



Legislative UPDATE

June 25, 2021
Number 24

Governor Calls Special Session

On Tuesday, Governor Abbott announced that he will convene a special session starting on July 8, 2021. Agenda items will be announced soon. The governor's press release can be found [here](#).

League Submits Letter to the Governor Urging Request of Federal Stimulus Funds for Small Cities

On June 22, the League submitted [this letter](#) to Governor Abbott encouraging him to formally request nearly \$1.4 billion in federal stimulus dollars earmarked for smaller Texas cities under the federal American Rescue Plan Act of 2021. Under the Act, most cities over 50,000 population received their allocated revenue directly from the federal government, but smaller "non-entitlement units" (typically those under 50,000 population) receive their allocations from the state once the state has requested those funds. As of June 21, Texas [was one of 19 states](#) that has not yet requested its funding for non-entitlement cities.

Once the state formally requests funding for non-entitlement cities, it has 30 days to disburse funding to these cities unless granted an extension by the U.S. Department of Treasury. Much more on these stimulus dollars, including on permissible uses of the funds, can be accessed on the [Treasury's website](#).

City officials with concerns about the status of these funds are encouraged to reach out to their state senators and representatives in order to help expedite the allocation process.

Governor Vetoes Include City-Related Bills

Governor Abbott vetoed twenty bills passed by the legislature during the regular session. Four of the twenty bills were city-related bills described in the League's "wrap-up" Legislative Update on June 11. (Both the pdf and online version of that edition have been updated to reflect vetoed bills.) Those four vetoes are detailed here:

1. **H.B. 1477 (K. Bell/Nichols) – Public Work Contracts:** this bill: (1) defines, for purposes of certain state laws regarding public work performance and payment bonds: (a) a "prime contractor" to include a person who leases any public property, other than a person who leases property from certain river authorities; and (b) a "public work contract" to include work performed on public property owned by a governmental entity or on property leased by a governmental entity to a nongovernmental entity, but does not include certain river authority contracts; and (2) provides that a governmental entity that makes a public work contract with a prime contractor or authorizes a nongovernmental entity leasing public property from the governmental entity to enter into a public work contract with a prime contractor to require the contractor, before beginning the work, to execute to the governmental entity in certain circumstances, a performance bond and a payment bond. (Effective September 1, 2021.)

According to the governor's veto message, the bill "would make the government entity responsible for the prime contractor obtaining a bond to protect subcontractors. If no bond is obtained and the prime contractor does not pay subcontractors, the government entity would be responsible for payment because the bill waives the government entity's sovereign immunity in this situation. Because the government entity may not know who the prime contractor is – or even that there is a contract between the non-governmental entity and a prime contractor – House Bill 1477 could leave the government entity, and taxpayers, on the hook for damages not caused by the government entity.

2. **H.B. 2667 (Smithee/Perry) – Broadband:** this bill: (1) provides that the statewide uniform charge in support of the universal service fund is payable by each provider of Voice over Internet Protocol Service; and (2) defines "high cost rural area" for purposes of the universal service fund as: (a) an area: (i) receiving support from the universal service fund to assist telecommunications providers in providing basic local telecommunications service at reasonable rates in high cost rural areas on December 31, 2020; and (ii) served by a telecommunications provider that is subject to rate regulation;

and (b) any other exchange: (i) receiving support under the Texas High Cost Universal Service Plan or the Small and Rural Incumbent Local Exchange Company Universal Service Plan; and (ii) not excluded by PUC rule based on the number of telecommunications providers serving the exchange, the population density in the exchange, and the number of customers served per route mile of plant in service used to provide basic local telecommunications service served by a small provider. (Effective immediately.)

According to the governor's veto message, "transformational broadband was achieved through multiple bills that have been signed into law, which significantly expand broadband access in Texas, especially in rural areas. Yet the only meaningful change made to the Texas Universal Fund was, in House Bill 2667, to expand the number of people paying fees. It would have imposed a new fee on millions of Texans."

3. **S.B. 281 (Hinojosa/Lucio) – Hypnotically Induced Testimony:** provides that a statement made during or after a hypnotic session by a person who has undergone investigative hypnosis for the purposes of enhancing the person's recollection of an event at issue in a criminal investigation or case 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. (Effective September 1, 2021.)

According to the governor's veto message, "the [House] sponsor added language so that for any person who has undergone investigative hypnosis, all statements that person makes "after" the hypnosis – even ones made long "after" the hypnosis session and unrelated to that session – are barred from being admitted into evidence in any criminal trial. The House sponsor's amendment would grant lifetime immunity, for everyone who undergoes this type of hypnosis, from having any subsequent statements used in a criminal trial.

4. **S.B. 474 (Lucio/Collier) – Unlawful Restraint of Dog:** this bill: (1) prohibits and creates a criminal offense for the unlawful restraint of a dog; and (2) provides that the prohibition in (1) does not preempt a local regulation relating to the restraint of a dog or affect the authority of a political subdivision to adopt or enforce an ordinance or requirement relating to the restraint of a dog if the regulation, ordinance, or requirement: (a) is compatible with and equal to, or more stringent than, the prohibition; or (b) relates to an issue not specifically addressed by the prohibition. (Effective September 1, 2021.)

According to the governor's veto message, "Texans love their dogs, so it is no surprise that our statutes already protect them by outlawing true animal cruelty. Yet Senate Bill 474 would compel every dog owner, on pain of criminal penalties, to monitor things like the tailoring of the dog's collar, the time the dog spends in the bed of a truck, and the ratio of tether-to-dog length, as measured from the tip of the nose to the base of the tail. Texas is no place for this kind of micro-managing and over-criminalization."

Post-Session Update: “Constitutional” or “Permitless” Carry

H.B. 1927, the so-called “constitutional” or “permitless” carry bill, becomes law effective September 1, 2021. The bill, known formally as the “Firearm Carry Act of 2021,” authorizes most Texans over 21 years of age to carry a handgun in a concealed manner or openly in a holster, without the requirement to first obtain a handgun license.

It does so by modifying language in the Texas Penal Code to make it a crime to carry “on or about his or her person a handgun” only if he or she “is younger than 21 years of age” or “has been convicted of, in the five-year period preceding the date the instant offense was committed” certain crimes as outlined in state and federal law. TEX. PENAL CODE § 46.02; 18 U.S.C. § 922(g).

Interestingly, H.B. 1927 does *not* repeal licensed carry. Why leave that bureaucracy in place? At least two reasons: (1) reciprocity – several other states still require a license to carry, and a Texans must have a Texas-issued license to carry to take advantage of that; and (2) ease of purchasing a firearm – license holders get to skip the subsequent background checks. The decision may also be beneficial to employers who want to allow employees to carry, but only if they’ve completed the requirements for a license.

For a full description of the new law, including a discussion of local government facilities where carrying of a handgun is authorized or prohibited, city officials can access the [Cities and Firearms paper](#) on the TML website, along with the [cheat sheet version](#) of the larger paper.

Comptroller Seeks GIS Data for Accurate Sales Tax Allocations

The Comptroller of Public Accounts is currently undertaking a modernization project to create a more efficient system to accurately reflect sales tax allocations across the state. The Comptroller is asking political subdivisions for updated geospatial data (in any GIS compatible format including survey metes and bounds or CAD) for:

1. City boundaries
2. City annexations (including historical ones if available)
3. Extraterritorial Jurisdiction (ETJ) areas
4. Special Purpose Districts – districts that collect sales tax (emergency services, crime control and prevention, fire control, hospital, health services, development, county assistance, improvement, management, library)

If you have this data, you can reply directly to GIS@cpa.texas.gov. From there, a GIS Analyst will contact you, answer any questions, and walk you through the process to securely upload the information. As annexations occur, or boundaries change, assistance with these updates will benefit the community by promptly reflecting the correct sales tax.

COVID-19 Update (No. 191)

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.

- **Federal Pandemic Unemployment Assistance Programs End This Week:** The Texas Workforce Commission (TWC) put out a reminder this week that the State of Texas is ending its participation in the federal pandemic unemployment benefit programs. The final benefit week that the TWC will pay federal pandemic unemployment benefits under the American Rescue Plan is the benefit week ending June 26, 2021. The announcement can be found [here](#).
- **Updated Treasury Department FAQ:** On June 17 and June 23, Treasury updated its Coronavirus State and Local Fiscal Recovery Funds FAQ with questions and answers related to eligibility for recovery funds and eligible uses of recovery funds. The question and answer below may be of particular interest. The entire FAQ can be accessed [here](#).

1.7. In order to receive and use Fiscal Recovery Funds, must a recipient government maintain a declaration of emergency relating to COVID-19? [6/23]

No. Neither the statute establishing the CSFRF/CLFRF nor the Interim Final Rule requires recipients to maintain a local declaration of emergency relating to COVID-19.

- **Treasury Compliance and Reporting Guidance:** Treasury updated its website to include the [Recipient Compliance and Reporting Responsibilities](#) page, which also includes the [Compliance and Reporting Guidance](#).

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

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