to waive payment of a fine or cost imposed on a defendant who defaults in

payment if the court determines that the defendant is a child and discharging the fine or cost in an alternative method, including performing community service, would impose an undue hardship. (Effective September 1, 2013.)

**S.B. 462 (Huffman/Lewis) – Specialty Court Programs:** provides that a city that establishes a drug court program must: (1) provide to the criminal justice division of the governor’s office: (a) written notice of the program, (b) any resolution or other official declaration under which the program was established, and (c) a copy of the applicable community justice plan that incorporates duties related to supervision that will be required under the program; and (2) receive from the division written verification of the program’s compliance. (Note: A specialty court program that fails to comply is not eligible to receive any state or federal grant funds administered by any state agency.) (Effective September 1, 2013.)

**S.B. 484 (Whitmire/Turner) – Prostitution Prevention Program:** this bill: (1) allows a city or group of cities to establish a prostitution prevention program for defendants charged with prostitution; (2) authorizes a program to collect a fee from a participant in the program; and (3) requires a commissioners court of a county to establish a prostitution prevention program if the county has a population of more than 200,000 and a city in the county has not established a program. (Effective immediately.)

**S.B. 1114 (Whitmire/Herrero) – Juvenile Misdemeanors:** this bill: (1) prohibits a peace officer from issuing a citation for conduct by a child who is younger than 12 years of age that is alleged to have occurred on school property or on a vehicle owned or operated by a county or independent school district; (2) requires a court to dismiss a complaint or a referral made by a school district that does not comply with statutory requirements; (3) prohibits a warrant from being issued for the arrest of a person for a Class C misdemeanor, if the violation was committed when the person was younger than 17 years of age; (4) permits a child accused of a Class C misdemeanor, other than a traffic offense, to be referred to a first offender program; (5) allows a law enforcement officer to refer the child to the first offender program before issuing a citation; and (6) prohibits a case from being filed with a criminal court when the child has successfully completed the first offender program. (Effective September 1, 2013.)

**VETOED S.B. 1234 (Whitmire/Price) – Failure to Attend School:** changes the penalties for the offense of failure to attend school including setting up alternatives to fines and providing for additional truancy resources in schools and allows a city to employ a juvenile case manager. (Effective September 1, 2013.)

**S.B. 1419 (West/Lewis) – Truancy Prevention Fund:** this bill: (1) requires a person convicted in a municipal or justice court of an offense, other than an offense relating to a pedestrian or the parking of a motor vehicle, to pay an additional \$2 court cost, which will be deposited in a dedicated state account for truancy prevention and diversion; (2) permits the city to deduct and retain 50 percent of the cost for the purposes of operating or establishing a juvenile case manager program; and (3) allows a local government entity to request funds from the dedicated state account also for providing truancy prevention and intervention services. (Effective September 1, 2013.)

**S.B. 1611 (Ellis/Thompson) – Discovery:** this is the “Michael Morton Act,” and provides that: (1) a prosecutor, including a municipal prosecutor, upon request from the defendant shall produce and permit inspection and the electronic duplication, copying, and photographing of any evidence in possession of the state, including witness statements of law enforcement officers; (2) the state may provide to the defendant electronic duplicates of any documents of other information the state is required to disclose to the defendant; (3) the state is not required to allow electronic duplication of information for a pro se defendant; (4) the defendant or an agent of the attorney representing the defendant may not disclose anything received from the state to a third party; (5) before accepting a plea of guilty or no contest, or before each trial, each party shall acknowledge in writing or on the record in open court the disclosure, receipt, and list of all documents, items, and information provided to the defendant under this article; (6) the state shall promptly disclose the existence of any additional information required to be disclosed that is discovered before, during, or after the trial; and (7) a court may order the defendant to pay costs related to discovery, provided that those charges may not exceed the charges prescribed by the Texas Public Information Act’s cost schedule. (Effective January 1, 2014.)

**S.B. 1896 (Garcia/Naishtat) – Municipal Judge:** would provide that information contained in property tax appraisal records that identifies the home address of a municipal judge is confidential. (Effective immediately.)

**S.B. 1908 (West) – Court Fee Study:** provides that the Office of Court Administration shall: (1) conduct a study on court fees and costs that identifies each statutory law imposing a court fee or cost in a court in the state; (2) determine whether each identified fee or cost is necessary to accomplish the state statutory purpose; (3) compile a list of the identified fees and costs and of each fee or cost the office determines is necessary; (4) publish the list on the office’s Internet website and in the Texas Register; (5) provide a copy of the list and determinations to the Governor, Lieutenant Governor, and Speaker of the House of Representatives; (6) the office shall consult with local government representatives as the office determines appropriate; and (7) the Texas Legislative Council shall prepare for consideration by the Eighty-Fourth Legislature a revision of the statutes of the state as necessary to reflect the court fees and costs identified by the Office of Court Administration. (Effective September 1, 2013.)

**S.J.R. 42 (Huffman/Dutton) – Judicial Sanctions:** amends the Texas Constitution to expand the ability of the State Commission on Judicial Conduct to sanction a judge. (Effective if approved at the election on November 5, 2013.) (Note: This provision expires January 1, 2016.)

## **Community and Economic Development**

**H.B. 403 (S. Davis/Ellis) – Building Inspectors:** provides that: (1) a certified municipal inspector is not liable for civil damages, including personal injury, wrongful death, property damage, or other loss related to the inspector’s act, error, or omission, unless it constitutes gross negligence or wanton, willful, or intentional misconduct when providing inspection services that are: (a) authorized by the scope of the inspector’s national model code group certification or plumbing inspector’s license; (b) provided voluntarily and without compensation or the expectation of compensation from any source; (c) in response to and during the duration of a proclaimed state of emergency or disaster; (d) provided at the request or with the approval of a

federal, state, or local public official acting in an official capacity; and (e) related to a structure, building, premises, piping, or other system; and (2) a “certified municipal inspector” is defined as an individual who is employed full-time by a political subdivision and is currently: (a) certified by a national model code group; or (b) licensed as a plumbing inspector. (Effective immediately.)

**H.B. 654 (Cortez/Hinojosa) – Housing Authority Commissioners:** repeals term limits for local housing authority commissioners in a city with a municipal housing authority with a total number of units of 150 or more. (Effective immediately).

**H.B. 674 (Ratliff/Carona) – Zoning:** provides that: (1) before the 10th day before the hearing date on a rezoning, written notice of each public hearing before the zoning commission on a proposed change in a zoning classification affecting residential or multifamily zoning shall be sent to each school district in which the property for which the change in classification is proposed is located; (2) the notice may be served by its deposit in the city, properly addressed with postage paid, in the United States mail; and (3) the requirement does not apply to a city the majority of which is located in a county with a population of 100,000 or less, except that such a municipality must give notice to a school district that has territory in the city and requests the notice. (Effective September 1, 2013.)

**H.B. 738 (Crowover/Nelson) – Special Districts:** applies to the creation of a municipal utility district all of which is to be located outside the corporate limits of a city and provides that: (1) promptly after a petition is filed with the Texas Commission on Environmental Quality to create a district, the commission shall notify the commissioners court of any county in which the proposed district is to be located; (2) the commissioners court of a county in which the district is to be located may review the petition for creation and other evidence and information relating to the proposed district that the commissioners consider necessary; (3) in the event the commissioners court votes to submit information to the commission or to make a recommendation regarding the creation of the proposed district, the commissioners court shall submit to the commission, at least 10 days before the date set for action on the petition, a written opinion stating whether the commissioners court recommends the creation of the proposed district and any findings, conclusions, and other information that the commissioners court thinks would assist the commission in making a final determination on the petition. (Effective September 1, 2013.)

**VETOED H.B. 1982 (Murphy/Hinojosa) – Enterprise Zones:** this bill, among other things: (1) authorizes a county to nominate for designation as an enterprise project a project or activity of a qualified business that is located within the jurisdiction of city located in the county only if the nominating county enters into an interlocal agreement with the city that has jurisdiction of the territory in which the nominated project or activity will be located; (2) requires that the interlocal agreement specify that either the nominating county or the city that has jurisdiction of the territory in which the nominated project or activity will be located is the governmental body having administration authority and that both the city and the county approve the nomination; and (3) requires the nominating city or county to submit: (a) a certified copy of the minutes of all public hearings regarding local incentives available to qualified businesses with the nominating body’s jurisdiction; and (b) any interlocal agreement that states which governing body has

administration authority and that both the city and the county approve the nomination of the project or activity. (Effective September 1, 2013.)

**H.B. 2062 (J. Davis/Taylor) – Plumbers:** provides, among other things, that: (1) the installation, repair, and service of equipment for rainwater harvesting is considered “plumbing” for purposes of state law; (2) a water supply protection specialist is authorized to treat rainwater or repair rainwater harvesting systems; (3) a city that adopts a plumbing code shall provide by ordinance or bylaw that a person must obtain a permit before the person performs plumbing, other than the repairing of leaks, the replacement of lavatory or kitchen faucets, the replacement of ballcocks or water control valves, the replacement of garbage disposals, or the replacement of water closets; and (4) responsible master plumbers and plumbing contractors are added to the list of persons who are not required to pay a plumbing registration fee or administrative fee in a city or any other political subdivision. (Effective September 1, 2013.)

**H.B. 2473 (Deshotel/Williams) – Economic Development Corporations:** authorizes a Type A or Type B economic development corporation to spend sales tax revenue for the development or construction of housing facilities on or adjacent to the campus of a public state college through September 1, 2017. (Effective September 1, 2013.)

**H.B. 2636 (Frullo/Duncan) – Tax Increment Financing:** allows money in the tax increment fund for a reinvestment zone to be transferred to the tax increment fund for an adjacent zone if: (1) the taxing units that participate in the reinvestment zone transferring the funds also all participate in the adjacent zone that is to receive the funds; (2) each taxing unit agrees to deposit the same portion of tax increment in the fund for each zone; and (3) the holders of any tax increment bonds or notes issued for the transferring zone agree to the transfer. (Effective September 1, 2013.)

**H.B. 3159 (Isaac/Zaffirini) – Emergency Services Districts:** authorizes a city and an emergency services district (ESD) to agree, before or after an annexation, on an allocation between the city and the ESD of revenue from the sales and use tax imposed in an area annexed by the city for full purposes that is not removed from an ESD. (Effective September 1, 2013.)

**H.B. 3361 (Dutton/Birdwell) – Texas Department of Housing and Community Affairs:** this is the Texas Department of Housing and Community Affairs sunset bill. Of particular interest to cities, the bill: (1) continues the department until 2025; (2) provides that the department shall adopt a policy providing for the debarment of a person from participation in programs administered by the department if certain conditions are met; (3) requires the department, when scoring applications for low income housing tax credits, to consider quantifiable community participation with respect to the development, evaluated on the basis of – among other things – a resolution concerning the development that is voted on and adopted by the governing body of a city; (4) provides that, before submitting to the department an application for housing tax credits for developments financed through the private activity bond program, including private activity bonds issued by the department, the Texas State Affordable Housing Corporation, or a local issuer, an applicant must provide notice of the intent to file the application to the governing body of a city in which the proposed development site is to be located, and that the city shall hold a hearing at which public comment may be made on the application; (5) the department may not

approve an application for housing tax credits for developments financed through the private activity bond program unless the applicant has submitted to the department a certified copy of a resolution from the city, which must contain various information, including that the city does not object; and (6) makes administrative changes to the department's manufactured housing regulations. (Effective September 1, 2013.)

**S.B. 398 (Hancock/Patrick) – Major Events Trust Fund:** provides that an NCAA Bowl Championship Series or its successor or an NCAA Division I postseason playoff or championship game is eligible for funding by the major events trust fund. (Effective immediately.)

**S.B. 672 (Carona/Guillen) – Industrialized Housing and Buildings:** provides that, notwithstanding any other law, the Texas Department of Licensing and Regulation may not perform an inspection or investigation, open a complaint, initiate an administrative or enforcement action, or impose a penalty against a manufacturer, builder, or third-party inspector of industrialized housing after the second anniversary of the date of the final on-site inspection of the industrialized housing. (Effective September 1, 2013.)

**S.B. 837 (Ellis/Bohac) – Nuisance Authority:** allows a city to require the owner of real property to keep the property free from: (1) weeds; (2) brush; and (3) the following specific conditions which constitute a public nuisance: (a) keeping, storing, or accumulating refuse on premises in a neighborhood unless the refuse is entirely contained in a closed receptacle; (b) keeping, storing, or accumulating rubbish, including newspapers, abandoned vehicles, refrigerators, stoves, furniture, tires, and cans, on premises in a neighborhood or within 300 feet of a public street for 10 days or more, unless the rubbish or object is completely enclosed in a building or is not visible from a public street; and (c) maintaining premises in a manner that creates an unsanitary condition likely to attract or harbor mosquitoes, rodents, vermin, or disease-carrying pests. (Effective immediately.)

**S.B. 985 (Zaffirini/Isaac) – Sale of Real Property:** this bill: (1) authorizes a home rule city to contract with a broker to sell a tract of real property owned by the city and pay the broker a fee if the broker produces a ready, willing, and able buyer to purchase the property; (2) provides that if a contract is made as described in (1), above, to list a property for sale for at least 30 days with a multiple-listing service (MLS), the governing body on or after the 30th day after the date the property is listed may sell the property to a ready, willing, and able buyer who is produced by any broker using the MLS and submits the highest cash offer; and (3) allows the governing body to sell a tract of property as described above without complying with the public auction or notice and bidding requirements prescribed by law. (Effective immediately.)

**S.B. 1083 (Rodriguez/Lewis) – Eminent Domain:** would provide that a city may appeal an interlocutory order of a statutory probate court. (Note: Certain probate courts have jurisdiction over eminent domain matters, and this bill would authorize appeals from those courts as is allowed from other trial courts under current law. The companion to this bill, **H.B. 1174 (Fallon/Nelson)**, passed as well.) (Effective September 1, 2013.)

**S.B. 1200 (Van de Putte/Menendez) – Military Bases:** creates a grant program to assist local government entities, including cities, to respond to an anticipated, planned, announced, or implemented action of the federal government that would affect defense worker jobs or facilities within their community. (Effective September 1, 2013.)

**S.B. 1596 (Zaffirini/E. Rodriguez) – Emergency Services Districts:** this bill, among other things: (1) clarifies current law to require that a city must provide an emergency services district written notice of removal of territory from the district only if the city intends to be the sole provider of emergency services to the territory; (2) prohibits an emergency services district from enacting any regulation or building code requiring the installation of a multipurpose residential fire protection sprinkler system in a new or existing one or two-family dwelling; (3) provides that a fire code adopted by a county commissioners court may only apply to certain buildings constructed within an emergency services district; (4) provides that a city's annexation service plan may not provide services in the area in a manner that would have the effect of reducing by more than a negligible amount the level of fire and police protection and emergency medical services provided within the area before annexation or cause a reduction in fire and police protection and emergency medical services within the area to be annexed below that of areas within the corporate boundaries of the city with similar topography, land use, and population density; and (5) the changes made by the bill do not affect the obligation of a municipality that has adopted Chapter 143 to provide police, fire, or emergency medical services within the municipality's corporate boundaries by means of personnel classified in accordance with that chapter. (Effective September 1, 2013.)

**S.B. 1599 (Zaffirini/Raymond) – Colonias:** this bill, among other things: (1) requires the secretary of state's classification system that allows the secretary of state to track and report on the progress of state-funded projects in providing water or wastewater services, paved roads, and other assistance to colonias to include a method for a city or county to nominate an area for identification as a colonia; and (2) provides that, before an application for colonia funding through the Texas Water Development Board may be considered by the board for a project in the extraterritorial jurisdiction of a city, the applicant must demonstrate that the state's model subdivision rules have been adopted and are enforced in the extraterritorial jurisdiction by the city or the county. (Effective September 1, 2013.)

**S.B. 1678 (Deuell/Isaac) – Major Events Trust Fund and Events Trust Fund:** this bill, among other things:

1. adds the X Games, a mixed martial arts championship, and the largest event held each year at a sports entertainment venue in this state with a permanent seating capacity of not less than 125,000 to the list of events for which the Major Events Trust Fund (METF) may be used;
2. provides that a listed event may receive funding from the METF if: (a) a site selection organization selects a site located in this state for the event to be held one time or, for an event scheduled to be held each year for a period of years under an event contract or an event support contract, one time each year for the period of years, after considering other sites that are not located in the state; (b) a site selection organization selects a site in this state as the sole site for the event in a region composed of this state and one or more

- adjoining states; and (c) the amount of incremental increase in tax receipts equals or exceeds \$1 million;
3. with regard to the METF, requires a request for a determination of the amount of incremental increase in tax receipts to be sent to the comptroller not earlier than one year and not later than 45 days before the date the event begins;
  4. with regard to the METF or Events Trust Fund (ETF), requires an endorsing city or local organizing committee to send to the comptroller an estimate of the number of people expected to attend the event who are not Texas residents;
  5. unless a structural improvement or addition of a fixture is for a publicly-owned facility, limits a disbursement from the METF or ETF to five percent of the cost of a structural improvement or fixture incurred under a games support contract or event support contract for the event if the improvement or fixture is expected to derive most of its value in subsequent uses of the site for future events;
  6. prohibits the comptroller from considering a contingency clause in an event support contract as relieving a local organizing committee or endorsing city's obligation to pay a cost under the contract when considering whether to make a disbursement from the METF or ETF;
  7. provides that the comptroller may not undertake any duty regarding the METF unless the event meets all requirements for funding under state law;
  8. with regard to the METF, requires the comptroller to complete a study of the measurable economic impact attributable to the event within 10 months of the event, and post specific data from the study on the comptroller's Internet website;
  9. authorizes the comptroller to reduce the amount of a disbursement from the METF or ETF if the actual attendance figures for the event are significantly lower than the estimated attendance figures in proportion to the discrepancy between the actual and estimated attendance and in proportion to the amount contributed to the fund by the entity;
  10. provides that a listed event may receive funding from the ETF if a site selection organization selects a site located in this state for the event to be held one time or, for an event scheduled to be held each year for a period of years under an event contract or an event support contact, one time each year for the period of years, after considering other sites that are not located in the state;
  11. with regard to the ETF, limits the number of requests for funding submitted by an endorsing city for an event for which the comptroller determines that the total amount of the incremental increase in tax receipts is less than \$200,000 to not more than 10 events during any 12-month period, only three of which may be nonsporting events;
  12. prohibits a disbursement from the ETF for the construction of an arena, stadium, or convention center or for conducting usual and customary maintenance of a facility;
  13. with regard to the ETF, authorizes the comptroller to adopt a model event support contact and make the contract available on the comptroller's Internet website; and
  14. requires the comptroller to conduct a study to determine: (a) the economic impact of the events that qualify for funding through the METF or ETF; and (b) whether the events would likely be held in this state in the absence of incentives provided through the fund.

(Effective immediately.)

**S.B. 1702 (Taylor/Bonnen) – Windstorm Insurance:** provides that: (1) the Texas Windstorm Insurance Association is authorized to provide or continue to provide insurance coverage for a residential structure subject to the inspection requirements imposed under the bill; (2) to be eligible for insurance through the association, all construction, alteration, remodeling, enlargement, and repair of, or addition to, any structure located in the catastrophe area that is begun on or after September 1, 2009, must be performed in compliance with the applicable building code standards, as set forth in the plan of operation; (3) the association may not insure a structure until the structure has been inspected for compliance with the plan of operation and a certificate of compliance has been issued; (4) notwithstanding (3), above, the association may insure a residential structure constructed, altered, remodeled, enlarged, repaired, or added to on or after June 19, 2009, that is not in compliance with the applicable building code standards, as set forth in the plan of operation, provided that the structure had been insured on or after that date by an insurer in the private market who canceled or nonrenewed the insurance coverage of the structure before September 1, 2013, and no construction, alteration, remodeling, enlargement, or repair of or addition to the structure occurs after cancellation or nonrenewal of the coverage and before submission of an application for coverage through the association; and (5) a new or renewal insurance policy insuring a noncompliant residential structure is subject to an annual premium surcharge in an amount equal to 15 percent of the premium for insurance coverage obtained through the association. (Effective immediately.)

## **Personnel**

**H.B. 13 (Callegari/Duncan) – Pensions:** this bill: (1) requires public pension systems to post the following documents on their Internet websites: (a) actuarial valuations; (b) annual financial reports; (c) member and retiree reports; (d) State Pension Review Board (Board) registration; and (e) reports of investment returns and assumptions; (2) imposes reporting requirements on the Board if a public retirement system does not post its required financial documents, including: (a) posting the names of the systems on its website; (b) notifying either the governor and Legislative Budget Board or the political subdivision of the failure, depending on the pension system; (3) requires the Board to create model ethical and conflict of interest rules for public pension systems to adopt voluntarily; (4) requires the Board to create an educational training program for public pension system administrators; (5) authorizes a public retirement system to provide its own educational training to trustees and system administrators if the Board determines that the system's training meets or exceeds the minimum training requirements; (6) requires a public retirement system to post certain contact information on a publicly-available Internet website; and (7) requires a public retirement system to submit to the Board an investment returns and actuarial assumptions report before the 211th day after the last day of its fiscal year. (Effective immediately.)

**H.B. 483 (Aycock/Fraser) – Employment Contracts:** prohibits a city from paying more than any contracted amount to an employee or former employee unless the city has an open public meeting regarding the matter and states at the hearing why the payment is being made, the exact amount, and the source of the payment. (Effective immediately.)

**VETOED H.B. 950 (Thompson/Davis) – Employment Discrimination:** tracks the language of the federal Lilly Ledbetter Fair Pay Act (a 2009 law that overturned a U.S. Supreme Court

decision that the statute of limitations for presenting an equal pay lawsuit begins on the date that the employer makes the initial discriminatory wage decision, not at the date of the most recent paycheck) by: (1) extending the statute of limitations on pay discrimination claims to include every instance an individual is paid based on a past discriminatory decision made by an employer; and (2) allowing back pay and benefit damages for up to two years preceding the date of filing a complaint for pay discrimination. (Effective September 1, 2013.)

**H.B. 1188 (Thompson/Whitmire) – Limitation of Liability:** limits the liability of an employer, premises owner, or general contractor for actions of an employee with a criminal conviction, so long as the criminal conviction was not: (1) done in the performance of similar duties; (2) a sexual offense; (3) misuse of funds or fraud; or (4) other serious offenses. (Effective Immediately.)

**H.B. 1951 (S. Thompson/Carona) – Telecommunicators:** provides that: (1) the Texas Commission on Law Enforcement Officer Standards and Education (TCLEOSE) has additional authority over telecommunicators (essentially a 9-1-1 dispatcher and defined as “a person acknowledged by TCLEOSE and employed by or serving a law enforcement agency that performs law enforcement services on a 24-hour basis who receives, processes, and transmits public safety information and criminal justice data for the agency by using a base radio station on a public safety frequency”); (2) a city is required to notify the commission any time it hires a telecommunicator within 30 days of hire; (3) any telecommunicator hired by a city must be licensed by TCLEOSE; (4) a city is required to provide 20 hours of commission-approved training to telecommunicators every 2 years; (5) a current telecommunicator has one year to obtain a license; (6) a police officer may act as a telecommunicator without having a telecommunicator license; and (7) TCLEOSE is required to give a telecommunicatory license to an individual who is a certified telecommunicator on January 1, 2014, so long as TCLEOSE receives the proper documentation. (TCLEOSE must adopt rules by December 31, 2013, and the bill becomes effective on January 1, 2014.)

**H.B. 1960 (Cortez/Campbell) – Emergency Medical Services Personnel:** grants state emergency medical service (EMS) certification to EMS personnel certified by the U.S. military. (Effective on September 1, 2013.)

**H.B. 2924 (Sheets/Davis) – Civil Service:** allows a firefighter or police officer in a civil service city to use a military leave time account even if the individual has not exhausted his or her vacation, holiday, and compensatory leave time accumulations. (Effective immediately.)

**H.B. 3370 (Craddick/Patrick) – Former Reserve Peace Officers:** provides that: (1) a former peace officer may obtain a concealed handgun license (CHL) without specific concealed handgun training if they meet certain requirements; (2) a law enforcement agency, including a city, must allow a person with such a CHL license to demonstrate the required weapons proficiency; and (3) a law enforcement agency, including a city, must – upon request – provide photo identification to a person who is a former law enforcement officer and who served for at least 15 years or more with one or more state or local law enforcement agencies. (Effective September 1, 2013.)

**H.B. 3739 (Burnam/Garcia) – Employee Candidate:** provides that: (1) a city may not: (a) prohibit a city employee from becoming a candidate for public office; or (b) take disciplinary action against a city employee, including terminating the employee, solely because the employee becomes a candidate for public office; and (2) an employee is expected to fulfill all the duties and responsibilities associated with city employment if the employee becomes a candidate for public office. (Effective immediately.)

**S.B. 220 (Birdwell/Anchia) – Firefighters Pension Commissioner:** among other things, transfers the responsibilities of the firefighters’ pension commissioner to the Texas Emergency Services Retirement System and the local firefighters retirement systems. (Effective Immediately.)

**S.B. 366 (L. Taylor/Callegari) – Retirement Benefits:** authorizes a city to: (1) establish a Roth IRA program for its employees; and (2) develop procedures to allow retirement plan vendors to lend money to a participating employee. (Effective Immediately.)

**S.B. 702 (Hegar/Lozano) – Burn Managers:** requires the Prescribed Burning Board to establish insurance requirements for certified and insured prescribed burn managers for at least one million dollars per single occurrence, with a minimum aggregate of two million dollars. (Effective September 1, 2013.)

**S.B. 965 (Rodriguez/Pickett) – Police Termination Reports:** this bill: (1) requires the Commission on Law Enforcement Standards and Education, rather than a police chief, to change a police termination report if an administrative law judge orders that it be changed; (2) requires the commission to send the changed report to the police department; and (3) removes the penalty for police chiefs who do not change police termination reports after being ordered by an administrative law judge. (Effective September 1, 2013.)

**S.B. 1332 (Duncan/Smithee) – Health Benefit Plans:** changes the calculation of the number of employees for purposes of determining whether a health benefit plan is a “large employer” health benefit plans or a “small employer” health benefit plans by including all employees in the calculation rather than just full time employees eligible for benefits, resulting in more employer plans being deemed “large employer” plans. (Effective September 1, 2013.)

**S.B. 1537 (Deuell/Cortez) – Unemployment Compensation:** requires the Texas Workforce Commission to charge a reimbursing or regular employer, including a city, for unemployment payments made to an individual even if the decision to make the payments is later overturned, but only if the employer does not provide adequate documentation under the unemployment compensation statutes within a specified time. (Effective October 1, 2013.)

## **Public Safety**

**H.B. 124 (Anderson/Campbell) – Salvia:** makes salvia divinorum, and its derivatives and extracts, subject to Penalty Group 3 of the Texas Controlled Substances Act, but exempts the unharvested plant from this prohibition. (Effective September 1, 2013.)

**H.B. 232 (Guillen/Zaffirini) – Alcohol Offenses:** provides that: (1) a court may allow a defendant convicted of certain alcohol offenses who resides in a county with a population of 75,000 or less where access to an alcohol awareness program is not readily available, to either: (a) take an online alcohol awareness course; or (b) perform not less than eight hours of community service related to alcohol abuse prevention or treatment; (2) a court may consider the defendant to be a resident of a county where the defendant is enrolled in an institution of higher education, for purposes of (1), above; (3) if the court does not consider the defendant to be a resident of the county in which the institution is located, the defendant’s residence is: (a) the residence listed on the defendant’s driver’s license; (b) the residence on the voter registration certificate, if the defendant does not have a driver’s license; (c) the residence on file with the public school district on which the defendant’s enrollment is based, if the defendant is not registered to vote; or (d) determined by commission rule, if the defendant is not enrolled in public school. (Effective immediately.)

**H.B. 347 (Pitts) – Cell Phone Ban:** this bill: (1) prohibits a motor vehicle operator from using a wireless communication device on the property of a public elementary, middle, junior high, or high school for which a local authority has designated a school crossing zone, during the time a reduced speed limit is in effect; and (2) preempts all local ordinances, rules, or regulations that are inconsistent with (1), above, unless a city ordinance or rule prohibits the use of wireless communication devices while operating a motor vehicle throughout the jurisdiction of the city. (Effective September 1, 2013.)

**H.B. 434 (Riddle/Whitmire) – Blood Specimens:** allows a licensed or certified emergency medical technician-intermediate or emergency medical technician-paramedic to take a blood specimen if authorized by the medical director for the entity that employs the technician-intermediate or technician-paramedic. (Effective September 1, 2013.)

**H.B. 487 (Bell/Nichols) – Emergency Management:** provides that: (1) a city council, fire chief, or city emergency management director or coordinator may request or accept any care, assistance, or advice related to the loan or operation of a private individual’s construction or heavy equipment if needed for a hazardous or emergency situation; (2) an individual who gives such assistance or loan of equipment on request of the city or whose assistance is accepted by the city, is immune from civil liability, except in a case of reckless conduct or intentional, willful, or wanton misconduct; and (3) a city is prohibited from accepting the assistance if it is in violation of any other law or contractual agreement. (Effective Immediately.)

**H.B. 555 (Callegari/West) – Metal Recycling:** provides that: (1) a person commits an offense if the person violates state law or a rule adopted under state law, including a rule, charter, or ordinance adopted, an order issued, or a standard imposed by a county, city, or political subdivision; (2) an offense under the bill is a Class C misdemeanor; and (3) if conduct that constitutes an offense under the bill also constitutes an offense under existing state law, a person may be prosecuted only under that existing law. (Effective September 1, 2013.)

**H.B. 567 (W. Smith/Nichols) – Emergency Vehicles:** expands the definition “authorized emergency vehicles” to any vehicle used by certain licensed emergency medical services providers, even if the vehicle is not a traditional ambulance, for purposes of suspending the rules

of the road and parking restrictions when the vehicle is on emergency calls. (Effective Immediately.)

**H.B. 625 (Harper-Brown/Carona) – License Plates:** reenacts the provision making it a misdemeanor punishable by a fine not to exceed \$200 to operate a vehicle without the required license plates. (Note: Legislation in a past session inadvertently removed a section of law that set a fine for operating a vehicle without license plates. That removal made it unclear whether a peace officer could cite a person or operating a vehicle without a front (or even rear) license plate. This bill simply goes back to the law before the inadvertent repeal.) (Effective September 1, 2013.)

**H.B. 712 (Murphy/Patrick) – Firefighting Equipment:** requires a volunteer fire department, in a county of 350,000 or more, to maintain in good working order firefighting equipment provided to it by the county. (Effective September 1, 2013.)

**H.B. 912 (Gooden/Estes) – Drones:** limits the ability of a person, including a city, to use an unmanned “drone” aircraft to capture images. Of particular interest to cities and law enforcement, the bill provides that:

1. a person commits an Class C misdemeanor if the person uses an unmanned aircraft to capture an image of an individual or privately owned real property in this state with the intent to conduct surveillance on the individual or property captured in the image;
2. a person commits an Class B misdemeanor if the person captures an image in violation of (1), above, and discloses, displays, distributes, or otherwise uses that image;
3. other than to prove a violation of the bill, an image captured in violation of (1), above, or an image captured by an unmanned aircraft that was incidental to the lawful capturing of an image: (a) may not be used as evidence in any criminal or juvenile proceeding, civil action, or administrative proceeding; (b) is not subject to disclosure, inspection, or copying under the Public Information Act; and (c) is not subject to discovery, subpoena, or other means of legal compulsion for its release;
4. an owner or tenant of privately owned real property located in this state may bring against a person who, in violation of the bill, captured an image of the property or the owner or tenant while on the property an action to: (a) enjoin a violation or imminent violation of the bill; (b) recover a civil penalty of up to \$10,000; or (c) recover actual damages if the person who captured the image in violation of the bill discloses, displays, or distributes the image with malice;
5. the bill does not apply to the following uses of a drone: (a) if the image is captured by or for an electric or natural gas utility: (i) for operations and maintenance of utility facilities for the purpose of maintaining utility system reliability and integrity; (ii) for inspecting utility facilities to determine repair, maintenance, or replacement needs during and after construction of such facilities; (iii) for assessing vegetation growth for the purpose of maintaining clearances on utility easements; and (iv) for utility facility routing and siting for the purpose of providing utility service; (b) with the consent of the individual who owns or lawfully occupies the real property captured in the image; (c) pursuant to a valid search or arrest warrant; (d) if the image is captured by a law enforcement authority or a person who is under contract with or otherwise acting under the direction or on behalf of

a law enforcement authority: (i) in immediate pursuit of a person law enforcement officers have reasonable suspicion or probable cause to suspect has committed an offense, not including misdemeanors or offenses punishable by a fine only; (ii) for the purpose of documenting a crime scene where an offense, not including misdemeanors or offenses punishable by a fine only, has been committed; (iii) for the purpose of investigating the scene of a human fatality, a motor vehicle accident causing death or serious bodily injury to a person, or any motor vehicle accident on a state highway or federal interstate or highway; (iv) in connection with the search for a missing person; (v) for the purpose of conducting a high-risk tactical operation that poses a threat to human life; or (vi) of private property that is generally open to the public where the property owner consents to law enforcement public safety responsibilities; (e) if the image is captured by state or local law enforcement authorities, or a person who is under contract with or otherwise acting under the direction or on behalf of state authorities, for the purpose of: (i) surveying the scene of a catastrophe or other damage to determine whether a state of emergency should be declared; (ii) preserving public safety, protecting property, or surveying damage or contamination during a lawfully declared state of emergency; or (iii) conducting routine air quality sampling and monitoring, as provided by state or local law; (f) at the scene of a spill, or a suspected spill, of hazardous materials; (g) for the purpose of fire suppression; (h) for the purpose of rescuing a person whose life or well-being is in imminent danger; (i) of real property or a person on real property that is within 25 miles of the United States border; (j) from a height no more than eight feet above ground level in a public place, if the image was captured without using any electronic, mechanical, or other means to amplify the image beyond normal human perception; (k) of public real property or a person on that property; (l) if the image is captured by the owner or operator of an oil, gas, water, or other pipeline for the purpose of inspecting, maintaining, or repairing pipelines or other related facilities, and is captured without the intent to conduct surveillance on an individual or real property located in this state;

6. the Department of Public Safety shall adopt rules and guidelines for use of an unmanned aircraft by a law enforcement authority in this state;
7. not earlier than January 1 and not later than January 15 of each odd-numbered year, each state law enforcement agency and each county or municipal law enforcement agency located in a county or municipality, as applicable, with a population greater than 150,000, that used or operated an unmanned aircraft during the preceding 24 months shall issue a written report to the governor, the lieutenant governor, and each member of the legislature and shall post the report on the law enforcement agency's publicly accessible website, if one exists; and
8. the report required by (7), above, must include: (a) the number of times an unmanned aircraft was used, organized by date, time, location, and the types of incidents and types of justification for the use; (b) the number of criminal investigations aided by the use of an unmanned aircraft and a description of how the unmanned aircraft aided each investigation; (c) the number of times an unmanned aircraft was used for a law enforcement operation other than a criminal investigation, the dates and locations of those operations, and a description of how the unmanned aircraft aided each operation; (d) the type of information collected on an individual, residence, property, or area that was not the subject of a law enforcement operation and the frequency of the collection of

this information; and (e) the total cost of acquiring, maintaining, repairing, and operating or otherwise using each unmanned aircraft for the preceding 24 months.

(Effective September 1, 2013.)

**H.B. 970 (E. Rodriguez/Deuell) – Cottage Food Regulation:** provides that: (1) additional items are added to the list of cottage foods, including candy, nuts, snacks, nut butters, pies, and other items, meaning the production and sale of these items cannot be regulated by a city or local health department; (2) a city cannot prohibit the use of a home for cottage food production through zoning; (3) a person can bring a nuisance or other tort action against an individual arising out of the individual's use of their home for cottage food production; (4) a person who operates a cottage food production operation must have completed a food safety education course or food handler accreditation course or be supervised by someone who has the educational requirements; and (5) a cottage food production may not sell potentially hazardous foods such as some proteins, baked goods, raw milk products, or ice products; a city, local governmental entity, or a local health department is prohibited from regulating a cottage food production operation. (Effective September 1, 2013.)

**H.B. 1009 (Villalba/Patrick) – School Marshals:** creates the position of school marshal and allows a school marshal to make arrests and exercise all authority given to peace officers, except the ability to issue a traffic citation, subject to written regulations adopted by the board of trustees of a school district. (Effective immediately.)

**H.B. 1206 (Parker/Huffman) – Missing Children:** requires a local law enforcement agency – upon receiving a report that a child's whereabouts are unknown and indications are that the child was taken or retained without permission of the custodian for a period of not less than 48 hours – to: (1) immediately make a reasonable effort to locate and determine the well-being of the child; (2) notify the Department of Family and Protective Services, after locating the child, if the agency has reason to believe the child is a victim of abuse or neglect; and (3) use its discretion in deciding whether to take possession of the child as authorized by law. (Effective September 1, 2013.)

**H.B. 1222 (Turner/West) – Water Safety Offenses:** grants jurisdiction to a municipal court over water safety offenses under the Parks and Wildlife Code. (Effective immediately.)

**H.B. 1272 (Thompson/Van de Putte) – Trafficking of Persons:** requires: (1) a state or local law enforcement agency, district attorney, or county attorney that assists in the prevention of human trafficking to cooperate with and assist the Human Trafficking Prevention Task Force in collecting statistical data on the nature and extent of human trafficking in the possession of the agency or attorney; (2) the task force to collect certain data regarding human trafficking and ensure that each state or local law enforcement agency, district attorney, or county attorney collects certain data regarding human trafficking; (3) that human trafficking data collected include information about the routes by which victims are trafficked across the state's international border; and (4) that the task force work with the Texas Education Agency, Department of Family and Protective Services, and Health and Human Services Commission to develop a list of indicators that a person is a victim of human trafficking and develop a curriculum for training to identify and assist victims of human trafficking. (Effective immediately.)

**H.B. 1294 (Price/Seliger) – Child Safety Seats:** requires, in order to claim a defense for failure to secure a child in a safety seat, that the defendant, at the time of the offense, was not arrested or issued a citation for violation of any other offense; the defendant did not possess a child safety seat in the vehicle; the vehicle was not involved in an accident; and subsequent to the time of the offense, the defendant obtained an appropriate child safety seat. (Effective September 1, 2013.)

**H.B. 1382 (Simpson/Deuell) – Farmers’ Markets:** provides that: (1) with some exceptions, that a city or local health department cannot regulate the sale of food samples provided to consumers at a farm or farmers’ market; (2) the state is prohibited from adopting a regulation or statute regulating the provision of samples at a farm or farmers’ market; (3) a city or local health department cannot require a permit or fee for a cooking demonstration or the provision of samples, so long as the activity is conducted for a bona fide educational purpose; (4) a city or local health department can continue to permit temporary food service establishments at farmers markets; (5) a person giving out meat samples must meet the state law requirements of labeling, inspection, and regulation of meat products; and (6) the preparation and distribution of samples of food at a farm or farmers’ market must meet certain sanitary conditions. (Effective September 1, 2013.)

**H.B. 1421 (Perry/Estes) – Disposition of Seized Weapons:** provides that: (1) a court may order, in certain instances, that a seized weapon be sold at a public sale or auction; (2) only a licensed firearms dealer may purchase a weapon at a public sale held under (1), above; and (3) the proceeds from the sale of a weapon under (1), above, must be transferred, after the deduction of court and auction costs, to the law enforcement agency holding the weapon. (Effective September 1, 2013.)

**H.B. 1690 (Fletcher/Nelson) – Communicable Diseases:** grants: (1) a peace officer the authority to use reasonable force to restrain and hold certain individuals with communicable diseases to prevent the spread of communicable disease based on a court order; (2) a peace officer the right to secure a quarantine area; (3) a peace officer the authority to secure property subject to a court order based on health and safety concerns; (4) a judge or magistrate the authority to order an emergency services provider to transport an individual with a communicable disease to a hospital; and (5) a court the ability to impose a criminal penalty on an individual who is the subject of a protective custody order or a temporary detention order and who evades transport or otherwise resists the order. (Effective Immediately.)

**H.B. 1738 (Naishtat/Zaffirini) – Emergency Detention:** this bill: (1) requires a peace officer who takes a person into custody under emergency detention to immediately inform the person orally in simple, nontechnical terms of the reason for the detention and that a staff member of a facility will inform the person of the person’s rights within 24 hours after the time the person is admitted to a facility; (2) requires a peace officer to provide a “notification of detention” to a facility to which the peace officer transports a person, and to include that notification in the person’s clinical file; (3) requires a “notification of detention” described in (2), above, to be in a specific form and include, among other things: (a) that the peace officer has reason to believe the person evidences mental illness; (b) that the peace officer believes the person evidences a substantial risk of serious harm to himself/herself or others; (c) that the peace officer believes the

risk of harm is imminent; (d) specific information about the person's behavior, acts, attempts, statements, or threats observed by the peace officer; and (e) specific information about third parties who reported or observed the person's behavior; (4) prohibits a mental health facility or hospital emergency department from requiring a peace officer to execute any form other than the form described in (2), above, as a predicate to accepting for temporary admission a person under emergency detention; (5) requires a facility to temporarily accept a person for whom a peace officer files a "notification of detention;" (6) gives a person apprehended, detained, or transported for emergency detention the right to a reasonable opportunity to communicate with a relative or other responsible person who has a proper interest in the person's welfare; and (7) requires the commissioner of the Health and Human Services Commission to prescribe by rule the manner in which a person described in (1), above, is informed of the person's rights. (Effective September 1, 2013.)

**H.B. 1813 (Lucio/Hinojosa) – Fireworks:** this bill: (1) prohibits a city from confiscating packaged, unopened fireworks; and (2) creates an affirmative defense to prosecution for possession of fireworks brought under a city ordinance if: (a) the defendant was operating or was a passenger in a motor vehicle being operated in a public place, and (b) the fireworks were not in the passenger area of the vehicle. (Effective immediately.)

**H.B. 1862 (Dutton/Hinojosa) – Switchblade Knives:** makes switchblades legal under Texas law. (Effective September 1, 2013.)

**H.B. 1931 (Guillen/Estes) – Law Enforcement Pursuits:** allows an attorney representing the state, defined as a district attorney, criminal district attorney, or county attorney, to use funds transferred from a city or county's general fund to property owners whose property was damaged as a result of a pursuit involving a law enforcement agency. (Effective September 1, 2013.)

**H.B. 1972 (Kleinschmidt/Hancock) – 9-1-1 Service:** provides that: (1) a service provider of communications service, a manufacturer of equipment used, a developer of software for, a third party or other entity involved in providing 9-1-1 service, or an officer, director, or employee of the provider, manufacturer, developer, third party, or other entity involved in providing 9-1-1 service is not liable for any claim, damage, or loss arising from the provision of 9-1-1 service, unless the act or omission proximately causing the claim, damage, or loss constitutes gross negligence, recklessness, or intentional misconduct; (2) information that a service provider of communication service is required to furnish to a governmental entity, including a regional planning commission, emergency communications district, or public safety answering point, in providing 9-1-1 service or that a service provider, third party, or other entity voluntarily furnishes at the request of a governmental entity in providing 9-1-1 service is confidential; and (3) extends certain 9-1-1 service offenses to a person that requests 9-1-1 service or emergency assistance using an electronic communications device. (Effective September 1, 2013.)

**H.B. 1973 (Lucio/Hegar) – Fire Protection:** relates to the fire flow of a "utility" (defined as a water supply corporation or an investor owned utility) and provides that:

1. a city by ordinance may adopt by ordinance standards set by the Texas Commission on Environmental Quality requiring a utility to maintain a minimum sufficient water flow

and pressure to fire hydrants in a residential area located in the city or the city's extraterritorial jurisdiction;

2. the standards created by the commission: (a) in addition to a utility's maximum daily demand, must provide, for purposes of emergency fire suppression, for a minimum sufficient water flow of at least 250 gallons per minute for at least two hours and a minimum sufficient water pressure of at least 20 pounds per square inch; (b) must require a utility to maintain at least the minimum sufficient water flow and pressure described by (a), above, in fire hydrants in a residential area located within the city or the city's extraterritorial jurisdiction; and (c) must be based on the density of connections, service demands, and other relevant factors;
3. if the city owns a municipal utility, the commission standards may not require another utility located in the city or the city's extraterritorial jurisdiction to provide water flow and pressure in a fire hydrant greater than that provided by the municipal utility as determined by the commission;
4. if the city does not own a municipal utility, may not require a utility located in the city or the city's extraterritorial jurisdiction to provide a minimum sufficient water flow and pressure greater than the standard established under (1)(a), above;
5. an ordinance may not require a utility to build, retrofit, or improve infrastructure in existence at the time the ordinance is adopted;
6. a city other than the City of Houston that adopts an ordinance or that seeks to use a utility's water for fire suppression shall enter into a written memorandum of understanding with the utility to provide for the necessary testing of fire hydrants and other relevant issues pertaining to the use of the water and maintenance of the fire hydrants to ensure compliance with the bill;
7. a city may notify the commission of a utility's failure to comply with an ordinance adopted under the bill;
8. on receiving the notice, the commission shall require a utility in violation of a standard adopted under to comply within a reasonable time established by the commission.
9. a utility is not liable for a hydrant's or metal flush valve's inability to provide adequate water supply in a fire emergency.

(Effective September 1, 2013.)

**H.B. 2090 (Canales/Hinojosa) – Custodial Interrogation:** permits written statements made by the accused to be made in a language the accused can read and understand. (Effective September 1, 2013.)

**H.B. 2268 (Frullo/Carona) – Search Warrants:** modifies the provisions in state law relating to search warrants issued in this state and other states for certain customer data, communications, and other information held in electronic storage by providers of electronic communications services and remote computing services, and: (1) provides that a search warrant may be issued for electronic customer data held in electronic storage, including the contents of and records and other information related to a wire communication or electronic communication held in electronic storage; (2) requires a search warrant issued as a result of a court order to obtain access to stored communications be executed not later than the 11th day after the date of issuance; (3) defines various terms, including “electronic storage,” “domestic entity,” and

“electronic customer data;” (4) provides that a peace officer may require a provider of an electronic communications service or provider of remote computing service to disclose electronic customer data that is in electronic storage by obtaining a warrant; (5) provides that on the filing of an application by a peace officer for a warrant to obtain electronic customer data, including the contents of a wire communication or electronic communication, a district judge may issue a warrant regardless of whether the customer data is held in this state or another state so long as the application demonstrates sufficient probable cause for issuance of a warrant and is supported by an oath or affirmation of the officer; (6) limits the electronic customer data that may be seized under (5), above, to that described in the sworn affidavit; (7) allows the affidavit described in (5), above, to be sealed; (8) allows the warrant under (5), above, to be served only on a service provider that is a domestic entity or a company or entity otherwise doing business in this state under a contract or a terms of service agreement with a resident of this state where any part of that contract or agreement is to be performed in this state; (9) requires a service provider to produce all the information sought under a warrant described in (5), above, regardless of where the information is held, and within the required time period, and provides that a failure to do so may result in contempt charges, but does not affect the admissibility of the evidence; (10) establishes when a search warrant described in (5), above, is served and the time in which a provider must comply with the warrant; (11) sets out the circumstances in which a provider may be required to verify the authenticity of the customer data, contents of communication or other information produced in response to a warrant issued under (5), above; (12) establishes post-service procedures in relation to a warrant issued under (5), above; (13) defines the term “adverse result” in relation to when a peace officer may seek to withhold notification of the existence of a warrant, subpoena, or court order to an electronic customer whose information is sought as described above; and (14) repeals Section 7, Article 18.21, Code of Criminal Procedures which relates to authorization for disclosure and use of intercepted communications. (Effective immediately.)

**H.B. 2539 (Turner/Davis) – Child Pornography:** provides that: (1) a computer technician who, in the course and scope of employment or business, views an image on a computer that is or appears to be child pornography is required to immediately report the discovery to local or state law enforcement or the “Cyber Tipline;” (2) a computer technician may not be held liable on account of any action taken in good faith to comply with (1), above; (3) it is a Class B misdemeanor to intentionally fail to comply with (1), above; and (4) it is a defense to prosecution that the actor did not report the discovery of an image of child pornography because the child in the image appeared to be at least 18 years old. (Effective September 1, 2013.)

**H.B. 2690 (Elkins/Ellis) – Display of Motor Vehicles for Sale:** provides that: (1) if a person is acting as an unauthorized automobile dealer, a peace officer may cause a vehicle that is being offered for sale by the person to be towed from the location where the vehicle is being offered for sale and stored at a vehicle storage facility; (2) a peace officer may cause the vehicle to be towed under (1), above, only if: (a) the peace officer has a probable cause that the vehicle is being offered for sale by a person acting as an unauthorized automobile dealer; (b) the peace officer has complied with the notice requirements under (3), below; and (c) the notice was attached to the vehicle not less than two hours before the vehicle is towed; (3) before a vehicle may be towed under (1), above, a peace officer, an appropriate local government employee, or an investigator employed by the Department of Motor Vehicles must attach a conspicuous notice to

the vehicle stating: (a) the make and model of the vehicle and the license plate number and vehicle identification number of the vehicle, if any; (b) the date and time that the notice was affixed to the vehicle; (c) that the vehicle is being offered for sale in violation of law; (d) that the vehicle and any property on or in the vehicle may be towed and stored at the expense of the owner of the vehicle not less than two hours after the notice is attached to the vehicle if the vehicle remains parked at the location; and (e) the name, address, and telephone number of the vehicle storage facility where the vehicle will be towed. (Effective September 1, 2013.)

**H.B. 2741 (Phillips/Nichols) – Motor Vehicles:** makes various changes regarding the regulation of motor vehicles by counties and the Texas Department of Motor Vehicles (DMV). Interesting to cities are provisions: (1) prohibiting a justice of the peace or municipal judge from issuing a court-ordered title change except as authorized in relation to the disposition of stolen property, the foreclosure of a mortgage, or the enforcement of a lien; (2) providing that for registration purposes, the method of calculating the weight of a city bus is modified; (3) providing that a court may dismiss a charge for operating a vehicle without a registration insignia if the defendant pays an administrative fee not to exceed \$10 and remedies the defect before the defendant's first court appearance; (4) providing that a court may dismiss certain license plate charges if the defendant pays an administrative fee not to exceed \$10 and remedies the defect before the first court appearance, or shows that the vehicle was issued a plate by the DMV that was attached to the vehicle and thus, establishing that the vehicle was registered for the period during which the offense was committed; (5) adding new offenses related to registration insignia and license plates that are deceptively similar to those issued by the DMV; (6) authorizing a person to operate a neighborhood electric vehicle in a master planned community, on a public or private beach, or on a public highway with a speed limit of not more than 35 mph if the vehicle is operated during the daytime and not more than two miles from where the vehicle is usually parked and for transportation to and from a golf course; (7) a person commits an offense if the person with criminal negligence uses, purchases, possesses, manufactures, sells, offers to sell, or otherwise distributes a license plate flipper; (8) providing that, if the state has issued a permit to a ready-mix concrete truck, the truck can use state, county, and municipal roads, and the governing body of a county or municipality may no longer require the owner of a ready-mixed concrete truck to file a surety bond conditioned that the owner of the truck will pay to the county or municipality any damage to a road caused by the operation of the truck with a tandem axle weight that is heavier than 34,000 pounds; (9) prohibiting a county or city from requiring a permit, bond, fee, or license for the movement of a vehicle or vehicles or any load carried by those vehicles that exceeds the weight or size limits on the state highway system in the county or city; and (10) authorizing a peace officer to inspect a military identification and requiring a peace officer to destroy certain disabled parking placards and report the same to the DMV. (Effective September 1, 2013, with provisions related to license plate flippers effective immediately.)

**H.B. 2825 (King/Seliger) – Sex Offender Registration:** this bill: (1) allows any county to establish a countywide/centralized sex offender registration location; (2) provides that a sex offender must perform registration and verification requirements and change of address requirements only with respect to a centralized registration authority described in (1), above, regardless of whether the person resides in a city; and (3) provides that the provisions in (1), and (2), above, do not affect a person's duty to register with certain secondary sex offender registries. (Effective immediately.)

**H.B. 3178 (Phillips/Estes) – Mutual Aid:** provides that: (1) a verbal request for mutual aid assistance be later submitted in writing, but that the written request can be submitted any time after the verbal request; and (2) a requesting political subdivision, including a city, does not have to reimburse a responding governmental entity providing mutual aid assistance under the Texas Statewide Mutual Aid System during a disaster if the assistance is for less than 12 hours. (Effective Immediately.)

**H.B. 3556 (Kolkhorst/Nelson) – Emergency Medical Services:** imposes various operational conditions and licensing requirements on non-governmental emergency medical service (EMS) providers, and requires an EMS provider applicant to obtain a letter of approval from the city council in which the applicant is located that can be granted only if: (1) the addition of another licensed EMS provider will not interfere with or adversely affect the provision of EMS by licensed providers operating in the city; (2) the addition of another licensed EMS provider will remedy an existing provider shortage that cannot be resolved through the use of the licensed providers operating in the city; and (3) the addition of another licensed EMS provider will not cause an oversupply of licensed EMS providers in the city. (Effective September 1, 2013.)

**S.B. 8 (Nelson/Kolkhorst) – Emergency Medical Services:** this is an omnibus Medicaid bill. Of interest to cities, the bill requires non-governmental emergency medical services providers to obtain a letter of approval from a city before operating within the city and requires the provider to meet certain criteria before the city can issue the letter. (Effective September 1, 2013.)

**S.B. 171 (West/Pickett) – Emergency Management Study:** requires the governor's emergency management division to establish a workgroup, including local government officials, to determine if a uniform application form requesting assistance after a disaster from a state agency can be developed. (Effective Immediately.)

**S.B. 299 (Estes/Sheets) – Unlawful Carrying of Handgun:** provides that: (1) it is unlawful for a concealed handgun license (CHL) holder to intentionally display (rather than "fail to conceal") a handgun in plain view of another person in a public place; and (2) it is a defense to prosecution under (1) that the CHL holder, at the time of the commission of the offense, displayed the handgun under circumstances in which the actor would have been justified in the use of force or deadly force. (Effective September 1, 2013.)

**S.B. 367 (Whitmire/Murphy) – Seized Property:** provides that: (1) if personal property, other than money and certain other contraband, is seized by a peace officer at the time the owner of the property is arrested for a Class C misdemeanor offense, the law enforcement agency may provide notice to the owner at the time the owner is taken into or released from custody, including: (a) a description of the property being held; (b) the address where the property is being held; and (c) a statement that if the owner does not claim the property before the 31st day after the date the owner is released from custody, the property will be disposed of and the proceeds, after deducting certain reasonable expenses, will be placed in the treasury of the city; (2) on receiving the notice described in (1), above, the owner must sign and attach a thumbprint to the notice; and (3) the city purchasing agent or a person designated by the city may sell or donate the property described in (1), above, without mailing or publishing additional notice, and

must deposit the proceeds in the treasury of the city after deducting reasonable expenses for keeping and disposing of the property. (Effective immediately.)

**S.B. 510 (Nichols/Martinez) – Passing Certain Vehicles:** this bill: (1) requires that a vehicle operator passing certain other vehicles, including a Texas Department of Transportation vehicle not separated from the roadway by a traffic control channeling device and using visual signals, vacate the lane closest to the other vehicle or slow down to a specified speed; and (2) defines “traffic control channelizing device” to mean equipment used to warn and alert drivers of conditions created by work activities in or near the traveled way, to protect workers in a temporary traffic control zone, and to guide drivers and pedestrians safely. (Effective September 1, 2013.)

**S.B. 670 (Whitmire/Turner) – Juvenile Records:** provides that the records and files of a juvenile court, a clerk of the court, a juvenile probation department, or a prosecuting attorney relating to a child who is a party to a proceeding may be inspected or copied only by: (1) the judge; (2) a juvenile justice agency; (3) an attorney; (4) an agency providing supervision of the child; or (5) other individuals deemed necessary by the juvenile court. (Effective immediately.)

**S.B. 686 (Huffman/Villalba) – Commission on Law Enforcement:** changes the name of the Commission on Law Enforcement Officer Standards and Education to the Texas Commission on Law Enforcement. (Effective Immediately.)

**S.B. 742 (Carona/Frullo) – Child Abductions:** requires, among other things, that: (1) a local law enforcement agency immediately, but not later than eight hours after receiving a report of an attempted child abduction, provide any relevant information regarding the attempted child abduction to the state clearinghouse and the National Center for Missing and Exploited Children; (2) the public safety director of the Department of Public Safety adopt rules regarding the procedures for a local law enforcement agency that receives a report of a missing child who: (a) has been reported missing on four or more occasions in the 24-month period preceding the date of the current report; or (b) is in foster care or the conservatorship of the Department of Family and Protective Services and has been reported missing on two or more occasions in the 24-month period preceding the date of the current report; and (3) officers seeking an intermediate or advanced proficiency certificate after January 1, 2015, complete an education and training program on missing or exploited children. (Effective September 1, 2013.)

**S.B. 764 (Watson/T. King) – Prescribed Burning:** provides that an owner, lessee, or occupant of agricultural land or conservation land is not liable for property damage or for injury or death to persons caused by or resulting from prescribed burning conducted on the land if: (1) the burning is conducted under the supervision of a certified and insured prescribed burn manager; or (2) the owner, lessee, or occupant is a governmental unit, including a city, that has a self-insurance program for a certain amount of coverage. (Effective Immediately.)

**S.B. 877 (Patrick) – Citizens’ Star of Texas Award:** creates the Citizens’ Star of Texas Award to be awarded to a private citizen or surviving next of kin who is seriously injured while aiding or attempting to aid a peace officer, firefighter, or emergency medical first responder in the

performance of duties of the officer, firefighter, or first responder. (Effective September 1, 2013.)

**S.B. 878 (Patrick/Carter) – Criminal Asset Forfeiture:** provides that forfeiture funds received by a law enforcement agency can be used solely for a “law enforcement purpose,” which is defined to mean an expenditure made for an activity of a law enforcement agency that relates to the criminal and civil enforcement of the laws of this state, including an expenditure made for: (a) equipment, including vehicles, computers, firearms, protective body armor, furniture, software, uniforms, and maintenance equipment; (b) supplies, including office supplies, mobile phone and data account fees for employees, and Internet services; (c) investigative and training-related travel expenses, including payment for hotel rooms, airfare, meals, rental of and fuel for a motor vehicle, and parking; (d) conferences and training expenses, including fees and materials; (e) investigative costs, including payments to informants and lab expenses; (f) crime prevention and treatment programs; (g) facility costs, including building purchase, lease payments, remodeling and renovating, maintenance, and utilities; (h) witness-related costs, including travel and security; and (i) audit costs and fees, including audit preparation and professional fees. (Effective September 1, 2013.)

**S.B. 987 (Hegar/Harless) – Gun Regulation:** authorizes the attorney general to seek a temporary or permanent injunction against a city or county that regulates firearms or sport shooting ranges in a way that is contrary to state laws. (Effective immediately.)

**S.B. 1010 (Taylor/Bonnen) – Search and Rescue Dogs:** this bill: (1) prohibits a public facility from denying a search and rescue dog or the dog’s handler admittance because of the presence of the dog; (2) provides that the discrimination prohibited by the bill includes: (a) refusing to allow a search and rescue dog or the dog’s handler to use or be admitted to a public facility; (b) engaging in a ruse or subterfuge calculated to prevent or discourage a search and rescue dog or the dog’s handler from using or being admitted to a public facility; and (c) failing to make a reasonable accommodation in a policy, practice, or procedure to allow a search and rescue dog or the dog’s handler from being admitted to a public facility; (3) prohibits a public facility from adopting a policy that relates to the use of a public facility by a designated class of persons from the general public that prohibits the use of the particular public facility by a search and rescue dog or the dog’s handler; (4) provides criminal penalties for violating the prohibitions set out above and makes it a defense to prosecution that the actor requested the search and rescue dog handler’s credentials and the handler failed to provide them; (5) requires a search and rescue dog handler to keep the dog harnessed or leashed, and allows a person to maintain a cause of action against a dog’s handler for personal injury, property damage, or death resulting from a failure to properly leash or harness the dog under the same laws applicable to other causes brought for the redress of injuries caused by animals; (6) provides that a handler is liable for any property damage caused by the search and rescue dog to a public facility or housing accommodation; (7) provides that a governmental unit and a public servant are liable under the bill only to the extent provided by certain provisions of the Texas Civil Practices and Remedies Code (the “Tort Claims Act”); and (8) allows a person to ask a search and rescue dog handler to display proof that the handler is a person with a certification issued by the National Association for Search and Rescue or another state or nationally recognized search and rescue agency. (Effective September 1, 2013.)

**S.B. 1053 (Carona/Guillen) – Vehicle Towing:** requires that a notice by mail sent to the registered owner and primary lienholder of a vehicle that the vehicle has been towed to a facility must include the facility license number preceded by “TDLR VSF Lic. No.” (Effective September 1, 2013.)

**S.B. 1189 (Huffman/Fletcher) – Disposition of Seized Firearms:** this bill: (1) authorizes a peace officer who takes a person into custody without a warrant under mental illness emergency detention to immediately seize any firearm found in possession of the person; and (2) provides numerous procedures related to such seizures, including provisions for release and/or disposal. (Effective September 1, 2013.)

**S.B. 1267 (Nichols/Clardy) – Fire Suppression:** grants immunity to an individual assisting the Texas Forest Service in fire suppression or fire investigation on private land. (Effective Immediately.)

**S.B. 1400 (Estes/Geren) – Air Guns:** provides that a city may not adopt or enforce a regulation relating to the transfer, private ownership, keeping, transportation, licensing, or registration of an air gun or an accessory for an air gun or the discharge of an air gun at a sport shooting range. (Effective immediately.)

**S.B. 1451 (Hinojosa/Sheets) – Contraband:** this bill: (1) allows substitute property to be seized under authority of a search warrant if property that is contraband: (a) can no longer be located after the exercise of reasonable diligence; (b) has been transferred, conveyed, sold to, or deposited with a person other than the owner or interest holder; (c) is not within the jurisdiction of the court; (d) has substantially diminished in value; (e) has been commingled with other property and cannot be readily distinguished or separated; or (f) is a certain type of proceed use to acquire other property that is not within the jurisdiction of the court; (2) allows a district court to issue a search warrant authorizing a peace officer to seize substitute property described in (1), above, if the officer submits an affidavit that states: (a) probable cause for the commission of an offense giving rise to forfeiture of contraband; (b) a description of the contraband involved and the estimated current fair market value of the substitute property to be seized; (c) the reasons the contraband is unavailable for forfeiture; (d) probable cause to believe the owner of the substitute property owned or had an interest in contraband with an aggregate value of \$200,000 or more in connection with the commission of an underlying offense giving rise to the forfeiture; and (e) that due diligence has been exercised in identifying the minimum amount of substitute property necessary to approximate the estimated highest fair market value of the contraband during the period in which the owner of the substitute property owned, or had an interest in, the contraband; (3) requires that in a situation described in (1), above, an attorney for the state prove by a preponderance of the evidence: (a) that contraband was subject to seizure and forfeiture; (b) the highest fair market value of that contraband; (c) the fair market value of any substituted property; and (d) that the owner of the substituted property owned or had an interest in contraband with an aggregate value of \$200,000 or more in connection with the commission of an underlying offense giving rise to the forfeiture; (4) requires a peace officer who identifies contraband, other than real property, that is located outside of this state to provide the state’s attorney a sworn statement identifying the contraband and the reasons the contraband is subject to seizure and,

upon receipt of the sworn statement, allows the state's attorney to file a notice of intended forfeiture in certain district courts; (5) requires a state's attorney acting under (4), above, to request citation be served on a person who owns or is in possession or control of the contraband and allows the attorney to request a court order to have the contraband returned or delivered to an agent of this state; (6) provides that if a person is found, after receiving a citation described in (5), above, to transport, conceal, dispose of, or prevent the seizure and forfeiture of the contraband, a court may take certain actions, including, ordering the person in contempt and imposing certain fines and confinement; (7) requires a peace officer who identifies proceeds gained from the commission of certain offenses to provide the state's attorney with an affidavit that identifies the amount of the proceeds and that states probable cause that the proceeds are contraband subject to forfeiture; (8) allows the state's attorney, upon receipt of an affidavit described in (7), above, to file for a judgment in the amount of the proceeds in certain district courts and, if the court determines probable cause exists, the court must order the citation be served on all defendants named in the suit; and (9) for purposes of a money laundering offense, defines "funds" to include a stored value card and defines "proceeds" to include funds used in the commission of an act or an offense. (Effective September 1, 2013.)

**S.B. 1889 (Eltife/Lavender) – Transport of Mental Health Patient:** requires the Texas Department of Mental Health and Mental Retardation Services to enter into a reciprocal agreement with another state or a local authority of another state to facilitate the return of persons committed to mental health facilities in this state to their state of residence, so long as the terms of the agreement are acceptable, and requires the department to coordinate, as appropriate, with a mental health facility, a mental hospital, health service providers, courts, and law enforcement personnel located in the geographic area nearest the petitioning state. (Effective September 1, 2013.)

## **Transportation**

**H.B. 719 (Morrison/Hegar) – Golf Carts:** requires the Texas Department of Motor Vehicles to issue license plates for golf carts that are operated: (1) on public highways in master planned communities; (2) on beaches; or (3) on city streets that have speed limits of 35 mph or less and have been opened to golf cart use by ordinance. (Effective Immediately.)

**H.B. 1044 (Eiland/Williams) – Vehicles:** this bill (1) expands the list of vehicles that are prohibited from being operated on certain beaches; (2) allows a city-owned off-highway vehicle to be registered for use on a public beach or highway; (3) allows city and county vehicles to be driven on beaches if registered; (4) allows the operation of certain private vehicles on the beach if: (a) the person has a driver's license; and (b) the beach is open to motor vehicle traffic; and (5) allows a city or county to prohibit the use of all-terrain vehicles on a beach. (Effective September 1, 2013.)

**H.B. 1917 (E. Rodriguez/Carona) – Advertising on Vehicles for Hire:** this bill: (1) allows a vehicle for hire or public transportation vehicle to advertise alcoholic beverages on the outside of the vehicle; and (2) allows a city to prohibit advertising of alcohol only on a vehicle for hire. (Effective Immediately.)

**H.B. 2148 (Hilderbran/Williams) – Motor Fuel Sales Tax:** this bill, among other things; (1) imposes a state motor fuels tax on the sale of compressed natural gas or liquefied natural gas that is delivered into the fuel supply tank of a motor vehicle; (2) provides for certain exemptions, not including city vehicles, and refunds of the tax; and (3) provides that three-fourths of the tax shall be deposited to the credit of the state highway fund. (Effective September 1, 2013.)

**H.B. 2202 (Pickett/Williams) – Vehicle Registration Fees:** provides that certain amounts of the state’s motor vehicle registration fees be deposited in the state’s general revenue fund, certain amounts be deposited in the state highway fund, and certain amounts be used to fund the Texas Department of Motor Vehicles. (Effective September 1, 2013.)

**S.B. 487 (Davis/Lavender) – All-Terrain Vehicles:** changes the definition of “all-terrain vehicle” in current law to include sit-in vehicles, frequently referred to as a “mule.” (Effective September 1, 2013.)

**S.B. 1110 (Nichols/Pickett) – Transportation Reinvestment Zones:** expands the uses for a transportation reinvestment zone by providing that: (1) the governing bodies of two or more local governments that have designated a zone may enter into an agreement to provide for the joint administration of two or more adjacent zones; and (2) the governing body of a county or city may designate a transportation reinvestment zone for a transportation project located outside the its boundaries if: (a) the project will benefit the property and residents located in the zone and the creation of the zone will serve a public purpose of that county or city; (b) a zone has been designated for the same project by one or more counties or cities in whose boundaries the project is located; and (c) an agreement provides for joint support of the designated zones. (Effective September 1, 2013.)

## **Utilities and Environment**

**H.B. 4 (Ritter/Fraser) – State Water Plan Funding:** this bill provides a mechanism to fund the State Water Plan and specifically provides that:

1. the state water implementation fund for Texas is created as a special fund in the state treasury outside the general revenue fund.
2. the fund should never be used for a purpose other than the support of projects in the state water plan.
3. the fund consists of:
  - a. money transferred or deposited to the credit of the fund by law;
  - b. the proceeds of any fee or tax imposed by this state that the legislature by statute dedicates for deposit to the credit of the fund;
  - c. any other revenue that the legislature by statute dedicates for deposit to the credit of the fund;
  - d. interest earned on amounts credited to the fund; and
  - e. money transferred to the fund under a bond enhancement agreement.
4. the Texas Treasury Safekeeping Trust Company (an existing state special purpose entity that was created to efficiently and economically manage, invest, and safeguard funds for the state and various subdivisions of the state) shall manage and invest the fund,

maintaining sufficient liquidity to meet the needs of the fund and adopting a written investment policy appropriate for the fund.

5. at the direction of the Texas Water Development Board, the trust company shall make disbursements from the fund to another fund or account pursuant to a bond enhancement agreement in the amounts the board determines are needed for debt service payments on or security provisions of the board's general obligation or revenue bonds.
6. of the money disbursed from the fund during the five-year period between the adoption of a state water plan and the adoption of a new plan, the board shall apply not less than: (a) 10 percent to support projects included in the state water plan that are for rural political subdivisions or for agricultural water conservation; and (b) 20 percent to support projects included in the state water plan that are for water conservation or reuse.
7. the board may direct the trust company to enter into bond enhancement agreements to provide a source of revenue or security for the payment of the principal or interest on bonds issued by the board to finance or refinance projects included in the state water plan, if the proceeds of the sale of the bonds have been or will be deposited to the credit of:
  - a. the state water implementation revenue fund for Texas;
  - b. the water infrastructure fund;
  - c. the rural water assistance fund;
  - d. the Texas Water Development Fund II state participation account; or
  - e. the agricultural water conservation fund.
8. the board may direct the trust company to make disbursements for the support of bonds the proceeds of which are used to provide financial assistance in the form of:
  - a. a loan bearing an interest rate of not less than 50 percent of the then-current market rate of interest available to the board;
  - b. a loan to finance a facility under repayment terms similar to the terms of debt customarily issued by the entity requesting assistance, not to exceed the lesser of the useful life or 30 years;
  - c. a deferral of loan payment;
  - d. incremental repurchase terms for an acquired facility; or
  - e. a combination of the these methods.
9. the board may not direct the trust company to enter into a bond enhancement agreement with respect to bonds issued by the board the proceeds of which have been or are to be used to make grants.
10. each regional water planning group shall prioritize projects in its respective region using the uniform standards established by the board and the board shall prioritize projects in the state water plan for the purpose of providing financial assistance.
11. the State Water Implementation Fund for Texas Advisory Committee is created and is composed of the comptroller, three members of the senate appointed by the lieutenant governor, and three members of the house appointed by the speaker of the house.
12. the advisory committee shall submit recommendations to the board regarding the use of money in the fund for use by the board.
13. the state water implementation revenue fund for Texas is created as a special fund in the state treasury outside the general revenue fund to be used by the board only for the purpose of providing financing for projects included in the state water plan.

14. the board may sell to the state water implementation revenue fund for Texas any political subdivision bonds purchased with money in the water infrastructure fund.
15. the governing body of each political subdivision receiving financial assistance from the board shall require in all contracts for the construction of a project (in addition to the requirements in current law) that the contract include a requirement that iron and steel products and manufactured goods used in the project be produced in the United States, with certain exceptions.

(Effective September 1, 2013.)

**H.B. 200 (Murphy/Ellis) – Liability of Electric Utilities:** with regard to an electric utility located in a county with a population of four million or more: (1) allows the electric utility to enter into an agreement with a political subdivision to allow public access to and use of the premises of the electric utility for recreation, exercise, relaxation, travel, or pleasure; (2) provides that the utility by entering into an agreement under (1), above, does not assure that the premises are safe; (3) provides that the doctrine of attractive nuisance is not applicable to such agreed to use; and (4) provides that a written agreement described in (1), above, may require the political subdivision to provide or pay for insurance coverage for any defense costs or other litigation costs incurred by the electric utility for damage claims. (Effective immediately.)

**H.B. 252 (Larson/Hegar) – Water Shortage Reporting:** requires that each municipally owned utility notify the Texas Commission on Environmental Quality when the utility is reasonably certain that the utility’s water supply is less than 180 days. (Effective September 1, 2013.)

**H.B. 788 (Smith/Hinojosa) – Greenhouse Gas Emissions:** requires the Texas Commission on Environmental Quality to, in accordance with federal law, adopt a program for issuing permits that include the regulation of greenhouse gas emissions. (Effective immediately.)

**H.B. 857 (Lucio/Ellis) – Water Audits:** requires that all municipally owned utilities that either receive financial assistance from the Texas Water Development Board or provide service to more than 3,300 connections perform and file with the board an annual water audit computing the utility’s system water loss during the preceding year. (Note: Current law requires only utilities that receive state aid to file such audits.) (Effective September 1, 2013.)

**H.B. 1461 (Aycock/Fraser) – Water Conservation:** requires a retail public utility, including a city, that files a water loss audit to notify each of the utility’s customers of the water loss reported in the water audit on: (1) the utility’s next annual consumer confidence report delivered after the water audit is filed or (2) the next bill the customer receives after the water audit is filed. (Effective September 1, 2013.)

**H.B. 1554 (J. Rodriguez/Campbell) – Floodplain Management:** this bill: (1) provides that a city may bring a civil action to enforce an ordinance relating to floodplain control and administration, including an ordinance regulating the placement of a structure, fill, or other materials in a designated floodplain; (2) a city may abate a violation of a floodplain management ordinance by causing the work necessary to bring real property into compliance with the ordinance, including the repair, removal, or demolition of a structure, fill, or other material

illegally placed in the area designated as a floodplain, if: (a) the city gives the owner reasonable notice and opportunity to comply with the ordinance; and (b) the owner of the property fails to comply with the ordinance; (3) the city may assess the costs incurred against the property and has a lien on the property for the costs incurred and for interest until the municipality is paid; and (4) the city's lien is inferior to any previously-recorded bona fide mortgage lien attached to the real property to which the city's lien attaches, but is superior to all other previously-recorded judgment liens. (Effective September 1, 2013.)

**H.B. 1600 (Cook/Nichols) – Public Utility Commission**: this is the Public Utility Commission (PUC) Sunset bill. Of particular interest to cities, the bill continues the functions of the PUC until 2023 and:

1. increases PUC oversight of the Electric Reliability Council of Texas.
2. authorizes the PUC to issue a cease and desist order against an electric utility in certain circumstances and provides procedures for doing so.
3. on September 1, 2014, transfers to the PUC the powers, duties, functions, programs, and activities of the Texas Commission on Environmental Quality (TCEQ) relating to the economic regulation of water and sewer service, including the issuance and transfer of certificates of convenience and necessity, the determination of rates, and the administration of hearings and proceedings involving those matters. Specifically, the bill provides that:
  - a. certain duties relating to residential and small commercial water customer representation are assigned to the Office of Public Utility Counsel.
  - b. a city retains original jurisdiction over water rates and service with its limits.
  - c. the regulatory authority, including a city, may require, by order or subpoena served on any utility, the production at the time and place it may designate of any books, accounts, papers, or records kept by a water and sewer utility outside the state or verified copies of them if the regulatory authority so orders.
  - d. includes essentially the same provisions as **S.B. 567 (Watson/Geren)**, which are summarized below.
  - e. the PUC by rule shall require each utility to annually file a service, financial, and normalized earnings report that must include information sufficient to enable the PUC to properly monitor utilities in this state.
4. provides that, by August 1, 2014, the TCEQ and the PUC shall enter into a memorandum of understanding that governs the transition and authorizes the Office of Public Utility Counsel to represent the interests of residential and small commercial water consumers.
5. provides that the TCEQ and the PUC shall appoint a transition team to accomplish the purposes of bill and that will provide a final report on the implementation to the executive directors not later than September 1, 2014.

(Effective September 1, 2013.)

**H.B. 1772 (Turner/Davis) – Electric/Gas Utility Disconnection**: provides additional procedures that an owner/landlord must follow when it receives notice of disconnection of gas or electric service to a nonsubmetered, master-metered multifamily property. Of particular interest to cities, the bill provides that: (1) if the property is located in a city and served by a municipal

utility, the owner/landlord shall provide notice of a pending disconnection to tenants and to the governing body of that city by certified mail; (2) the governing body of the city may provide additional notice to the property's tenants and owner/landlord after receipt of the service disconnection notice; and (3) if the property is served by a retail electric provider in an area where customer choice has not been introduced or by an investor owned gas utility, the owner/landlord shall send a written notice of service disconnection to a city before the retail electric provider disconnects service if the property is located in the city and the city establishes an authorized representative to receive the notice. (Effective January 1, 2014.)

**H.B. 2152 (Callegari/Lucio) – Water Rates:** prohibits a municipally owned utility that provides nonsubmetered master metered utility service to a recreational vehicle park from assessing a fee that the utility does not charge other commercial businesses that serve transient customers. (Effective September 1, 2013.)

**H.B. 2290 (Lozano/Estes) – Supplemental Environmental Projects:** allows a local government that receives money to implement a supplemental environmental project from the Texas Commission on Environmental Quality to retain up to ten percent of the amount received for administrative costs associated with implementing the project. (Effective immediately.)

**H.B. 2585 (Harper-Brown/Paxton) – Utility Relocation:** removes the expiration provision from the state law providing that the Texas Department of Transportation and a utility, including a municipally owned utility, shall share equally the cost of the relocation of a utility facility required by the improvement of state-run toll road projects. (Effective immediately.)

**H.B. 2615 (Johnson/Fraser) – Water Rights Reporting:** this bill: (1) increases the penalty for a person who has been issued a water right and fails to file the required annual report from \$25 per day to: (a) \$100 per day if the person is the holder of a right appropriating 5,000 acre-feet or less per year or (b) \$500 per day if the person is the holder of a right appropriating more than 5,000 acre-feet per year; (2) requires the executive director of the Texas Commission on Environmental Quality (TCEQ) to establish a reasonable deadline by which a person must make available information requested by the commission that is related to the water right; and (3) requires the TCEQ to establish a process by which a water right report may be submitted electronically. (Effective September 1, 2013.)

**H.B. 2781 (Fletcher/Campbell) – Rainwater Harvesting:** this bill: (1) requires that a privately owned rainwater harvesting system with a capacity of more than 500 gallons and an auxiliary water supply have a backflow prevention assembly or an air gap installed at the storage facility for the harvested rainwater; (2) requires a person who intends to use a public water supply system as an auxiliary water supply to give written notice of that intention to the city in which the rainwater harvesting system is located; (3) prohibits the public water supply system being used as an auxiliary water source from being connected to the plumbing of a structure; (4) requires the Texas Water Development Board to provide training for each member of the permitting staff of a city with a population of more than 10,000 whose work relates directly to permits involving rainwater harvesting; and (5) requires a seller of property to disclose any rainwater harvesting system located on the property that is larger than 500 gallons and that uses a public water supply as an auxiliary water source. (Effective September 1, 2013.)

**H.B. 3233 (Ritter/Fraser) – Interbasin Transfers:** this bill: (1) removes the requirement to include the projected effect on user rates and fees for each class of ratepayers on an application for an interbasin transfer; (2) limits the evidentiary hearing for an application to transfer water to contested issues related to the requirements in the bill; (3) changes the notice of an application requirement from once a week for two consecutive weeks to two different weeks in a 30 day period; and (4) exempts from the permit requirement a proposed transfer from the part of the service area of a retail water utility that is within the basin of origin for use in that part of the geographic area of the county or city, or that contiguous part of the retail service area of the utility, not within the basin of origin. (Effective September 1, 2013.)

**H.B. 3511 (Ritter/Eltife) – Contractual Immunity:** provides that: (1) a water district or authority that enters into a written contract stating the essential terms under which the local district or authority is to provide water to a purchaser for use in connection with the generation of electricity waives sovereign immunity to suit for the purpose of adjudicating a claim that the local district or authority breached the contract by not providing water, or access to water, according to the contract's terms; (2) sovereign immunity to suit is waived by a local government entity, including a city, that enters into a written contract, including a right of first refusal, regarding the sale or delivery of not less than 1,000 acre-feet of reclaimed water by a local governmental entity intended for industrial use; and (3) a prevailing party in a contract governed by (2), above, is liable for actual damages, specific performance, or injunctive relief in an adjudication brought against a local governmental entity. (Effective immediately.)

**H.B. 3605 (Burnam/Hegar) – Water Loss:** requires: (1) a retail public utility, which includes a city, that receives financial assistance from the Texas Water Development Board to use a portion of the financial assistance to mitigate the utility system's water loss if the water loss exceeds a threshold amount to be established by the board; (2) the board, when reviewing applications for financial assistance from a retail public utility with 3,300 or more connections, to evaluate the utility's water conservation plan for compliance with the board's best management practices and issue a report to the utility detailing the results of the evaluation; and (3) that plans and specifications submitted to the board in connection with an application for financial assistance include a seal by a licensed engineer affirming that the plans and specifications are consistent with and conform to current industry design and construction standards. (Effective September 1, 2013.)

**S.B. 186 (Corona/Giddings) – Mosquito Abatement:** provides that: (1) a city, county, or local health authority may abate, without notice, certain collections of water in which mosquitoes are breeding that: (a) are located on residential property reasonably presumed to be abandoned or uninhabited due to foreclosure; and (b) are an immediate danger to the health, life, or safety of any person; (2) public officials, agents, and employees charged with the enforcement of health, environmental, or safety laws may enter the premises described in (1), above, at a reasonable time to inspect, investigate, or abate the nuisance; (3) mosquito abatement described in (1), above, is limited to treatment of stagnant water with a mosquito larvicide; and (4) a notice must be posted on the front door of a residence described in (1), above, stating the identity of the treating authority, the purpose and date of treatment, the area treated, the type of larvicide used, and the known risks of the larvicide to humans or animals. (Effective immediately.)

**S.B. 349 (Nichols/Creighton) – Municipally Owned Electric Utility Power Lines:** with respect to municipal power lines, provides that: (1) a “distribution line” means a power line operated below 60,000 volts when measured phase to phase, and a “transmission line” means a power line operated at 60,000 volts or more when measured phase to phase; and (2) distribution and transmission lines shall be constructed along highways and at other places in accordance with the national electrical safety code. (Effective Immediately.)

**S.B. 385 (Carona/Keffer) – Clean Energy Assessments:** this bill: (1) enacts the Property Assessed Clean Energy (PACE) Act, which would authorize a city to create PACE districts to promote private sector water conservation and energy efficiency; (2) provides detailed procedures for the creation of a PACE district; and (3) provides that property owners in a PACE district would be able to obtain low-cost, long-term financing from private sector lenders for water conservation improvements and energy efficiency retrofits to existing structures. (Effective immediately.)

**S.B. 514 (Davis/Wu) – Saltwater Pipelines:** provides that: (1) a saltwater pipeline operator is entitled to install, maintain, and operate a saltwater pipeline facility through, under, along, across, or over a public road only if: (a) the pipeline facility complies with applicable federal and state regulations, as well as any municipal regulations regarding the accommodation of utility facilities on a public road or right-of-way, including regulations relating to the horizontal or vertical placement of the pipeline facility; and (b) the saltwater pipeline operator ensures that the public road and associated facilities are promptly restored to their former condition of usefulness after the installation or maintenance of the pipeline facility is complete; (2) the governing body of a city may require a saltwater pipeline operator to relocate a saltwater pipeline facility at the cost of the saltwater pipeline operator to accommodate construction or expansion of a public road or for any other public work unless the saltwater pipeline operator has a property interest in the land occupied by the facility to be relocated; and (3) the bill does not affect the authority of a city to regulate the use of a public right-of-way by a saltwater pipeline operator under any other law or require the payment of a franchise fee for the use of municipal rights-of-way. (Effective immediately.)

**S.B. 567 (Watson/Geren) – Water Rates:** this omnibus water utility reform bill transfers functions relating to the economic regulation of water and sewer service from the Texas Commission on Environmental Quality to the Public Utility Commission of Texas (PUC). In addition, the bill would provide that:

1. certain duties relating to residential and small commercial water customer representation are assigned to the Office of Public Utility Counsel.
2. a city retains original jurisdiction over water rates and service with its limits.
3. the regulatory authority, including a city, may require, by order or subpoena served on any utility, the production at the time and place it may designate of any books, accounts, papers, or records kept by a water and sewer utility outside the state or verified copies of them if the regulatory authority so orders.
4. for purposes of water rate and service regulation, create utility classifications as follows:
  - (1) a Class A utility means a public utility that provides retail water or sewer utility

service through 10,000 or more taps or connections; (b) a Class B utility means a public utility that provides retail water or sewer utility service through 500 or more taps or connections but fewer than 10,000 taps or connections; and (c) a Class C utility means a public utility that provides retail water or sewer utility service through fewer than 500 taps or connections.

5. a Class A utility may not make changes in its rates except by delivering a statement of intent (which must include a description of the process by which a ratepayer may intervene in the ratemaking proceeding) to each ratepayer and with the regulatory authority having original jurisdiction at least 35 days (Note: Reduced from 60 days in current law.) before the effective date of the proposed change.
6. the regulatory authority shall, not later than the 30th day after the effective date of a rate change, begin a hearing to determine the propriety of a rate change request by a Class A utility.
7. a Class A utility is not required to provide a formal answer or file any other formal pleading in response to a city's notice that the city will hold a hearing on rate change request, and the absence of an answer does not affect an order for a hearing.
8. a utility may put a changed rate into effect throughout the area in which the utility sought to change its rates, including an area over which the utility commission is exercising appellate or original jurisdiction, by filing a bond with the PUC if the suspension period has been extended and PUC fails to make a final determination before the 151st day after the date the rate change would otherwise be effective.
9. a Class B utility may not make changes in its rates except by delivering a statement of intent to each ratepayer and with the regulatory authority having original jurisdiction at least 35 days before the effective date of the proposed change.
10. when the statement of intent under (9), above, is delivered, the Class B utility shall file with the regulatory authority an application to change rates.
11. if, before the 91st day after the effective date of the rate change under (10), above, the regulatory authority receives a complaint from any affected city, or from the lesser of 1,000 or 10 percent of the ratepayers of the utility, the regulatory authority shall set the matter for hearing.
12. the Class B utility is not required to provide a formal answer or file any other formal pleading in response to the notice, and the absence of an answer does not affect an order for a hearing.
13. the Class B utility shall mail notice, which must include a description of the process by which a ratepayer may intervene in the ratemaking proceeding, of the hearing to each ratepayer before the hearing.
14. a Class B utility or two or more utilities under common control and ownership may not file a statement of intent to increase its rates more than once in a 12-month period, unless the regulatory authority determines that a financial hardship exists.
15. the PUC by rule shall adopt procedures to allow a Class C utility to receive without a hearing an annual rate adjustment based on changes in a price index adopted by the PUC.
16. a Class C utility may adjust its rates using the procedures adopted under (15), above, not more than once each year and not more than four times between formal rate proceedings.

(Effective September 1, 2013.)

**S.B. 654 (West/Anchia) – Civil Actions:** authorizes a city to bring a civil action or use quasi-judicial enforcement procedures to enforce an ordinance relating to: (1) animal care and control; and (2) water conservation measures, including watering restrictions. (Effective September 1, 2013.)

**S.B. 701 (Hegar/Herrero) – Utilities:** would make it a defense to a criminal trespass charge that an individual is an employee or agent of a municipally owned utility. (Effective September 1, 2013.)

**S.B. 885 (Hinojosa/Harper-Brown) – Gas Rate Notices:** would provide that, instead of mailing a customer notice of a rate increase, an investor owned gas utility may send the notice by email if the customer’s email address is available to the utility and the customer has consented in writing to receive the notice by email. (Effective September 1, 2013.)

**S.B. 900 (Fraser/Wu) – Railroad Commission Fines:** increase the maximum amount of various civil penalties issued by the Railroad Commission for a violation of pipeline safety or pollution rules. (Effective September 1, 2013.)

**S.B. 902 (Fraser/Callegari) – Water Districts:** makes numerous changes to the laws that affect water districts. Of particular interest to cities, the bill provides that: (1) a city may enter into a contract with a water district or with a non-profit water supply corporation under which the district or corporation will acquire for the benefit of and convey to the city, either separately or together, one or more water, sewer, drainage, or road projects; (2) that the contract under (1), above, may provide that any payments due are payable from and are secured by a pledge of a specified part of the revenues of the city, including revenues from municipal sales and use taxes; (3) a peace officer contracted for by a water district, individually or through a county, sheriff, constable, or city, is an independent contractor, and the district is responsible for the acts or omissions of the peace officer only to the extent provided by law for other independent contractors; (4) a water district providing potable water or sewer service to household users may, separately or jointly with another district, city, or other political subdivision, establish, operate, and maintain, finance with ad valorem taxes, mandatory fees, or voluntary contributions, and issue bonds for a fire department to perform all firefighting services within the district and may provide for the construction and purchase of necessary buildings, facilities, land, and equipment and the provision of an adequate water supply; and (5) a city may provide in its written consent for the inclusion of land in a district that is initially located wholly or partly outside the corporate limits of the city that a contract (“allocation agreement”) between the district and the city be entered into prior to the first issue of bonds, notes, warrants, or other obligations of the district. (City-related provisions are effective September 1, 2013.) (Note: Any city in an area with water districts should carefully review the provisions of this bill to determine its impact on the city’s relationship with those districts.)

**S.B. 958 (Fraser/Keffer) – Water Districts and Authorities:** would provide that a local water district or water authority (but not a city) that enters into a written contract to provide water to a purchaser for use in connection with the generation of electricity waives sovereign immunity to suit for the purpose of adjudicating a claim that the local district or authority breached the

contract by not providing water, or access to water, according to the contract's terms. (Effective immediately.)

**S.B. 981 (Van de Putte/Menendez) – Municipally Owned Electric Utility Discounts:** would provide that the governing body of a municipally owned utility may establish a bill payment assistance program for a customer who is a military veteran who a medical doctor certifies has a significantly decreased ability to regulate the individual's body temperature because of severe burns received in combat. (Effective immediately.)

**S.B. 1063 (Hegar/KolkHorst) – Natural Gas:** provides that natural gas purchased by a public facility corporation for resale to a local government under an interlocal cooperation contract between the sponsor and the local government is considered a public facility. (Note: Under current law, a local government "sponsor" can create a public facility corporation to finance or to provide for the acquisition, construction, rehabilitation, renovation, repair, equipping, furnishing, and placement in service of public facilities at the lowest possible borrowing costs.) (Effective immediately.)

**S.B. 1282 (Duncan/Price) – Desired Future Conditions:** provides that a proposal for the adoption of desired future conditions for the relevant aquifers within a management area is not required before May 1, 2016. (Note: This does not prevent districts in a management area from voting on a proposal for the adoption of desired future conditions before May 1, 2016.) (Effective September 1, 2013.)

**S.B. 1300 (Eltife/Lewis) – Texas Environmental, Health, and Safety Audit Privilege Act:** amends the Texas Environmental, Health, and Safety Audit Privilege Act to: (1) allow a person that begins an audit before becoming the owner of a regulated facility or operation to continue the audit after the acquisition closing date, if the person gives notice; (2) requires an audit be completed within a reasonable, time not to exceed six months after the date the audit is initiated or the acquisition closing date, unless an extension is granted by the governmental entity with regulatory authority over the facility; (3) provides that disclosure of the audit report by the person considering the acquisition does not waive the provided immunity; and (4) provides that a disclosure is voluntary if, not more than the 45th day after the acquisition closing date, the violation was discovered during an audit conducted before the acquisition closing date by a person considering the acquisition of the regulated facility or operation. (Effective September 1, 2013.)

**S.B. 1364 (Schwertner/Murphy) – Electric Rate Cases:** would provide that a city or the Texas Railroad Commission, when computing an electric utility's federal income tax expenses in a rate case, must include with an allowable expense or investment the applicable reduction in income tax liability. (Effective September 1, 2013.)

**S.B. 1756 (Uresti/Villalba) – Clean Air Act:** allows an applicant to request the expedited processing of a permit application filed under the Clean Air Act if the applicant demonstrates that the purpose of the application will benefit the economy of this state or an area of this state. (Effective immediately.)

**S.J.R. 1 (Williams/Pitts) – State Water Implementation Fund:** amends the Texas Constitution to: (1) establish a special revolving fund in the state treasury and outside the general revenue fund called the state water implementation fund to be used only to fund water infrastructure projects included in the State Water Plan; (2) provide that the legislature by general law may authorize the Texas Water Development Board to enter into bond enhancement agreements to provide security for general obligation or revenue bonds, the proceeds of which are used to finance state water plan projects; and (3) establish that money in the fund is dedicated by the constitution for purposes of certain constitutional restrictions on appropriations and that an appropriation from the economic stabilization fund to the credit of the state water implementation fund for Texas is an appropriation of constitutionally-dedicated state tax revenues for purposes of those restrictions on appropriations. (Effective if approved at the election on November 5, 2013.) (Note: This resolution provides the funding mechanism for **H.B. 4 (Ritter/Fraser)**, above.)

## **The Cutting Room Floor**

Hundreds of harmful initiatives that would have done serious damage to Texas cities were defeated through the efforts of the League and individual cities. Among them were bills that would have:

1. reduced the current cap on annual increases in residential appraisals from ten percent to some lesser amount, applied the cap to all real property; or capped city revenues.
2. required duplicative reporting of various financial transactions of a city and limited the ability of cities to issue debt.
3. eliminated or restricted the ability of cities to enforce tree preservation ordinances.
4. severely hampered municipal annexation authority.
5. required a city to pay money damages for a violation of the permit vesting law.
6. pre-empted city ordinances related to bans on plastic bags and payday/auto title lenders.
7. required cities to pay the relocation costs of billboards removed for state highway projects.
8. preempted municipal regulation of oil and gas wells, pipelines, and related equipment.
9. precluded municipal participation in gas and electric utility rate cases.

Some initiatives would have been beneficial to cities but, despite the efforts of the League and individual cities, didn't make it through the process. The most notable was legislation that would have allowed cities to save taxpayer dollars by publishing legal notices online in lieu of newspapers.

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