



Legislative UPDATE

December 11, 2020
Number 48

Senate State Affairs Committee Hears Community Censorship Charge

The Senate State Affairs Committee met this week to hear invited testimony on the following interim charge:

Study how governmental entities use public funds for political lobbying purposes. Examine what types of governmental entities use public funds for lobbying purposes. Make recommendations to protect taxpayers from paying for lobbyists who may not represent the taxpayers' interests.

Mayor Ron Jensen, City of Grand Prairie, was the lone city witness invited to address the committee. Mayor Jensen testified that without the ability to join TML and hire professionals to navigate the legislative process he would have to hire additional full-time equivalents to keep up with the more than 7,500 bills filed each session. By banning this practice, it would prohibit him and the city from representing their constituents in Austin.

Tom Forbes, representing the Professional Advocates Association of Texas, testified about the strong disclosure requirements currently in law and how the hiring of advocates by local governments is transparent. Taxpayers have recourse in that if they do not agree with the decisions of their elected local government, they can easily vote against them in the next election. He reminded the committee that the government closest to the people governs best.

The committee also heard from the Texas Public Policy Foundation and from Collin County Judge Chris Hill on their opposition to allowing communities to hire advocates.

TML submitted this [letter](#) to the committee as written testimony. Given the gravity of the unprecedented challenges we face, we are asking the legislature to promote policies that afford local leaders a voice at the state capitol this session. The monumental issues the Texas Legislature will address this session – public health, economic development, closing the digital divide, public safety, and critical infrastructure needs – are not uniquely state-level issues. These are also local issues and we firmly believe that local leaders have a valuable perspective on these vital topics that needs to be heard. Not for our sake, but for the Texans that we collectively represent.

Both Representative Mayes Middleton (R-Wallisville) and Senator Bob Hall (R- Canton) have filed H.B. 749 and S.B. 234 to ban the practice of allowing cities to hire professional advocates to represent their communities in Austin. The bill summaries can be found below under Community and Economic Development city-related bills filed.

We encourage all elected officials to contact their state representative and state senator to begin a conversation on the benefits of joining associations or hiring professionals who advocate and navigate the tricky political and regulatory processes. Your voice is critical in this discussion.

You can view the hearing [here](#).

Sunset Advisory Commission Issues Report on Texas **Commission on Law Enforcement**

The Sunset Advisory Commission released its report on the Texas Commission on Law Enforcement (TCOLE) making a number of recommendations to the state agency. The report stated that Texas' approach to regulating law enforcement has resulted in a fragmented, outdated system with poor accountability, lack of statewide standards, and inadequate training. Below are the city-related findings of the report.

Issue 1: Texas' approach to regulating law enforcement is ineffective.

Key Recommendations:

- Establish a blue ribbon panel to comprehensively evaluate the regulation of law enforcement in Texas and make recommendations for needed changes.
- Continue TCOLE for two years, until 2023.

Issue 3: Key elements of TCOLE's statute and procedures do not conform to common licensing and regulatory standards.

Key Recommendations:

- Require TCOLE to conduct fingerprint-base criminal background checks for all licensure applicants and licensees.
- Clearly authorize TCOLE to issue subpoenas for investigative records.

- Direct TCOLE to adopt rules to comply with the statutory requirement to establish a risk-based approach to audits.
- Direct TCOLE to develop a penalty matrix.

The report can be found [here](#).

Sunset Advisory Commission Issues Report on Texas Commission on Fire Protection

The Sunset Advisory Commission has issued its report and recommendations relating to the Texas Commission on Fire Protection (TCFP). The full staff report can be found [here](#). Of importance to cities are the following issues.

Issue 1: The state has a continuing need for TCFP, but the effectiveness and transparency of its advisory committees could be improved.

Key Recommendations:

- Continue the Texas Commission on Fire Protection for 12 years, until 2033.
- Update the standard across-the-board requirement for commission member training.
- Direct TCFP to evaluate the continued usefulness and effectiveness of its advisory committees.
- Direct TCFP to maintain documentation on complaints.

Issue 2: TCFP's statute and operations do not reflect some regulatory best practices and standard elements of Sunset reviews.

Key Recommendations:

- Authorize TCFP to provide biennial renewal for certifications.
- Authorize TCFP to enter into reciprocity agreements with other state fire personnel certification agencies.
- Direct the commission to review rules covering how criminal convictions relate to eligibility for certification.
- Direct TCFP to adopt a policy to ensure each rule undergoes meaningful review pursuant to state law.

Funding Opportunity: Sex Trafficking Prevention Needs Assessment for S.B. 20

The Texas Department of Health and Human Services (HHSC) is implementing the Matching Grant Program for Municipal Sex Trafficking Programs, as provided for by [S.B. 20](#), passed during the 2019 legislative session. The program provides matching grants to support cities, in collaboration with a local institute of higher education, to develop a sex trafficking prevention needs assessment.

The deadline to apply is January 11, 2021. A memo with more information regarding the grant funding can be found [here](#), and the application documents, [here](#). For more information, please contact the HHSC Sex Trafficking Resource Center at Human_Trafficking@hhsc.state.tx.us.

Stay Engaged During the Legislative Session: Grassroots Involvement Program

During the upcoming Texas legislative session, Texas cities will face many challenges and opportunities. TML will need to mobilize our membership at key points during session. The Grassroots Involvement Program (GRIP) is one way to do so. Our GRIP survey focuses on a variety of items including your areas of expertise and involvement with other professional organizations. Most importantly, the GRIP survey asks how well you know various state legislators and if you are willing to communicate with those legislators during the session. With many unknowns on how the capitol will operate during a pandemic, TML's grassroots approach will be crucial to our efforts.

If you have a relationship with your legislator(s) or want to be more involved during session, please take the time to complete the [GRIP survey](#). Past efforts have proven that such participation is a highly effective tool.

We ask that you complete the survey as soon as possible, preferably before January 8, 2021.

City-Related Bills Filed

(Editor's Note: You will find all of this session's city-related bill summaries online at <https://www.tml.org/319/Legislative-Information>.)

Property Tax

H.B. 746 (Bernal) – Property Tax Installment Payments: would, among other things, authorize an individual who qualifies for a homestead property tax exemption, a property tax exemption for a disabled veteran, or a senior or disabled property tax exemption, to pay a taxing unit's taxes imposed on property owned and occupied by the person in five or nine equal installments without penalty or interest if the first installment is paid before November 1 of the year for which the taxes were assessed and is accompanied by notice to the taxing unit that the person will pay the remaining taxes in four or eight equal monthly installments, as applicable.

Public Safety

H.B. 709 (P. King) – Law Enforcement Employment Records: would provide that: (1) the Texas Commission on Law Enforcement (TCOLE) shall prescribe, by rule, the manner in which

a law enforcement agency shall make a person's employment records available to a hiring law enforcement agency; (2) a law enforcement agency that makes a person's employment records available to a hiring law enforcement agency shall provide a copy of the records to the person; (3) a law enforcement agency that obtains a person's employment records may not disclose any information contained in the records; (4) a law enforcement agency, agency head, or other law enforcement official is not liable for civil damages for making a person's employment records available to a hiring law enforcement agency; and (5) a person licensed by TCOLE, including a peace officer, shall not enter into an agreement with a law enforcement agency employing the person that prohibits the law enforcement agency from making the person's employment records available to another law enforcement agency.

H.B. 715 (Reynolds) – Officer-Involved Death or Injury: would, in relation to an officer-involved injury or death case: (1) disqualify a prosecuting attorney from prosecuting a peace officer who is employed by a political subdivision that is also served by the attorney, and require that the attorney general appoint a special prosecutor; and (2) require a law enforcement agency to report the incident to the attorney general as soon as practicable, and cooperate with a special prosecutor in the prosecution of any related offense. (See **H.J.R. 41**, below.)

H.B. 718 (Gervin-Hawkins) – Certain Class B Misdemeanors: would, among other things, provide that a peace officer may dispose of a case based on certain Class B misdemeanors without taking the alleged offender before a magistrate if: (1) the disposition is authorized by and is performed in accordance with guidelines adopted by either: (a) the district criminal judges and county court criminal judges in the respective district and county where the alleged offender is arrested; or (b) the community justice council serving the county in which the alleged offender is arrested; and (2) the peace officer makes a written report of the officer's disposition to the law enforcement agency employing the officer, identifying the alleged offender and specifying the grounds for the disposition.

H.B. 741 (Allison) – Public Safety Funding: would: (1) define "public safety service" to mean fire protection, law enforcement, or emergency medical service; (2) provide that if a city or county adopts a budget in which the amount of money allocated to provide for a public safety service is less than the amount allocated to provide for that service in the preceding fiscal year by more than five percent, the registered voters of the city or county, as applicable, at an election held for that purpose, must determine whether to approve the amount allocated; (3) require the governing body of the city or county to order that the election be held in the city or county, as applicable, on the earliest date that allows sufficient time to comply with the legal requirements for holding the election, which would include an election date other than a uniform election date; (4) provide that if a majority of votes cast in the election favor approving the amount allocated for the public safety service, the budget is approved; (5) provide that if the amount allocated is not approved, the governing body shall amend the budget by allocating for the public safety service an amount for the current fiscal year that is not less than 95 percent of the amount allocated for that service in the preceding fiscal year; and (6) provide that the amount allocated in a budget to provide a public safety service includes all maintenance, operations, and debt service costs associated with providing the service.

H.B. 744 (Collier) – Exculpatory Evidence: would: (1) require a law enforcement agency filing a case with the attorney representing the state to submit to the attorney representing the state a written statement by an agency employee with knowledge of the case acknowledging that all documents, items, and information in the possession of the agency that are required to be disclosed to the defendant in the case have been transmitted to the attorney representing the state; and (2) provide that, if at any time after the case is filed with an attorney representing the state, the law enforcement agency discovers or acquires any additional information, item, or document required to be disclosed, an agency employee shall promptly submit it to the attorney representing the state. (Companion bill is **S.B. 111** by **West**.)

H.B. 747 (Dutton) – Spoliation: would, among other things, in criminal proceedings: (1) require the state, except as permitted by other law, to preserve evidence in its possession, custody, or control and prevent the destruction, alteration, or loss of that evidence; and (2) after a hearing outside the presence of the jury, allow for the court to make a spoliation determination against the state for evidence that is destroyed, altered, or lost by an act or omission of the state.

H.B. 757 (Dutton) – Community Supervision and Deferred Adjudication: would: (1) provide that certain offenses for which a defendant received a dismissal and discharge may not be used as grounds for: (a) denying housing or employment to, or terminating the existing housing or employment of, an individual otherwise entitled to or qualified for the housing or employment; or (b) denying issuance of a professional or occupational license to, or suspending or revoking the professional or occupational license of, an individual otherwise entitled to or qualified for the license; (2) provide that certain offenses may be used as grounds for denying or terminating housing or employment, including sexual assault, murder, and others; and (3) provide that certain offenses may be used as grounds for denying, suspending, or revoking a professional license, including offenses related to the activity or conduct for which the person seeks or holds the license.

H.B. 763 (Toth) – Seized Alcoholic Beverages: would provide that an alcoholic beverage, its container, and its package which has been seized by a peace officer shall be: (1) destroyed or disposed of by a peace officer; or (2) delivered to the Texas Alcoholic Beverage Commission (TABC) for immediate public or private sale in the manner TABC considers best.

H.J.R. 41 (Reynolds) – Officer-Involved Death or Injury: would amend the Texas Constitution to provide that the attorney general shall appoint a special prosecutor to perform the duties of a prosecuting attorney in any prosecution of a peace officer for an offense arising out of an officer-involved injury or death, from which the prosecuting attorney is disqualified. (See **H.B. 715**, above.)

S.B. 111 (West) – Exculpatory Evidence: would: (1) require a law enforcement agency filing a case with the attorney representing the state to submit to the attorney representing the state a written statement by an agency employee with knowledge of the case acknowledging that all documents, items, and information in the possession of the agency that are required to be disclosed to the defendant in the case have been transmitted to the attorney representing the state; and (2) provide that, if at any time after the case is filed with an attorney representing the state, the law enforcement agency discovers or acquires any additional information, item, or document required

to be disclosed, an agency employee shall promptly submit it to the attorney representing the state. (Companion bill is **H.B. 744** by **Collier**.)

S.B. 223 (Whitmire) – Police Reality TV Shows: would prohibit a law enforcement department that employs peace officers from authorizing a television crew to film peace officers while acting in the line of duty for the purpose of creating a reality television show. (Companion bill is **H.B. 54** by **Talarico**.)

Sales Tax

S.B. 227 (Paxton) – Sales Tax Exemption: would exempt the sale of an animal by an animal rescue group from sales and use taxes. (Companion bill is **H.B. 592** by **C. Turner**.)

Community and Economic Development

H.B. 707 (Moody) – Recovery Housing: would require the Health and Human Services Commission to conduct a study regarding group housing for those recovering from substance use disorders.

H.B. 738 (Paul) – Building Codes: would, with regard to the provision in current law making the International Residential Code the residential building code for this state: (1) update the version from 2001 to 2012; (2) provide that a city may establish procedures to adopt local amendments “that may add, modify, or remove requirements set by the code,” but only if the city: (a) holds a public hearing on the local amendment before adopting the local amendment; and (b) adopts the local amendment by ordinance; and (3) provide that (2), above, does not affect the prohibition on cities enacting an ordinance, bylaw, order, building code, or rule requiring the installation of a multipurpose residential fire protection sprinkler system or any other fire sprinkler protection system in a new or existing one- or two-family dwelling.

H.B. 749 (Middleton) – Community Advocacy: would: (1) prohibit a political subdivision from spending public funds to: (a) hire an individual required to register as a lobbyist for the purpose of lobbying a member of the Texas legislature; or (b) pay a nonprofit state association or organization that: (i) primarily represents political subdivisions; and (ii) hires or contracts with an individual required to register as a lobbyist; (2) provide that if a political subdivision engages in activity prohibited by (1), above, a taxpayer or resident of the political subdivision is entitled to injunctive relief to prevent any further prohibited activity or any further payments of public funds; and (3) provide that a taxpayer or resident who prevails in an action under (2), above, is entitled to recover reasonable attorney’s fees and costs from the political subdivision. (Companion bill is **S.B. 234** by **Hall**.)

S.B. 234 (Hall) – Community Advocacy: would: (1) prohibit a political subdivision from spending public funds to: (a) hire an individual required to register as a lobbyist for the purpose of lobbying a member of the Texas legislature; or (b) pay a nonprofit state association or organization that: (i) primarily represents political subdivisions; and (ii) hires or contracts with an individual

required to register as a lobbyist; (2) provide that if a political subdivision engages in activity prohibited by (1), above, a taxpayer or resident of the political subdivision is entitled to injunctive relief to prevent any further prohibited activity or any further payments of public funds; and (3) provide that a taxpayer or resident who prevails in an action under (2), above, is entitled to recover reasonable attorney's fees and costs from the political subdivision. (Companion bill is **H.B. 749** by **Middleton**.)

Elections

H.B. 712 (Reynolds) – Voter Registration: would, among other things: (1) provide that an election officer serving a polling place for early voting by personal appearance is a deputy voter registrar and has the same authority as a regular deputy registrar; (2) require two voter registrars to be present at each polling place while the polls are open; (3) provide that a person who would be eligible to vote in an election but for the requirement to be a registered voter must be accepted during voting by personal appearance for voting the ballot for the precinct of the person's residence as shown by the identification presented if the person: (a) submits a voter registration application that complies with state law to an election officer at the polling place; and (b) presents as proof of residence a form of photo identification that complies with state law and states the person's current address; (4) require the election officer to return the original proof of residence to the voter; and (5) require a person voting under (3), above, to vote a provisional ballot in accordance with state law, except that the person is not required to submit an affidavit stating the person is a registered voter and is eligible to vote in the election.

H.B. 740 (Fierro) – Preferential Voting in Runoff Elections: would, among other things: (1) provide that a voter eligible for early voting by mail shall receive a runoff election ballot at the same time and in the same manner as the voter's general election ballot; (2) require the secretary of state to prescribe procedures to provide for a runoff election ballot issued to a voter to use a preferential voting system that allows a voter to rank each candidate through a numerical designation from the candidate the voter favors most to the candidate the voter favors least; and (3) provide that if a runoff election for any office voted by the voter occurs, the carrier envelope containing the voter's runoff election ballot shall be opened and the ballot shall be counted, with the voter's vote in the election assigned to the runoff candidate whom the voter assigned the highest favorable ranking on the runoff election ballot.

H.B. 752 (Israel) – Unopposed Candidates: would, among other things, require the governing body of a political subdivision to declare each unopposed candidate elected to office upon receipt of the certification of unopposed status.

Emergency Management

H.B. 729 (Lucio) – Border Health: would require the Texas Department of State Health Services to establish a border public health response team to deploy in response to certain public health threats and declared disasters in border counties. (Companion bill is **S.B. 114** by **Lucio**.)

H.J.R. 42 (Toth) – Governor’s Authority in a Disaster: would amend the Texas Constitution to: (1) prohibit the governor from issuing an order or proclamation that violates or suspends constitutional rights; (2) provide that a state of disaster or emergency declared by the governor may not continue for more than 30 days unless it is renewed or extended by the legislature; (3) require the governor to convene the legislature in special session when the governor proposes to renew an order or proclamation declaring a state of disaster or emergency; (4) provide that in a special session convened under (3), above, the legislature may: (a) renew or extend the state of disaster or emergency; (b) respond to the state of disaster or emergency by passing or suspending laws related to the state of disaster or emergency; and (c) consider any other subjects stated in the governor’s proclamation convening the special session.

Municipal Courts

No municipal court bills were filed this week.

Open Government

H.B. 768 (Patterson) – Open Meetings: would require any political subdivision located wholly or partly in a county that has a population of 5,000 or more to: (1) make a video and audio recording of each regularly scheduled open meeting that is not a work session or a special called meeting; and (2) make available an archived copy of the video and audio recording of each meeting described in (1) on the Internet.

Other Finance and Administration

H.B. 710 (Coleman) – Racial Disparity Impact Statement: would: (1) require a state agency to prepare a childhood racial disparity impact statement, at the request of the lieutenant governor or speaker of the house, for any bill or joint resolution pending before the legislature that directly affects that agency; and (2) require a childhood racial disparity impact statement to include, among other things, a statement of the extent to which the proposed regulation would directly or indirectly affect the manner in which local governments operate that may result in an increase or decrease in childhood racial disparities.

H.B. 754 (Cain) – Municipal Regulation of Rental Property: would preempt a municipality from adopting or enforcing an ordinance that requires a landlord of a multi-unit complex to: (1) obtain a rental license to rent a dwelling; (2) pay a change of address fee for the change of the landlord’s address; or (3) pay annual inspection fees totaling more than certain amounts depending on the number of dwelling units.

H.B. 762 (Israel) – Individuals and Animals in Cars: would provide that: (1) a person who, by force or otherwise, enters a motor vehicle for the purpose of removing a domestic animal from the vehicle is immune from civil liability for damages resulting from that entry or removal if certain requirements are met; and (2) a person is not immune from civil liability for entering a motor

vehicle to remove a vulnerable individual or domestic animal if the person, upon notifying law enforcement or calling 911, is advised by law enforcement personnel to not enter the motor vehicle.

S.B. 233 (Whitmire) – Discrimination: would, among other things: (1) prohibit a person, other than certain religious organizations, from denying an individual full and equal accommodation in any place of public accommodation or otherwise discriminating against or segregating the person because of, or based on, the individual’s sexual orientation or gender identity or expression; (2) allow a person described in (1), above, who is aggrieved to file a civil cause of action in district court, to recover actual and punitive damages, attorney’s fees, and injunctive relief, provided that such action is brought not later than the second anniversary of the occurrence or termination of the alleged discriminatory practice; (3) prohibit discrimination in employment on the basis of an individual’s sexual orientation or gender identity or expression; and (4) prohibit a person from refusing to sell or rent a dwelling to an individual because of the individual’s sexual orientation or gender identity or expression. (Companion bill is **H.B. 188** by **Bernal**.)

Personnel

H.B. 698 (Rosenthal) – Reproductive Discrimination: would, among other things: (1) provide that an employer commits an unlawful employment practice if the employer discriminates against an employee or a close member of the employee’s family or household on the basis of a reproductive decision including: (a) marital status at the time of a pregnancy; (b) use of assisted reproduction to become pregnant; (c) use of contraception or a specific form of pregnancy; or (d) obtainment or use of any other health care drug, device or service relating to reproductive health; (2) require an employer that provides an employee handbook include in the handbook information regarding the prohibition of discrimination based on a reproductive decision; and (3) make a mandatory arbitration agreement between an employer and an employee void and unenforceable to the extent the agreement limits the reproductive decisions of an employee or employee’s close family or household members.

H.B. 731 (J. Gonzalez) – Minimum Wage: would increase the minimum wage to not less than the greater of \$15 an hour or the federal minimum wage (currently at \$7.25).

Purchasing

H.B. 751 (Israel) – Cloud Computing Services: would add cloud computing services to the definition of the term “personal property” for purposes of the Public Property Finance Act.

Transportation

No transportation bills were filed this week.

Utilities and Environment

H.B. 714 (Reynolds) – Texas Environmental Justice Advisory Council: would: (1) establish the Texas Environmental Justice Advisory Council; (2) establish an Environmental Justice Review Board; and (3) include, among others, local government officials as members of the Environmental Justice Review Board.

H.B. 753 (Cain) – Solid Waste: would prohibit a city from: (1) charging a person granted a franchise to provide solid waste management services in the city franchise fees of more than two percent of the gross receipts of the franchisee for the sale of services in the city; and (2) restricting the right of an entity to contract with a person other than the city, or an exclusive franchisee of the city, for solid waste management services for commercial, industrial, or multifamily residential waste.

H.B. 767 (Huberty) – Aggregate Production Best Management Practices: would require the Texas Commission on Environmental Quality to adopt and make available best management practices for aggregate production operations to comply with applicable environmental law and rules.

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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