



# Legislative UPDATE

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## **Look for *Legislative Update* “Wrap-Up” Edition Next Week**

The efforts of League staff are now focused on summarizing the city-related legislation that has passed. Additional detail about that legislation will be included in future *Legislative Update* articles, and the June 7 “wrap-up” edition will contain summaries of every city-related bill that passed.

## **Texas Board of Plumbing Examiners and the Plumbing License Law in Limbo**

In the waning days of the legislative session, the legislature failed to pass the Texas Board of Plumbing Examiners (TBPE) “sunset bill.” The bill was the culmination of the state’s “sunset review process,” which periodically evaluates whether or not a state agency is running efficiently and/or should be continued in existence.

The sunset bill, S.B. 621, would have abolished the TBPE and transferred its functions to the Texas Department of Licensing and Regulation (TDLR). It would have directed TDLR to take

over state licensing and regulation of plumbers and plumbing work, but the final version failed to pass.

What does this mean for cities, especially those that issue building permits and/or those with local licensing requirements? That's still unclear at this time. The League is reaching out to the bill author and sponsor, state leaders, TBPE, and the Sunset Advisory Commission to offer assistance with whatever plan takes shape.

The TBPE and the Plumbing License Law are set to expire on September 1, 2019. However, the Texas Sunset Act provides that the agency may have up to a year to wind down its activities. How cities fit in could depend on whether state leaders plan to address the issue in any way or let it fall to solely to cities. More information will follow about next steps for cities.

## **More on Residential Building Permit Fees**

Last week, the League reported on [H.B. 852](#), which prohibits cities from calculating their residential building permit fees on the cost of a proposed residential structure or improvement. The bill was signed by the governor on May 21, and it is effective immediately. No grace period applies, so affected cities should change their system as soon as possible.

Specifically, the bill provides that: (1) in determining the amount of a building permit or inspection fee required in connection with the construction or improvement of a residential dwelling, a city may not consider: (a) the value of the dwelling; or (b) the cost of constructing or improving the dwelling; and (2) a city may not require the disclosure of information related to the value of or cost of constructing or improving a residential dwelling as a condition of obtaining a building permit except as required by the Federal Emergency Management Agency for participation in the National Flood Insurance Program.

League staff and the Building Officials Association of Texas (BOAT) have been fielding questions from many Texas cities regarding how to implement H.B. 852. BOAT has prepared the following to assist affected cities.

**First Step.** If your city has a residential building permit fee schedule based on construction valuation, consider interim fee options prior to the adoption of a revised fee schedule. Several interim options are available:

- Stop charging for permits until a new fee schedule is adopted.
- Ask the permit applicant to hold their permit application for up to 45 days (permitted by Texas Local Government Code [Section 214.904](#)), which should allow time to adopt a new fee schedule.
- Have the permit applicant agree to pay the current fee and offer to refund any fee difference when a new fee schedule is adopted.
- Issue the permit and invoice the permit applicant at a later date when a new fee schedule is adopted.

- At least one city's attorney is preparing a waiver form explaining H.B. 852 and stating that the city will process permits but not issue them until a new fee schedule is adopted. In the alternative, if the permit applicant agrees to sign the waiver, the city will charge existing permit fee costs and issue the permit immediately.

**Second Step.** Adopt a new fee schedule. Several options are available for a new permit fee schedule. Consider the following:

- Per square foot charge for the different types of residential permits.
- Per square foot charge multiplied by percentage add-on (such as administrative costs, GIS, plan review, etc.).
- Per square foot charge with a set multiplier determined by cost recovery.
- Flat fees for the different types of residential permits.
- Tiered flat fees for residential construction over a certain square foot sizes (perhaps up to four tiers).
- Additional flat fee for plan review.
- Flat fee for inspections.
- Tiered per square foot charge for inspections.

How are cities calculating a new fee schedule based on square footage? One method is to review all residential inspections going back some period of time, noting the square footage of each home and the residential permit fee charged for each home. Add up all of the residential permit fee charges and then divide that by the total square feet of the homes inspected. (e.g., \$2,269,472.02 dollars divided by 3,439,076 square feet = \$0.66 per square foot)

The City of Irving has provided permission to distribute its [ordinance as an example of square footage based fees](#). It was recently completed and is an excellent example of fee methodology.

Every city official should consider that fees should be reflect the reasonable costs of administration and enforcement and should consult with their city attorney regarding the implementation of the bill. Please contact Scott Houston, TML general counsel, at [shouston@tml.org](mailto:shouston@tml.org) with questions.

## **NLC Hails Tax-Exempt Bonds at Infrastructure Week**

National League of Cities First Vice President, Councilmember Joe Buscaino of Los Angeles, recently joined representatives from the Government Finance Officers Association (GFOA) to round out NLC's Infrastructure Week programming. Buscaino welcomed more the 7,000 government finance officers to Los Angeles for the 113<sup>th</sup> GFOA Convention, while also hailing the role of tax-exempt municipal bonds in financing critical pieces of our nation's infrastructure.

Attendees gathered at the construction site for the Sixth Street Viaduct Bridge. The original bridge was torn down in 2016 (after 84 years of service) due to its deteriorating condition. The project is a \$482 million venture to replace one of the city's most iconic pieces of infrastructure

with a new state-of-the-art bridge. Tax-exempt bonds, as well as funding from federal, state, and local partners, have allowed the city to carry out the project. Buscaino concluded by stating that no infrastructure tool “is more important than the tax-exempt municipal bond” and promoting [recently introduced legislation](#) that would restore the tax exemption on advance refunding bonds.

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