



# Legislative UPDATE

January 22, 2021  
Number 3

## 87th Legislative Session Bills to Watch

The Legislature has until March 12 to file bills to be considered during the 140-day legislative session. We will continue to summarize all city-related bills filed and you can find a comprehensive list of those bills [here](#). However, here are a few bills worth noting. We ask all city officials to begin conversations with your state representative and state senator on these important issues.

**H.B. 749 (Middleton) – Community Censorship:** 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**.)

**H.B. 233 (Murr) – Building Materials and Methods:** would provide that the prohibition on city regulation of building products, materials, or methods passed by H.B. 2439 in 2019 does not apply to a city with a population of less than 25,000.

**H.B. 425 (K. King) – Rural Broadband:** would, among other things: (1) create a rural broadband service program; and (2) require the Public Utility Commission to provide financial assistance

from the universal service fund for broadband service providers who elect to participate in the rural broadband service program for the purpose of offering retail broadband service in underserved rural areas of the state at rates comparable to the benchmark rates established by the Federal Communications Commission.

**S.B. 154 (Perry)** – **Broadband Office:** would, among other things: (1) establish the broadband office within the Texas Public Utility Commission to: (a) facilitate and coordinate the efforts of state agencies and local units of government, including regional planning commissions, in connection with the planning and deployment of broadband projects; (b) develop broadband investment and deployment strategies for rural communities and other areas of this state that are underserved and unserved with respect to broadband; (c) promote and coordinate public sector and private sector broadband solutions in support of statewide broadband development goals; (d) assist and promote local and regional broadband planning; (e) pursue and obtain federal sources of broadband funding; (f) develop a framework to measure broadband access in and designate areas of this state that are underserved and unserved with respect to broadband; (g) develop statewide goals for broadband deployment in rural communities and other underserved and unserved areas; (h) manage and award funds allocated to the broadband office for broadband projects; and (i) serve as an information clearinghouse in relation to federal programs providing assistance to local entities with respect to broadband; and (2) provide that the broadband office shall establish a program to provide grants to private sector broadband providers for projects to provide broadband service in an unserved area.

**H.B. 1030 (Shaheen)** – **Newspaper Notice:** would: (1) allow a political subdivision to satisfy any law that requires notice to be published in a newspaper by publishing the notice in the following locations: (a) social media, free newspapers, school newspapers, a homeowners' association newsletter or magazine, utility bills, direct mailings, or any other form of media authorized by the comptroller; and (b) the internet websites maintained by the political subdivision and the comptroller; (2) provide that before providing notice under (1), a political subdivision must hold a public meeting about the alternative notice under (1)(a) and demonstrate that the circulation will be greater than the circulation of the newspaper with the greatest circulation in the political subdivision; (3) authorize the comptroller to grant a city's request for a waiver from (1)(b) if the city provides sufficient proof that Internet access is limited in the city, and if the comptroller grants the waiver, the city must provide additional notice on a public agenda board within the city; (4) require a city using alternative media described in (1)(a) to submit notice to the comptroller describing the alternative notice method in (1)(a) and certain other information; (5) authorize the comptroller to require a political subdivision to provide notice in a newspaper if the comptroller determines that the means under (1)(a) do not have greater circulation than a newspaper with the greatest circulation in the political subdivision; and (6) require the comptroller to prepare a report identifying and comparing the effectiveness of different methods of notice publication used by political subdivisions and provide the report to the governor, lieutenant governor, and the speaker of the house.

## **Lt. Governor Announces Committee Appointments**

Lt. Governor Dan Patrick announced his appointments to [Texas Senate Committees](#) last week. One item of particular interest in the elimination of the Senate Committee on Intergovernmental Relations and the creation of the Senate Committee on Local Government to be chaired by Sen. Paul Bettencourt (R-Houston). This committee will play a critical role in local government issues this session.

## **House and Senate Interim Reports Include City-Related Recommendations**

Prior to each legislative session, House and Senate committees submit their interim reports in response to the policy topics they are tasked with studying during the intervening months between sessions. These interim reports include recommendations for actions on different policy proposals for the upcoming legislative session.

Although the committee hearing process looked very different this interim in comparison with previous years due to the pandemic, many legislative committees have still submitted their reports on interim charges. Many of the recommendations in those reports impact Texas cities. The committee reports of specific interest to Texas cities include the following:

- [House Committee on Ways and Means](#) (See Charge 1.1 related to S.B. 2 implementation, Charge 1.2 related to sales tax sourcing, Charge 1.3 related to local hotel occupancy tax and qualified hotel projects, Charge 2 on property tax relief, Charge 3 on local sales and use taxes, and Charge 5 on third party tax collection firms)
- [House Committee on Land and Resource Management](#) (See Charge 1 on annexation, Charges 2 and 3 on eminent domain)
- [House Interim Committee on Aggregate Production Operations](#)
- [Senate Committee on State Affairs](#) (See Charge 2 on community censorship)
- [Senate Committee on Finance](#) (See charge on business personal property tax).

## **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.

## **Applications for Financial Assistance from the Texas Water Development Board's State Water Implementation Fund for Texas Program Are Due February 1**

The application period for the 2021 funding cycle of the State Water Implementation Fund for Texas (SWIFT) program will close at **midnight on Monday, February 1**. Funding is available to political subdivisions in the state, which includes cities.

The SWIFT program, managed by the Texas Water Development Board (TWDB), helps communities develop and optimize water supplies at cost-effective rates. The program provides low-interest financing, extended repayment terms, deferral of repayments, and incremental repurchase terms for projects with state ownership aspects. It also includes additional interest rate subsidies for rural and agricultural projects.

Abridged applications may be submitted via the TWDB's [online application system](#) or by [paper copy](#). More information on the SWIFT program is available on [TWDB's website](#).

## **Don't Forget: Mandatory Hotel Occupancy Tax Reporting**

The 50-day window for reporting local hotel occupancy tax information opened January 1, 2021. The reporting deadline is February 20, 2021.

Tax Code Section 351.009 requires cities to file an annual report with the comptroller that includes the city's hotel occupancy tax rate, the amount of revenue generated by the tax, and the amount and percentage of the revenue spent for each of the following purposes:

- Convention or information centers
- Convention delegates registration
- Advertising to attract tourists
- Arts promotion and improvement
- Historical restoration and preservation projects
- Signage directing the public to sights and attractions

Cities have two reporting options: (1) use the comptroller's online reporting form to submit all required information; or (2) clearly post and maintain all required information on the city's website and provide the comptroller's office with a link to the information. For cities selecting the second option, the comptroller provides an [optional format template](#) to post on the city's website.

For more information and access to the online reporting form, see the comptroller's hotel occupancy tax reporting [webpage](#). City officials with questions about the new requirements can also contact the comptroller's transparency team by email at [transparency@cpa.texas.gov](mailto:transparency@cpa.texas.gov) or (844) 519-5676.

## **Don't Forget: Mandatory Eminent Domain Reporting**

Legislation passed in 2015 requires cities to annually fill out a [web-based form](#) with the comptroller relating to each city's statutory eminent domain authority. The three-month reporting period began on November 1, 2020 and closes on February 1, 2021. However, reports may be updated at any time throughout the year. The failure to fill out the form could result in a \$2,000 penalty against a city.

The entry should be, for almost every city, just an update of previously filed information, including whether the city exercised its eminent domain authority in the preceding calendar year by filing a condemnation petition under Section 21.012, Property Code.

Of course, any city that never filled out the form as required should do so now. City officials with questions about the new requirements can also contact the comptroller's transparency team by email at [transparency@cpa.texas.gov](mailto:transparency@cpa.texas.gov) or (844) 519-5676.

## **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. 1084 (P. King) – Property Tax Appraisal:** would provide that the additional tax imposed on land appraised for property tax purposes as open-space or timber land as a result of a change in the use of the land does not apply to a portion of a parcel of land that is subject to a right-of-way when the change in use occurs.

**H.B. 1090 (Bailes) – Property Tax Appraisal:** would provide that if the chief appraiser discovers that property was omitted from an appraisal roll in one of the three preceding tax years, the chief appraiser shall appraise the property as of January 1 of each tax year that it was omitted and enter the property and its appraised value in the appraisal records. (Note: current law requires the chief appraiser to appraise omitted real property in any one of the five preceding years.)

**H.B. 1099 (Beckley) – Property Tax Appraisal:** would, among other things: (1) provide that a protest on the ground of unequal appraisal of property shall be determined in favor of the protesting party, unless the appraisal district establishes, among other things, that the appraisal ratio of the property is equal to or less than the median level of appraisal of a reasonable number of comparable properties within the appraisal district; (2) provide that for purposes of (1), above: (a) a person making a determination that property is comparable to another property must base the determination on the similarity of the properties with regard to location, square footage of the lot and improvements, property age, property condition, property access, amenities, views, income, operating expenses, occupancy, and the existence of easements, deed restrictions, or other legal burdens affecting marketability; and (b) a person calculating the median level of appraisal of comparable properties must base the calculation on the appraised value of each comparable property as shown in the appraisal records submitted to the appraisal review board by the chief appraiser; (3) require the comptroller to, by rule, establish standards for the development and calibration of adjustments to the appraised value for industrial, petrochemical refining and processing, and utility properties and other unique properties; (4) require a district court to grant relief on the ground that a property is appraised unequally if, among other things, the appraisal ratio of the property exceeds by at least ten percent the median level of appraisal of a reasonable number of comparable properties in the appraisal districts; (5) for that for purposes of (4), above: (a) a person making a determination that property is comparable to another property must base the determination on the similarity of the properties with regard to location, square footage of the lot and improvements, property age, property condition, property access, amenities, views, income, operating expenses, occupancy, and the existence of easements, deed restrictions, or other legal burdens affecting marketability; and (b) a person calculating the median level of appraisal of comparable properties must base the calculation on the appraised value of each comparable property as shown in the appraisal records certified by the chief appraiser; and (6) provide that an appraisal district, an appraisal review board, or a chief appraiser that prevails in an appeal based on unequal appraisal may be awarded reasonable attorney’s fees not to exceed \$15,000.

**H.B. 1101 (Beckley) – Sales Price Disclosure:** would provide that: (1) a person may not file for record or have recorded in the county clerk’s office an instrument conveying real property under a contract for sale unless the instrument discloses the sales price of the property; (2) the purchaser of any property for which an instrument is recorded in violation of (1), above, is liable to the state for a civil penalty for each violation in an amount equal to five percent of the sales price of the property; and (3) the attorney general or the county or district attorney for the county in which the property is located may bring suit to recover a penalty under (2), above.

**H.B. 1120 (Lucio III) – Property Tax Appraisal:** would, among other things, authorize a property owner to bring suit to compel an appraisal district, chief appraiser, or appraisal review board to comply with a procedural requirement applicable to a property tax protest.

**S.B. 330 (Lucio) – Property Tax Exemption:** would exempt from property taxes property owned by a charitable organization that provides a meeting place and support services for organizations that provide assistance to people with substance abuse disorders and their families without regard to the beneficiaries’ ability to pay.

**S.B. 361 (Miles) – Appraisal Cap:** would continue the ten percent appraisal cap for residence homesteads if the property is acquired by, and qualifies as, the homestead of an heir of the owner or the owner’s spouse or surviving spouse. (See **S.J.R. 26**, below).

**S.J.R. 26 (Miles) – Appraisal Cap:** would amend the Texas Constitution to continue the ten percent appraisal cap for residence homesteads if the property is acquired by, and qualifies as, the homestead of an heir of the owner or the owner’s spouse or surviving spouse. (See **S.B. 361**, above.)

## **Public Safety**

**H.B. 1001 (Lucio III) – Medical Marihuana:** would add post-traumatic stress disorder as an authorized diagnosis for a prescription for low-THC cannabis. (Companion bill is **S.B. 327** by **Lucio**.)

**H.B. 1074 (Hernandez) – Massage Establishments:** would amend current law to provide that, for purposes of abatement of nuisances, a law enforcement agency that makes an arrest related to the offense of prostitution or violation of laws regulating the licensing of massage professionals that occurs at a property leased to a person operating a massage establishment, may provide written notice of the arrest, by certified mail, to the property owner.

**H.B. 1097 (Lozano) – Kratom:** would: (1) authorize the processing and sale of kratom and kratom products; (2) prohibit the sale or distribution of a kratom product to someone younger than 18 years of age; (3) authorize a civil penalty for violations of the bill; and (4) provide that the attorney general, the district or county attorney for the county, or the municipal attorney of the municipality in which the violation is alleged to have occurred may bring an action to recover a civil penalty.

**H.B. 1102 (Dominguez) – Alcohol To-Go:** would allow for the pickup and delivery of alcoholic beverages for off-premises consumption under certain circumstances.

**H.B. 1109 (Dominguez) – Medical Cannabis for Veterans:** would: (1) authorize the use of medical cannabis by veterans for post-traumatic stress disorder; (2) authorize the licensing of associated cultivating or dispensing organizations; (3) require a cultivating or dispensing license holder to annually donate at least five percent of the license holder’s net profit to a nonprofit organization that focuses on getting veterans access to treatment for post-traumatic stress disorder; and (4) provide that a cultivating or dispensing facility owned or operated by a license holder may not be located within 1,000 feet of a primary or secondary school or day-care center that exists on the date of the license holder’s initial application for licensure.

**H.B. 1119 (Lucio III) – Uninsured Vehicle Enforcement Program:** would provide that: (1) the Texas Department of Public Safety (department) by rule shall, in consultation with law enforcement agencies, establish the Texas Uninsured Vehicle Enforcement Program to use automatic license plate reader (ALPR) systems to help law enforcement agencies identify uninsured motor vehicles; (2) the department may: (a) install an ALPR system on appropriate infrastructure owned by this state or a political subdivision of this state, including traffic signals,

highway signs, bridges, and overpasses; and (b) use infrastructure described in (2)(a), above, as necessary to ensure that an ALPR system has access to the necessary power to operate; (3) the department and law enforcement agencies may use ALPRs to collect captured plate data so as to enforce the financial responsibility requirements under state law; (4) the captured plate data may be accessed only by law enforcement agencies and individuals authorized by the department; (5) a peace officer may: (a) verify by sworn affidavit that a photograph generated by an ALPR system identifies a particular vehicle operating on a public roadway that was uninsured at the time the vehicle was being operated; and (b) issue a citation, based on the affidavit, to a person for operating a motor vehicle without meeting the financial responsibility requirements; (6) captured plate data collected or retained under this program through the use of an ALPR system must be retained by a law enforcement agency if the data is being used as evidence of a violation of the financial responsibility requirements, and if no longer needed as evidence of a violation, must be deleted or otherwise destroyed; and (7) captured plate data collected or retained by the department or a law enforcement agency through the use of the ALPR system may not be used for a purpose other than enforcing the motor vehicle financial responsibility requirement.

**H.B. 1125 (Anchia) – Disclosure of Information to Defendants:** This bill known as “the Richard Miles Act” would provide that: (1) a law enforcement agency filing a case with the attorney representing the state, including the district attorney, criminal district attorney, county attorney with criminal jurisdiction, or city or municipal attorney, shall include with the case file: (a) all documents, items, and information in the possession of the agency that are required to be disclosed during discovery, and (b) a written statement by a peace officer employed by the agency acknowledging that the documents, items, and information filed with the case constitute all of the documents, items, and information in the possession of the agency that are required to be disclosed to the defendant in the case under the discovery rules; (2) if at any time after the case is filed with the attorney representing the state, the law enforcement agency discovers or acquires any additional documents, item, or information required to be disclosed, a peace officer employed by the agency shall promptly transmit the document, item, or information to the attorney representing the state; and (3) a law enforcement agency shall promptly disclose to each attorney representing the state with whom the agency files cases, the identity of each peace officer or other employee of the agency for whom a finding of misconduct has been sustained if that finding would be required to be disclosed to a defendant under the discovery rules.

**H.B. 1141 (Ramos) – Surrender of Firearms:** would: (1) provide that, on conviction of a person for certain family violence offenses or issuance of certain protective orders, a court shall provide written notice to the person convicted or subject to the protective order that he/she is: (a) prohibited from acquiring, possessing, or controlling a firearm; and (b) ordered to surrender all firearms the person owns; (2) provide that a person in (1) shall surrender a firearm by: (a) selling the firearm to a licensed dealer; or (b) surrendering the firearm to a law enforcement agency for holding or disposition; and (3) require a law enforcement agency that takes possession of a firearm under (2) to follow certain policies and procedures for collecting, storing, returning, selling, or destroying the firearm, and allows the agency to impose a reasonable fee for storing a firearm.

**H.B. 1157 (Vo) – Licensing Veterans as Peace Officers:** would: (1) allow a political subdivision, including a city, to employ, as a peace officer, a legal permanent resident of the United States who is an honorably discharged veteran of the armed forces of the United States; and (2) require that

the Texas Commission on Law Enforcement issue a peace officer license to a person who is a legal permanent resident of the United States if the person: (a) meets the requirements to be a peace officer; and (b) is an honorably discharged veteran of the armed forces of the United States.

**S.B. 327 (Lucio) – Medical Marihuana:** would add post-traumatic stress disorder as an authorized diagnosis for a prescription for low-THC cannabis. (Companion bill is **H.B. 1001** by **Lucio III**.)

**S.B. 343 (Kolkhorst) – Family Violence Bond Conditions:** would provide, among other things, that: (1) as soon as possible, but not later than the next business day after the date a magistrate issues an order imposing a condition of bond or modifying or removing a condition of release on bond, the magistrate shall send a copy of the order to the appropriate attorney representing the state and either to the police chief in the city where the victim of the offense resides, if the victim resides in a city, or to the sheriff of the county where the victim resides, if the victim does not reside in a city; (2) the court clerk shall send a copy of the order to the victim at the victim's last known address as soon as possible but not later than the next business day after the date the order is issued; (3) the magistrate or clerk may delay sending a copy of the order described in (1), above, only if the magistrate or clerk lacks information necessary to ensure service and enforcement; (4) a copy of the order and any related information may be send electronically or in another manner that can be accessed by the recipient; (5) if the victim of the offense is not present when an order is issued, the magistrate shall order a peace officer to make a good faith effort to provide notice of the order to the victim within 24 hours by calling the victim's last known phone number; (6) not later than the third business day after the date of the receipt of the copy of an order described in (1), above, by the applicable law enforcement agency, the law enforcement agency shall enter specified information in the statewide law enforcement information system maintained by the Department of Public Safety or modify or remove that information, as appropriate.

**S.B. 352 (Miles) – Peace Officer License Suspension:** would amend current law to provide that the Texas Commission on Law Enforcement shall suspend a peace officer's license upon notification that the officer has been dishonorably discharged.

**S.B. 411 (Miles) – Criminal Offenses Recordkeeping:** would require the Department of Public Safety and all local law enforcement agencies that use an incident-based reporting system to report information and statistics concerning criminal offenses committed in Texas to the Federal Bureau of Investigation, as a part of the Uniform Crime Reporting Program of the Federal Bureau of Investigation, to include the ethnicity of an arrestee in the reported incident.

### **Sales Tax**

No Sales Tax bills were filed this week.

## **Community and Economic Development**

**H.B. 1086 (Gates) – Public Facility Corporations:** would repeal the law providing that a leasehold or other possessory interest in real property that is exempt to the owner of the interest encumbered by the possessory interest shall be listed in the name of the owner of the possessory interest for a leasehold or other possessory interest granted by a public facility corporation during the period the corporation owns projects on behalf of the authorizing municipality.

**S.B. 356 (Miles) – Public Facility Corporations:** would provide that a grocery store or an early learning center located in an economically disadvantaged census tract may be financed by a public facilities corporation.

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## **Elections**

**H.B. 1128 (Jetton) – Election Bystanders:** would: (1) authorize the following people to be lawfully present in a polling place during the time the presiding judge arrives there on election day until the precinct returns have been certified and the election records assembled for distribution following the election: (a) an election judge or clerk; (b) a watcher; (c) a state or federal inspector; (d) a person admitted to vote; (e) a child under 18 years of age accompanying a parent who has been admitted to vote; (f) a person providing authorized assistance to a voter; (g) a special peace officer appointed by the presiding judge; (h) the county chair of a political party conducting a primary election; (i) an authorized voting system technician; or (j) a person whose presence has been authorized by the presiding judge; (2) authorize the following people to be lawfully present in the meeting place of an early voting ballot board during the time of the board's operation: (a) a presiding judge or member of the board; (b) a watcher; (c) an authorized voting system technician; or (d) a person whose presence has been authorized by the presiding judge; and (3) authorize the following people to be lawfully present in the central counting station while ballots are being counted: (a) a counting station manager, tabulation supervisor, assistant to the tabulation supervisor, presiding judge, or clerk; (b) a watcher; (c) an authorized voting system technician; or (d) a person whose presence has been authorized by the counting station manager.

**H.B. 1138 (Oliverson) – Mail Ballot Tracking:** would require the secretary of state to develop or otherwise provide an online tool to each early voting clerk that enables a person who submits an application for a ballot to be voted by mail to track the location and status of the person's application and ballot on the secretary's Internet website and on the county's Internet website if the early voting clerk is the county clerk of a county that maintains an Internet website.

**H.B. 1150 (Vo) – Early Voting Employee Leave:** would provide that: (1) a person commits an offense if, with respect to another person over whom the person has authority in the scope of employment, the person knowingly: (a) refuses to permit the other person to be absent from work while early voting is in progress for the purpose of attending the polls to vote; or (b) subjects or threatens to subject the other person to a penalty for attending the polls while early voting is in

progress to vote; and (2) the provisions of (1), above, do not apply in connection with an election in which polls are open while early voting is in progress for two consecutive hours outside of the voter's working hours. (This bill is identical to **H.B. 1152** by Vo.)

**H.B. 1151 (Vo) – Early Voting:** would, among other things, provide that: (1) the authority ordering an election may order early voting by personal appearance at the main early voting polling place to be conducted during an extended early voting period beginning on the 19<sup>th</sup> day before election day for any number of consecutive days up to and including the third day before election day; and (2) an authority that extends early voting under (1), above, shall order personal appearance voting at the main early voting polling place to be conducted for at least 12 hours on any weekday or Saturday and for at least five hours on any Sunday of the extended early voting period.

**H.B. 1152 (Vo) – Early Voting Employee Leave:** would provide that: (1) a person commits an offense if, with respect to another person over whom the person has authority in the scope of employment, the person knowingly: (a) refuses to permit the other person to be absent from work while early voting is in progress for the purpose of attending the polls to vote; or (b) subjects or threatens to subject the other person to a penalty for attending the polls while early voting is in progress to vote; and (2) the provisions of (1), above, do not apply in connection with an election in which polls are open while early voting is in progress for two consecutive hours outside of the voter's working hours. (This bill is identical to **H.B. 1150** by Vo.)

**S.B. 331 (Johnson) – Election Interpreters:** would: (1) allow an interpreter to be appointed by an election officer if the voter has not selected an interpreter; (2) provide that, if selected by the voter, a voting interpreter 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; and (3) provide that, if appointed to serve as an interpreter by an election officer, an interpreter must be a registered voter of the county in which the voter needing the interpreter resides or a registered voter of an adjacent county.

### **Emergency Management**

**H.B. 311 (Vasut) – Extension of Disaster Declarations:** would, among other things: (1) amend current law to provide that a state of disaster may not continue for more than 30 days unless renewed by the legislature by law; (2) provide that the governor may not declare a state of disaster based on the same or a substantially similar finding for which the state of disaster was initially declared by the governor within the preceding 12 months; (3) amend current law to provide that public health disaster may not continue for more than 30 days unless renewed by the legislature by law; (4) amend current law to provide that the commissioner of the state health services will no longer be authorized to renew, one time, a public health disaster for an additional 30 days; and (5) provide that, at any time, either the governor or the legislature by law may terminate a declaration of a public health disaster.

**H.B. 1137 (Cain) – Taxes and Fees During Disaster:** would provide that if a governor's executive order, proclamation, or regulation issued during a declared state of disaster restricts the

operation of a business or category of business, a business whose operation is restricted by the order, proclamation, or regulation may not be assessed any tax or fee, including a licensing fee, by the state during the time the operation of the business is restricted by the order, proclamation, or regulation.

### **Municipal Courts**

**H.B. 1002 (Lucio III) – Hypnotically Induced Testimony:** would provide that the testimony of a person obtained by hypnotizing the person is not admissible against a defendant in a criminal trial, whether offered in the guilt or innocence phase or the punishment phase of the trial. (Companion bill is **S.B. 281** by **Hinojosa**.)

**H.B. 1104 (Dominguez) – Expunction of Arrest Records:** would, among other things, entitle a person who has been placed under a custodial or noncustodial arrest for certain misdemeanors to have all records and files related to the arrest expunged if certain criteria are met and verified by an ex-parte petition submitted by the person.

**H.B. 1106 (Dominguez) – Supplemental Court Security Fee:** would: (1) provide that a person whose sentence, upon conviction of a misdemeanor or felony offense, includes the imposition of a fine shall pay a \$1 supplemental security fee as a cost of court; and (2) require the treasurer to deposit the court costs collected under (1), above, to the courthouse security fund or municipal court building security fund, as appropriate.

**S.B. 353 (Miles) – Financial Responsibility:** would authorize a justice or municipal court to access the financial responsibility verification program to verify financial responsibility for the purpose of court proceedings.

### **Open Government**

**H.B. 1082 (P. King) – Public Information:** would: (1) with regard to information a city holds as an employer, except from the Public Information Act the home address, home telephone number, emergency contact information, social security number, and personal family information of an elected public officer, regardless of whether the elected officer complies with certain requirements to elect the information be kept confidential; (2) with regard to information contained in records maintained by the city in any capacity, except from the Public Information Act an elected public officer's home address, home telephone number, emergency contact information, date of birth, social security number, and family member information, if the elected offer elects to keep the information confidential; and (3) add elected public officers to the list of individuals who may choose to restrict public access to certain information in appraisal records.

## **Other Finance and Administration**

**H.B. 634 (E. Morales) – Newspaper Notice:** would, with regard to a city located in a county that does not have a weekly newspaper that meets certain criteria, provide that a notice must be published in a weekly newspaper that: (1) devotes not less than 20 percent of its total column lineage to general interest items; (2) meets one of the following requirements: (a) be entered as periodical postal matter in the county where published; (b) have a mailed or delivered circulation of at least 51% of the residences in the county where published; or (c) be published in the county and designated by the governing body as the newspaper for publication of notices; and (3) has been published regularly and continuously for at least 12 months before the notice is published.

**H.B. 1083 (P. King) – Animal Shelter:** would: (1) provide that a person's ownership interest in an impounded animal held in an animal shelter terminates on the date that: (a) another person adopts the animal from the shelter; or (b) the shelter transfers the animal to an animal rescue organization; and (2) allow an animal shelter to offer an animal for adoption or transfer to an animal rescue organization only after the shelter has complied with any applicable holding period set out in an ordinance or rule adopted by the city council in which the shelter is located.

**H.B. 1089 (Reynolds) – Governmental Liability:** would, among other things: (1) provide that a city is liable for property damage, personal injury, or death proximately caused by the negligence of its employee if the employee was acting within the scope of employment and: (a) the employee is a county jailer, peace officer, public security officer, reserve law enforcement officer, telecommunicator, or school marshal; and (b) the employee would be personally liable according to Texas law; (2) increase the maximum liability for a city to \$250,000 for each person and \$500,000 for each single occurrence for bodily injury or death; (3) provide that a claimant may now be awarded exemplary damages if a governmental unit is found liable under (1), above; (4) provide that a governmental unit is not liable when responding to an emergency situation if, among other things, the act is not negligent; (5) provide that a governmental unit is not liable for failure to provide or the method of providing police or fire protection, unless the failure to provide or method of providing protection was negligent, consciously indifferent, or occurred with reckless disregard; (6) remove governmental liability protections for claims based on an injury or death connected with any act or omission arising out of civil disobedience, riot, insurrection, or rebellion; (7) provide that the existence or amount of insurance of a governmental unit is subject to discovery; and (8) repeal the limitation for municipal liability, which includes a maximum of \$250,000 for each person and \$500,000 for each single occurrence of bodily injury or death and \$100,000 for each single occurrence for injury to or destruction of property.

**H.B. 1091 (Reynolds) – Crime Victim Pseudonym:** would: (1) require the office of the attorney general to develop and distribute to all law enforcement agencies a pseudonym form for victims of certain crimes; (2) require a law enforcement agency investigating certain offenses to offer the victim (or the parent, conservator, or guardian, if the victim is a child) a pseudonym to be used in all public files and records concerning the offense; (3) provide that a victim who completes and returns a pseudonym form may not be required to disclose their name, address, date of birth, and telephone number in connection with the investigation or prosecution of the offense; (4) provide that a victim pseudonym form is confidential and may not be disclosed to any person other than a defendant, except on an order of a court; (5) require a law enforcement agency that receives a

victim pseudonym form to: (a) remove the victim's name and substitute a pseudonym on all reports, files, and records in the agency's possession; (b) notify the attorney for the state; and (c) maintain the form in a manner that protects the confidentiality of the information; (6) provide that, except as required or permitted by law or court order, a public servant or other person who has access to or obtains the name, address, phone number, or other identifying information of certain victims may not release or disclose the information to any person who is not assisting in the investigation, prosecution, or defense of the case; (7) provide that a public servant with access to the name, address, or phone number of certain crime victims who have completed a pseudonym form commits a Class C misdemeanor offense if the public servant knowingly discloses the information to any person who is not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant's attorney, or a person specified in a court order; and (8) provide that, unless disclosure is required or permitted by other law, a public servant or other person commits a Class C misdemeanor offense if the person: (a) has access to or obtains the name, address, or phone number of certain crime victims; and (b) knowingly discloses the information to a person who is not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant's attorney, or a person specified in a court order.

**H.B. 1118 (Capriglione) – Cybersecurity:** would provide that: (1) a local government employee or official that uses a computer to complete at least 25 percent of the employee or official's required duties shall complete a cybersecurity training certified by the state cybersecurity coordinator and the state's cybersecurity council; (2) to apply for a federal or state grant, a local government must submit with its grant application proof of compliance with the cybersecurity training requirements; and (3) a local government that has not complied with the cybersecurity training requirements must repay the grant and will be ineligible for another grant for two years. (Companion Bill is **S.B. 345** by **Paxton**.)

**H.J.R. 65 (Vasut) – Special Session:** would amend the Texas Constitution to provide that: (1) the governor shall, by proclamation, convene the legislature in special session on receipt of a petition requesting the special session that is signed by at least two-thirds of the members of each house of the legislature; and (2) the petition must state the date the governor must convene the session and the specific purpose for which the session is convened.

**S.B. 344 (Paxton) – Electronic Signatures:** would: (1) include as the definition of an "electronic signature" one that employs blockchain or distributed ledger technology; (2) provide that a governmental agency of Texas must accept valid electronic signatures; and (3) provide that an electronic signature that employs blockchain or distributed ledger technology is a valid electronic signature for: (a) the issuance of an apostille by the secretary of state, if the apostille may be signed using an electronic signature; or (b) a contract entered into by a governmental agency.

**S.B. 345 (Paxton) – Cybersecurity:** would provide that: (1) a local government employee or official that uses a computer to complete at least 25 percent of the employee or official's required duties shall complete a cybersecurity training certified by the state cybersecurity coordinator and the state's cybersecurity council; (2) to apply for a federal or state grant, a local government must submit with its grant application proof of compliance with the cybersecurity training requirements; and (3) a local government that has not complied with the cybersecurity training requirements must

repay the grant and will be ineligible for another grant for two years. (Companion Bill is **H.B. 1118** by **Capriglione**.)

## **Personnel**

**H.B. 1087 (Gervin-Hawkins) – Civil Service Disciplinary Suspensions:** would amend current law to provide that, for purposes of the original written statement regarding the suspension of a firefighter or police officer in a civil service city, or in any hearing regarding the violation of a civil service rule: (1) the police chief or fire chief, as applicable, may not complain of an act that is discovered (as opposed to occurred) earlier than the 180<sup>th</sup> day preceding the date the police chief or fire chief suspends the firefighter or police officer; and (2) the act complained of need not be related to a criminal activity.

**S.B. 333 (Johnson) – Police Disciplinary Rules:** would, among other things, amend current law to provide that:

1. in a city that has adopted civil service:
  - a. the police chief may not suspend a police officer for an act that occurred earlier than the 730<sup>th</sup> day before the date the officer is suspended;
  - b. the police chief, in the original written statement and charges and in any hearing conducted under the civil services rules involving a police officer:
    - i. may not complain of an act that is discovered earlier than the 360<sup>th</sup> day preceding the date the police chief suspends the police officer;
    - ii. must allege that the act complained of is related to criminal activity; and
    - iii. is not required to prove that the officer had the culpable mental state for the alleged criminal activity or committed the alleged criminal activity beyond a reasonable doubt;
  - c. the police chief may not suspend a police officer that is indicted for a felony or officially charged with the commission of a Class A or B misdemeanor if the act directly related to the felony indictment or misdemeanor complaint occurred earlier than the 730<sup>th</sup> day before the date the officer is suspended;
  - d. the police chief may, within 30 days after the date of final disposition of the felony indictment or misdemeanor complaint described in (1)(c), above, bring a charge against the police officer for a violation of civil service rules, if the action directly related to the felony indictment or misdemeanor complaint against the police officer was discovered on or after the 360<sup>th</sup> day before the date of the indictment or complaint;
  - e. the police chief may order an indefinite suspension of a police officer based on an act that is classified as a felony or a Class A or B misdemeanor after the 360-day period following the date of the discovery of the act by the police department if the police chief considers delay to be necessary to protect a criminal investigation of the police officer's conduct; and
  - f. the police chief must file with the attorney general a statement describing the criminal investigation and its objectives within 360 days after the date

- of the discovery of the act by the police department, if the police chief intends to order an indefinite suspension as described in (1)(e), above;
2. in a city that has adopted civil service and has a population of 1.5 million or more:
    - a. the police chief may not suspend a police officer for an act that is directly related to a felony indictment or misdemeanor complaint of any other crime involving moral turpitude that occurred earlier than the 730<sup>th</sup> day before the date the officer is suspended;
    - b. the police chief may, within 60 days after the date of final disposition of the indictment or complaint, bring a charge against a police officer for violation of civil service rules if the action directly related to the felony indictment or misdemeanor described in (2)(a), above, was discovered on or after the 360<sup>th</sup> day before the date of the indictment or complaint;
    - c. the police chief may order an indefinite suspension of a police officer based on act classified as a felony or any other crime involving moral turpitude after the 360-day period following the date of the discovery of the act by the department if the department considers delay to be necessary to protect a criminal investigation of the person's conduct; and
    - d. the police chief must file with the attorney general a statement describing the criminal investigation and its objectives within 360 days after the date of the discovery of the act by the department if the police chief intends to order an indefinite suspension of the officer after the 360-day period;
    - e. the police chief may not suspend a police officer for an act that violates a civil service rule if the act occurred earlier than 730<sup>th</sup> day before the date the officer is suspended;
    - f. the police chief may not suspend the police officer later than the 360<sup>th</sup> day after the date the department discovers or becomes aware of the civil service rule violation;
    - g. the suspension of a police officer for violation of a civil service rule is void and the officer is entitled to the officer's full pay if:
      - (i) the department fails to file the written statement during the required time;
      - (ii) the suspension is imposed later than the 730<sup>th</sup> day after the date the act for which the officer was suspended occurred; or
      - (iii) the suspension is imposed later than the 360<sup>th</sup> day after the date the department discovers or becomes aware of the violation that resulted in the suspension;
    - h. the police chief may not indefinitely suspend a police officer for an act that violates a civil service rule if the act occurred earlier than the 730<sup>th</sup> day before the date the officer is indefinitely suspended;
    - i. the police chief may not complain of an act by a police officer that violates a civil service rule in the original written statement and charges and in any hearing conducted under the civil service rules if the act was not discovered within the 360-day period preceding the date on which the police chief indefinitely suspends the police officer;

3. a meet and confer agreement between a city and a police officers association may not conflict with and does not supersede the provisions described in (1) and (2), above, if the city has adopted civil service; and
4. a city may not adopt or implement a collective bargaining agreement affecting police officers that conflicts with the provisions described in (1) and (2), above.

### **Purchasing**

No Purchasing bills were filed this week.

### **Transportation**

**H.B. 1105 (Paddie) – Digital License Plates:** would provide that motor vehicles required to register may be issued a digital license plate.

**S.B. 355 (Miles) – Signs on Public Right-of-Way:** would provide that a person who places, commissions the placement of, uses, or benefits from the placement of a sign on the right-of-way of a public road that is not otherwise authorized by law may be liable for a civil penalty of \$10,000 for each violation.

### **Utilities and Environment**

**H.B. 1130 (White) – Excavation Activities:** would provide that: (1) an operator or excavator may file a civil action for damages for certain requirements relating to excavation; and (2) the prevailing party in an action in (1), above, may recover reasonable attorney’s fees, court costs, and other expenses in certain circumstances.

**H.B. 1155 (Vo) – Municipal Utility Districts:** would provide that once the board of a municipal utility district that is located in the extraterritorial jurisdictions of more than one municipality has selected the municipality that may exercise authority within the district as a whole, the board may not change that selection without the consent of all affected municipalities.

**S.B. 364 (Miles) – Clean Air Act Affirmative Defenses:** would repeal provisions allowing the Texas Commission on Environmental Quality to establish affirmative defenses for enforcement actions if a facility has an emission event that results in the unauthorized emissions of air contaminants from one or more emissions points at a regulated entity.

**S.B. 365 (Miles) – Environmental Justice Reports:** would:

1. define “affecting facility” as a facility required to obtain a permit from the Texas Commission on Environmental Quality (TCEQ) for wastewater discharge, injection wells, and under the Solid Waste Disposal Act and Clean Air Act;

2. define “environmental justice community” as a United States census block group, as determined in accordance with the most recent United States census, for which: (a) 30 percent or more of the noninstitutionalized population consists of persons who have an income below 200 percent of the federal poverty level; or (b) 50 percent or more of the population consists of members of racial minority or ethnic minority groups;
3. require that a person applying for a permit for a new affecting facility or the expansion of an affecting facility submit to TCEQ an environmental justice report stating whether the facility or expansion is to be located in an environmental justice community and include demographic information to support the applicant’s conclusion as to whether the facility or expansion is to be located in an environmental justice community;
4. require that TCEQ review the environmental justice report and determine whether the affecting facility or expansion is to be located in an environmental justice community and publish its determination and findings in writing;
5. provide that if TCEQ determines that the affecting facility or expansion is to be located in an environmental justice community, the applicant must, before TCEQ may issue a permit: (a) file with TCEQ a public participation plan that meets the requirements of (6), below, and obtain TCEQ’s approval of the plan; (b) consult with the chief elected official of the city in which the facility or expansion is to be located (if it will be located in a city) to evaluate the need for a community environmental benefit agreement in accordance with (8), below; and (c) participate in a public hearing under (7), below;
6. provide that a public participation plan must: (a) contain measures to facilitate effective public participation in the regulatory process, including measures that allow residents of the environmental justice community to have an appropriate opportunity to participate in decisions about a proposed affecting facility or expansion that may adversely affect residents’ environment or health, and seek out and facilitate the participation of those who potentially would be affected by the facility or expansion; and (b) include a certification that the applicant will undertake the measures contained in the plan;
7. provide that, if TCEQ determines that an affecting facility or expansion is to be located in an environmental justice community, TCEQ shall provide notice and conduct a hearing to address issues of environmental justice posed by the construction or expansion of the facility;
8. provide that a city or county and the owner or developer of an affecting facility may enter into a community environmental benefit agreement under which the owner or developer agrees to mitigate adverse impacts reasonably related to the facility, including impacts on the environment, traffic, parking, and noise; and
9. provide that, before negotiating the terms of a community environmental benefit agreement, the city or county shall provide a reasonable and public opportunity for residents of the potentially affected environmental justice community to be heard concerning the need for, and terms of, an agreement.

**S.B. 366 (Miles) – TCEQ Administrative Penalties:** would: (1) provide that the amount of an administrative penalty assessed by the Texas Commission on Environmental Quality may not be less than \$250 a day for each violation; and (2) the minimum penalty provision in (1), above, does not apply to an administrative penalty assessed against a facility operator who violates the Public Employer Community Right-to-Know Act or the Nonmanufacturing Facilities Community Right-to-Know Act.

## **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](mailto:legalinfo@tml.org); Rachael Pitts for membership support at [RPitts@tml.org](mailto:RPitts@tml.org); and the training team for questions about conferences and workshops at [training@tml.org](mailto: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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