



# Legislative UPDATE

June 18, 2021  
Number 23

## COVID-19 Update (No. 190)

All pandemic-related updates, including information about the American Rescue Plan's city-related provisions, will be in the [Legislative Update Newsletter](#) from now on. Here's the latest:

- **And.....still no word on small city Rescue Plan funds:** Each state has to request its nonentitlement cities' share of the American Rescue Plan (ARP) funds. [According to the Treasury Department](#), Texas has not yet done so, although the information from Treasury indicates that payment could potentially be in progress. The governor's office has not yet announced if or when the request will be made. Accordingly, the governor has not yet announced the procedures for eligible nonentitlement cities to receive payments.
- **Attorney general opinion requests:** Two disaster-related requests for opinions have been submitted to the attorney general's office: (1) [RQ-0408-KP](#) asks several questions related to a county judge's disaster authority, including whether a judge can – on his or her own – repeatedly extend a local state of disaster; and (2) [RQ-0409-KP](#) questions the applicability of a federal mask mandate related to face coverings on public transit.

- **Open Meetings Act suspensions:** On June 4, the governor’s office once again (by continuing his [COVID-19 disaster declaration](#) for another 30 days) extended the Open Meetings Act suspensions for another 30 days. His office tells League staff that, if he decides to independently end the suspensions, they will give ample notice of that action.

The legislature failed to pass legislation that would make videoconference or teleconference meetings easier. Given that fact, along with the continued decline of COVID-19 hospitalization and infection numbers, some cities have returned (or will soon return) to in-person meetings. A city council that has a “normal” in-person meeting should follow the Texas Open Meetings Act requirements as they were prior to the suspensions. A city council that imposes some pandemic mitigation measure (e.g., social distancing) should do the same. Consult local legal counsel if any locally-imposed mitigation measure may impact a person’s ability to attend an in-person meeting.

- **Updated Treasury Department FAQs:** On June 8, Treasury issued the following statement to the National League of Cities:

“[We] posted 10 additional FAQs on the Coronavirus State and Local Fiscal Recovery Funds. The full FAQ document, which includes FAQs from our original May 10 publication date, the previous May 27 update, and today's update, can be [found here](#).

We intend to update FAQs periodically to help clarify questions about the Interim Final Rule. We anticipate another update soon, which is likely to include additional questions recently posed by your members. Treasury is trying to respond as quickly as possible to your members' concerns, and we do not want to give the impression that this update captures all of our planned clarifications.

However, please note that because the Interim Final Rule is still in the 60-day public comment period, there may be some points raised by stakeholders that cannot be addressed via FAQs and will need to be considered as part of the process for revising the rule. We strongly encourage interested parties to [submit comments for the record](#) to ensure that these perspectives are reflected in the public comments when it comes time to finalize the rule.

Today's FAQ update includes additional clarification on points that have been raised by a number of stakeholders, including:

- Reporting requirements for the revenue loss/provision of government services eligible use category
- Eligibility of public jobs programs
- Addressing economic harms experienced by households, businesses, and individuals prior to March 3, 2021
- Determining the eligibility of water and sewer projects
- Covering costs of consultants to assist with managing and ministering the funds

In addition, yesterday Treasury posted a [FAQ supplement](#) regarding distribution of funds to non-entitlement units of local government (NEUs). This FAQ supplement includes

several questions answered as part of previous FAQ updates, as well as answers to 12 additional high-priority questions that we received from stakeholders over the course of our engagement since the release of the NEU guidance on May 24.”

- **Use of American Rescue Plan funds on lost revenue:** NLC has prepared information for cities about using this round of stimulus funds for “[lost revenue replacement](#).”

**Reminder:** TML Coronavirus materials are archived by date [here](#) and by subject [here](#).

## **2021 City Tax and Budget Deadline Memos Now Available**

Every year, TML posts a memo containing the annual calendar deadlines for the budget adoption and tax rate setting process. Following the passage of Senate Bill 2 in 2019, the process for adopting a tax rate changed significantly. Because the tax rate adoption procedure varies depending on the size of the city, two memos are available: one for [cities under 30,000 population](#), and the other for [cities with populations of 30,000 or more](#). Further, within each document, there are two sets of deadlines depending on whether the city’s adopted tax rate will exceed the voter-approval tax rate or not. Whatever the case may be, the deadlines in the document represent the last possible dates for a city to take certain actions related to the budget or tax rate in 2021. Cities should act well in advance of the deadlines in the calendar, if possible.

For more detailed information about S.B. 2, city officials are encouraged to read the [S.B. 2 Explanatory Q&A](#) posted on the TML website.

## **Texas Commission on Environmental Quality Proposes Rules to Increase Certain Solid Waste Fees**

The Texas Commission on Environmental Quality (TCEQ) is [proposing rules](#) that would increase the fees it collects for industrial solid waste and hazardous waste generation and management. Specifically, the proposed rulemaking would increase: (1) the management fee schedule by 45%; and (2) the generation fee from \$0.50 to a maximum of \$2.00 per ton for Class 1 nonhazardous waste generators and from \$2.00 to a maximum of \$6.00 per ton for hazardous waste generators.

Based on TCEQ’s data for fiscal year 2020, the proposed fee increases will affect six [governmental entities](#) and 81 waste generators owned or operated by a unit of government. The estimated average increase of the proposed management fees on these facilities would be \$1,616 per facility per year. The estimated average increase of the proposed generation fees on these facilities with Class 1 nonhazardous waste would be \$1,586 per facility per year, and the estimated average increase for hazardous waste would be \$3,529 per facility per year. The methodology used to determine the revenue estimates included averaging agency data from fiscal years 2019 and 2020.

The comment period closes on **July 6, 2021**. Written comments may be submitted to Gwen Ricco, MC 205, Office of Legal Services, Texas Commission on Environmental Quality, P.O. Box 13087, Austin, Texas 78711-3087, or faxed to [fax4808@tceq.texas.gov](mailto:fax4808@tceq.texas.gov). Electronic comments may be submitted at: <https://www6.tceq.texas.gov/rules/ecomments/>. All comments should reference **Rule Project Number 2020-010-335-WS**.

TCEQ will also hold *virtual* public hearings on this proposal on June 29, 2021 at 10:00 a.m. TCEQ staff members will be available to discuss the proposal 30 minutes prior to the virtual hearing via the GoToMeeting Q&A chat function. Individuals must register for the hearing by June 25, 2021. To register for the hearing, you must email [Rules@tceq.texas.gov](mailto:Rules@tceq.texas.gov) and provide the following information: your name, your affiliation, your email address, your phone number, and whether or not you plan to provide oral comments during the hearing.

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