



Legislative UPDATE

November 6, 2020
Number 44

Record Election Turn-Out Yields Little Change to Texas Legislative Make-Up

Texans voted in record numbers this election cycle with 2 million more people going to the polls than did for the 2016 Presidential election. Even with record turnout, the Texas Congressional and Legislative delegations will remain relatively unchanged. Republicans will retain all statewide offices and will keep a majority control of the Texas Senate and the Texas House. What are the impacts of the election on the next legislative session?

Texas House (83 Republicans, 67 Democrats)

Although many House seats seemed to be in play this election, the partisan breakdown of the chamber remains unchanged. Rep. Sarah Davis (R-Houston) lost to Democrat Ann Johnson and former Republican state representative Mike Schofield defeated Rep. Gina Calanni (D-Katy) to regain the seat he lost in 2018. The next big decision for the members of the House will be who to align behind for Speaker. Wednesday afternoon, Representative [Dade Phelan \(R-Port Neches\)](#) held a press conference to declare that the Speaker's race was over and made public the names of 83 members, enough to assume the position. However, this election doesn't take place until January 12, 2021, so things are fluid and could change.

Texas Senate (18 Republicans, 13 Democrats)

Only one seat changes hands after Tuesday's election. State Representative Roland Gutierrez (D-San Antonio) defeated Senator Pete Flores (R-Pleasanton) in Texas Senate District 19. Although it doesn't seem like a significant change, it might have larger implications on how the Texas Senate operates. Under current Senate rules, members need the approval of 3/5ths of their colleagues (19 Senators) to debate legislation on the Senate floor. That rule is subject to change by a vote of the Senate but if it were to remain it would provide that Republicans would need Democratic support to bring legislation before the Senate.

United States Senate and Congress

Incumbent U.S. Senator John Cornyn (R) defeated M.J. Hegar to secure another term in the U.S. Senate.

Although no congressional incumbent lost their election and no seats flipped, Texas will have seven new members of Congress representing us in Washington, D.C.

- Pat Fallon (R-TX 4th District)
- August Pfluger (R-TX 11th District)
- Ronny Jackson (R-TX 13th District)
- Pete Sessions (R-TX 17th District)
- Troy Nehls (R-TX 22nd District)
- Tony Gonzales (R-23rd District)
- Beth Van Duyne (R-24th District)

Check out [The Texas Tribune](#) for information on specific races across the state.

Governor's Broadband Development Council Releases Report to Texas Legislature

The Governor's Broadband Development Council (Council) was created in 2019 by the 86th Legislative Session in order to study and identify ways to provide internet access to unserved areas of Texas. In accordance with Texas Government Code Sec. 490.007, the Council is mandated to submit an annual report no later than November 1 of each year, and recently issued its [2020 Texas Report](#), which includes the following recommendations for the 87th Legislature:

The Governor's Broadband Development Council has researched the progress of broadband development in unserved areas; identified barriers to residential and commercial broadband deployment in unserved areas; studied technology-neutral solutions to overcome barrier; and analyzed how statewide access to broadband would benefit economic development, higher education and public education, state and local law enforcement, state emergency preparedness, and health care services. Resulting from this research, the Council recommends that the Texas Legislature take the following action:

- Create a state broadband plan; and
- Establish a state broadband office.

The Council also believes that the following action could benefit the broadband landscape in Texas and therefore recommends its continued study:

- Develop a state broadband funding program to incentivize deployment in unserved areas.

The Governor's press release can be found [here](#).

Executive Order on Policing: Authorized Credential Body Announced

In June, President Trump issued the [Executive Order on Safe Policing for Safe Communities](#) and gave the Attorney General the authority to implement the order. Attorney General Barr has tasked the Office of Community Oriented Policing Services (COPS), a component of the U.S. Department of Justice, to identify and certify independent credentialing bodies. Those bodies will be responsible for certifying that a law enforcement agency is in compliance with two mandatory safe policing principles in the [DOJ Standards of Certification](#). In Texas, the [Texas Police Chiefs Association Best Practices Recognition Program](#) is the authorized credentialing agency.

The Executive Order requires every law enforcement agency that receives, has applied for, or intends to apply for federal funds to be “certified” by an authorizing credential body. The Executive Order requires two policies to be certified:

- The state or local law enforcement agency’s use-of-force policies adhere to all applicable federal, state and local laws.
- The state or local law enforcement agency’s use-of force policies prohibit the use of chokeholds – a physical maneuver that restricts an individual’s ability to breathe for the purpose of incapacitation – except in those situations where the use of deadly force is allowed by law.

At this time, the above two policies are required and are prerequisite to a law enforcement agency’s eligibility for DOJ discretionary grant funding. Law enforcement agencies will be required to provide a current and valid certification by January 31 in order to be eligible for federal funds in that year’s funding cycle.

TPCA has been working with other state programs on implementation. When more information including proper forms and explanations become available, TPCA will update its [website](#) with all information.

Texans for the Arts Hosting Hotel Occupancy Tax Webinar Next Week

Texans for the Arts, a statewide arts advocacy association, recently launched its [Municipal Hotel Occupancy Tax \(HOT\) Toolkit](#). The HOT Toolkit serves as an online resource for arts, municipal, hotel, and tourism leaders regarding the use of HOT revenue to promote the arts in cities across Texas.

Texans for the Arts Foundation is hosting a free webinar on the HOT Toolkit on Tuesday, November 10 from 1:00-2:30 PM CST. Interested city officials and employees are invited to join. More information on the webinar, including a link to register, can be found [here](#).

Payday Lending Clearinghouse Updates

The League’s “Payday Lending Clearinghouse” webpage, available [here](#), includes information related to the regulation of payday and auto title lenders. It is updated from time-to-time to reflect recent developments.

As [reported](#) in November 2019, the attorney general’s opinion in [KP-277](#) potentially opened the door for “credit services organizations” to offer high-interest extensions of consumer credit other than payday or auto title loans that likely weren’t addressed in earlier versions of city payday lending ordinances. A city wishing to regulate any new predatory lending practice would need to consider either amending its existing ordinance or adopting a new ordinance that encompassed the new loan product.

The City of Austin amended their existing payday lending ordinance in light of KP-277 in August 2020. Interested city officials can view Austin’s amended ordinance [here](#).

House Releases Responses on Interim Charges

Over the past months, the League and individual cities have submitted comments to legislative committees in response to “requests for information” (RFIs) for committee interim charges. The House Select Committee on Mass Violence Prevention and Community Safety received public feedback on five different interim charges including evaluating current protocols and extreme risk indicators used to identify potential threats and consider options for improving the dissemination of information between federal, state, and local entities, among [other charges](#). Full responses to the RFI’s can be found [here](#).

RFI responses for all House committees will be posted to this [webpage](#).

Legislative Committees Request Information on Interim Charges

Due to the ongoing pandemic and the uncertainty as to scheduling interim hearings, several legislative committees have issued notices of formal “requests for information” (“RFIs”) to which the public, including cities, may respond. The following is a non-exhaustive list of RFIs on city-relevant interim charges, sorted by the deadline for submitting comments. Interested city officials may follow the links associated with each committee for more details about the procedure to submit comments:

November 10, 2020 – [House Defense and Veterans’ Affairs Committee](#)

- **Interim Charge 2:** Study the mental health treatment options available for all Texas veterans, including efforts to fill gaps left by federal government. Make recommendations

for future legislation streamlining mental health treatment coordination among federal, state, and local agencies.

- **Interim Charge 3:** Study the potential impact of eliminating Regional Military Sustainability Commissions as an ineffective tool in assisting Texas military installations and their host defense communities with protecting the missions, operations, readiness, and resiliency of military installations. Identify new and enhanced strategies to replace the Commissions with land use limitations or restrictions, regulatory strategies, annexation powers, contractual agreements, or other tools to preserve military use areas inside and outside municipal boundaries.
- **Interim Charge 4:** Examine gaps in services and assess efforts to connect justice-involved veterans, senior citizens, and homeless populations to services while incarcerated and after release at both the local and state levels. Specifically, the committee should evaluate training and technical assistance provided by the Texas Veterans Commission to criminal justice agencies.

November 13, 2020 – [House Ways and Means Committee](#)

- **Interim Charge 1.1:** Monitor the agencies and programs under the Committee's jurisdiction and oversee the implementation of relevant legislation passed by the 86th Legislature. Conduct active oversight of all associated rulemaking and other governmental actions taken to ensure intended legislative outcome of all legislation, including the following:
 - S.B. 2, which is the Texas Property Tax Reform and Transparency Act of 2019. Monitor the implementation of the legislation, including a review of the tax rates adopted by taxing units in 2019 and 2020, the appraisal review board survey system, and progress in onboarding the tax rate notices and websites. Make recommendations for modifications as necessary and appropriate.

Coronavirus (COVID-19) Updates

The Texas Municipal League is open for business. The building is closed to all but essential personnel and most staff is working remotely, but the League remains open for business and is fully ready to serve. Cities are encouraged to call or email for legal assistance, help with ordinances, or for general advice or assistance. Let us know how we can assist you and your city.

Call TML staff at 512-231-7400, or email the legal department for legal assistance at legalinfo@tml.org; Rachael Pitts for membership support at RPitts@tml.org; and the training team for questions about conferences and workshops at training@tml.org.

The League has prepared a coronavirus clearinghouse [web page](#) to keep cities updated. In addition, everyone who receives the *Legislative Update* should receive an email update each Tuesday and Thursday with information on new developments. The email updates will be our primary means

of communication during the pandemic. Those emails are being archived [chronologically](#) as well as by [subject matter](#).

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