



Legislative UPDATE

September 13, 2019
Number 35

Several Resolutions Submitted for Consideration: Get Involved in the TML Legislative Policy Process

Several cities and one region submitted legislative resolutions for consideration at the 2019 TML Annual Conference in San Antonio. The topics relate, among other things, to:

1. Civil service city firefighter age limits;
2. Gas pipeline routing;
3. Gun violence;
4. Railroad crossing delays; and
5. Access to legal notices.

The full resolutions packet is available [here](#). The resolutions will be debated at the TML business meeting on October 10 at 3:30 p.m.

Each city is entitled to one voting delegate at the business meeting. The delegate isn't required to have any special expertise, and an elected official delegate is encouraged but not required. The delegate can sign up electronically at <https://www.tml.org/FormCenter/Member-Resources-5/2019-TML-Business-Meeting-66> prior to the meeting, or sign up in person at a table outside of the meeting room. Cities are encouraged to sign up their delegate early using the link above.

All city officials are welcome to attend the meeting, whether or not they are a voting delegate.

Post Session Update: Open Meetings Act Criminal Penalties

[Senate Bill 1640](#) by Senator Kirk Watson (D – Austin) replaced the “criminal conspiracy provision” in the Texas Open Meetings Act with a new one titled “Prohibited Series of Communications.” The bill provides that a mayor or councilmember (or any member of a body subject to the Act) commits a criminal offense if a councilmember:

1. knowingly engages in at least one communication among a series of communications that each occur outside of a meeting authorized by this chapter and that concern an issue within the jurisdiction of the governmental body in which the members engaging in the individual communications constitute fewer than a quorum of members but the members engaging in the series of communications constitute a quorum of members; and
2. knew at the time the member engaged in the communication that the series of communications: (a) involved or would involve a quorum; and (b) would constitute a deliberation once a quorum of members engaged in the series of communications.

Why was the bill needed? In *State v. Doyal*, the Texas Court of Criminal Appeals held that the criminal conspiracy provision (“a member or group of members of a governmental body commits an offense if the member or group of members knowingly conspires to circumvent this chapter by meeting in numbers less than a quorum for the purpose of secret deliberations in violation of this chapter”) is unconstitutionally vague.

The new provision is probably better and means that casual communications with another member of your governing body should be acceptable. So long as a member doesn’t know at the time that the other member is planning on deliberating with other members about it, the chance of criminal prosecution (which was already very small) is less.

For those who want to know more, League staff has prepared a [detailed paper](#) on the subject.

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