

TML LEGISLATIVE UPDATE



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Number 1

TML Seeking Applicants for New Broadband Advisory Committee

The League is seeking applicants to serve on a new TML Broadband Advisory Committee that will be appointed by TML President David Rutledge, Mayor of Bridge City. With so much currently at stake in regard to unprecedented federal funding opportunities, new broadband maps being proposed by federal agencies, and the possibility for harmful state preemption legislation to be filed in this area during the 2023 session, the new Committee will serve the vital function of interacting with League staff this session and perhaps beyond.

The proposed workload of the Committee will essentially be participation in weekly or bi-weekly conference/video calls during the upcoming session. On the calls, League staff will update the Committee on the latest broadband developments, and Committee members can inform staff about local broadband concerns and initiatives.

City officials interested in applying for appointment should email Bennett Sandlin at exec@tml.org by Friday, January 20.

Please include the following information in the application email: (1) name and city office/position; (2) particular concerns of your city regarding broadband (such as, but not limited to, the following: our city currently receives little or no broadband services; broadband isn't adequately or equitably deployed throughout our city; our city wishes to engage in actual broadband projects to either provide city broadband or facilitate private broadband; our city has planned or is currently in the process of a public-private partnership to provide broadband services or facilities to our city; etc.); and (3) does the applicant have particular technical or legal subject matter knowledge in broadband. Specialized knowledge of broadband isn't a prerequisite to serve, but it helps to know that information when trying to form a balanced committee.

Challenges to National Broadband Map Due January 13

The Federal Communications Commission (FCC) [released](#) the [National Broadband Map](#) late last year. The deadline for cities to file challenges to the data is January 13. The [map](#) is the Commission's Fabric dataset and will be the foundation for dispersing broadband funds in the Infrastructure Investment and Jobs Act. Information on how to file challenges can be found on the [comptroller's website](#) or the [FCC website](#).

The map displays where fixed and mobile internet services are available across the United States as of June 30, 2022. The individual points on the map mark the buildings or structures such as a home, apartment building, or small business building, where internet service is, or could be, available.

Texas Comptroller Hegar [asked](#) the FCC to extend the deadline to March 14, however the FCC has not responded to the request. The League will keep the membership updated on any changes to the deadline.

Senate and House Interim Reports Include City-Related Recommendations

Prior to each legislative session, Senate and House committees submit their interim reports in response to the charges they were 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.

The League previously reported on the Senate charges [here](#) and House charges [here](#).

Many committees have released their reports with recommendations that impact Texas cities. Interested city officials can view the reports by clicking on each committee, below.

[Senate Committee on Local Government](#)

[Senate Committee on Finance](#)

[Senate Committee on Health and Human Services](#)

[Senate Committee on Water, Agriculture, and Rural Affairs](#)
[House Committee on Business & Industry](#)
[House Committee on County Affairs](#)
[House Committee on International Relations and Economic Development](#)
[House Committee on State Affairs](#)
[House Committee on Transportation](#)
[House Committee on Urban Affairs](#)

TML Files Shot Clock Comments with Attorney General

The League recently filed comments on [House Bill 3167](#), more commonly known as the development “Shot Clock” legislation. This past November, the House Committee on Resolutions Calendars of the Texas House of Representatives [requested an opinion](#) from the Texas attorney general regarding several aspects of H.B. 3167, including specifically asking the attorney general which local development applications fall under the shot clock. TML filed responsive comments to the request. The comments: (1) focus on the practical hurdles H.B. 3167 introduced, which may not be obvious to individuals unfamiliar with the day-to-day workings of local government; (2) discuss some of the strategies cities have employed to comply in good faith with the bill; and (3) argue that improper application of the bill broadly across the development process could potentially result in the shot clock swallowing the entire development process. A copy of TML’s comments is available [here](#).

The request is still pending with the office of the attorney general. TML will continue to monitor any developments with this and other requests that could affect Texas cities.

2023 SWIFT Abridged Application Period Now Open

The Texas Water Development Board (TWDB) has opened the application period for the 2023 funding cycle of the State Water Implementation Fund for Texas (SWIFT) program. Applications are due by midnight on **February 1, 2023**, and can be submitted by the [TWDB’s online application system](#) or by [paper copy](#).

Projects must be recommended in the [2022 State Water Plan](#) to be eligible for SWIFT program financial assistance. The SWIFT program helps communities develop and optimize water supplies at cost-effective rates. More information on the program can be found [here](#).

Federal Infrastructure Bill Update

In November 2021, the federal Infrastructure Investment and Jobs Act (IIJA) was signed into law. The IIJA is altogether a \$1.2 trillion bill that will invest in the nation’s core infrastructure priorities including roads, bridges, rail, transit, airports, ports, energy transmission, water systems, and broadband. The League will monitor state and federal agencies and work with the

National League of Cities (NLC) to access the latest information relating to the IIJA. We will be providing periodic updates in the Legislative Update on resources for Texas cities on how to access IIJA funding for local infrastructure projects.

U.S. Department of Energy (DOE)

On December 19, 2022, DOE released a Funding Opportunity Announcement for the [Resilient and Efficient Codes Implementation grant program](#), which provides funding to local governments to update to more efficient building energy codes to “save money for American homes and businesses, reduce greenhouse gas emissions, and encourage more resilient buildings.” DOE expects to make a total of \$45 million available for funding through between 10 and 30 separate awards varying between \$500,000 and \$10 million each. Applicants must submit a concept paper by January 31, with the full application being due on March 27. More information about the program, including the application form, can be found [here](#).

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. 1083](#) (Bucy) – Property Tax Freeze: would expand the existing law authorizing cities to adopt a property tax freeze on the residence homestead of individuals who are elderly or disabled and their surviving spouses to all taxing units other than school districts. (See **H.J.R. 68**, below.)

[H.B. 1127](#) (Martinez-Fischer) – Property Tax Installment Payments: would provide that: (1) any individual who qualifies for a residential homestead exemption or disabled veteran exemption may pay off property taxes in ten equal installment payments without penalty or interest if the first installment is paid before the delinquency date and is accompanied by notice to the taxing unit that the person will pay the remaining taxes in nine equal installments; and (2) each of the remaining nine installments must be paid before the first day of each month for each of the nine months following the date on which the first installment is paid.

[H.J.R. 68](#) (Bucy) – Property Tax Freeze: would amend the Texas Constitution to authorize a political subdivision other than a school district to adopt a property tax freeze on the residence homestead of individuals who are elderly or disabled and their surviving spouses. (Note: Cities already have this authority. H.J.R. 68 would expand the authority to additional political subdivisions that levy property taxes.) (See **H.B. 1083**, above.)

Public Safety

[H.B. 1059](#) (Thierry) – Prostitution: would provide that: (1) a child may not be referred to juvenile court for prostitution; (2) a law enforcement officer taking possession of a child suspected of engaging in prostitution shall: (a) use best efforts to deliver the child to the child’s parent or another

person entitled to take possession of the child; (b) in the event the officer cannot find an individual under (a), above, take the child to a local service provider who will facilitate the assignment of a caseworker; or (c) in the event an individual under (a) and (b), above, is unavailable, transfer possession of the child to the Department of Family Protective Services; and (3) a person may not be prosecuted for prostitution that the person committed when younger than 17 years of age.

H.B. 1076 (Neave-Criado) – Peace Officer Licensing: would provide that: (1) a political subdivision, including a city, that commissions and employs peace officers may commission and employ as a peace officer a legal permanent resident of the United States; and (2) the Texas Commission on Law Enforcement (TCOLE) shall issue a peace officer license to a person who is a legal permanent resident of the United States if the person meets the requirements to obtain a license and TCOLE’s rules.

H.B. 1094 (Cunningham) – Disposition of Abandoned or Unclaimed Personal Property: would, among other things, provide that: (1) for purposes of any unclaimed or abandoned personal property, a person designated by the city to dispose of the property may, instead of sending a notice to the last known address of the owner of the property by certified mail, place a one-time notice on the internet website and social networking website of the law enforcement agency that seized the property; and (2) the notice described in (1), above, shall state that if the owner does not claim the property before the 90th day after the date of the notice, the property shall be disposed of, and the proceeds placed in the city treasury.

Sales Tax

S.B. 327 (Hall) – Sales Tax Exemption: would exempt the following emergency preparation items from the sales tax: hand warmer, lantern tool, highway flare, sewing kit, Swiss Army knife, nylon rope, foldable shovel, wrench, pliers, sleeping bag, waterproof matches, and water purifier.

S.B. 333 (Schwertner) – Local Sales Tax Sourcing: would provide that: (1) a location that, under the law in effect on August 31, 2019, was a place of business of the retailer for purposes of certain economic development agreements, entered into by a retailer and a city on or before August 31, 2019, remains a place of business of the retailer for the term of the agreement; and (2) during the term of the agreement, the sale of a taxable item is consummated at that place of business if the sale would have been consummated at that place of business under the law in effect on August 31, 2019.

S.B. 340 (Springer) – Sales Tax Exemption: would exempt child and adult diapers from the sales tax.

S.B. 341 (Springer) – Mixed Beverage Tax: would exclude a nonprofit entity temporary event permittee that sells only wine and malt beverages containing alcohol in excess of one-half of one percent by volume but not more than 17 percent by volume from the definition of “permittee” for purposes of the mixed beverage gross receipts and sales tax so that those permittees are not subject to the taxes.

Community and Economic Development

S.B. 349 (Springer) - Housing Authority: would require any housing authority policy permitting tenant ownership of a pet to comply with all applicable county or municipal restrictions on dangerous dogs imposed under the Health and Safety Code.

Emergency Management

H.B. 1078 (Martinez) – Disaster Identification System: would, among other things, provide that: (1) the Texas Division of Emergency Management may include in its state emergency plan provisions for the use of a disaster identification system; (2) in an area subject to a state of disaster declaration, a person may elect to participate in a disaster identification system activated for that area; (3) the disaster identification system shall authorize the use of a device that is capable of displaying a flashing light and continuous light in either the color white or the colors blue, green, red, and yellow to communicate with disaster relief personnel; and (4) an executive order or proclamation declaring a state of disaster activates for the area subject to the declaration the disaster identification system described above.

Municipal Courts

S.B. 338 (Hinojosa) – 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.

Other Finance and Administration

S.B. 328 (Hall) – Cottage Food: would repeal the prohibition on cottage food production operations selling foods at wholesale.

S.B. 329 (Hall) – Cottage Food: would eliminate the requirement that an individual operating out of the individual’s home would need to have an annual gross income of \$50,000 or less from the sale of certain foods to be considered a “cottage food production operation.” (Companion bill is **H.B. 176** by Goodwin.)

S.B. 331 (Hall) – Cottage Food: would: (1) require the commissioner of state health services to adopt rules requiring a cottage food production operation to include the zip code and telephone number of the cottage food production operation on the label all of the foods that the operation sells; (2) remove the requirement for a cottage food production operation to include the address of the cottage food production operation on the label all of the foods that the operation sells; and (3) repeal the section of law that provides that an operator of a cottage food production operation that sells a cottage food through the Internet or by mail order: (a) is not required to include the address of the operation in the required labeling information before the operator accepts payment for the food; and (b) shall provide the address of the operation on the label of the food in the manner required by state law after the operator accepts payment for the food. (Companion bill is **H.B. 95** by Goodwin.)

Personnel

H.B. 1054 (Turner) – Independent Contractors: would, among other things: (1) require a contractor to properly classify each individual providing construction services as either an employee or an independent contractor in accordance with Texas Workforce Commission (TWC) rules; (2) provide an exception for services performed by an individual in the employ of, among others, a political subdivision or an instrumentality of a political subdivision that is wholly owned by one or more states, political subdivisions, or Indian tribes, provided that the services are excluded from employment in certain circumstances under the Federal Unemployment Tax Act; and (3) provide that if the TWC determines that a contractor has violated (1), above, the TWC shall provide notice of the violation to each governmental entity that the TWC reasonably believes has received construction services provided by the contractor.

H.B. 1126 (Martinez Fischer) – Minimum Wage: would provide that the minimum wage shall be the greater of the current minimum wage (\$7.25 per hour) or the following: (1) \$10 per hour in 2022; (2) \$12.50 per hour in 2023; (3) \$14 per hour in 2024; and (4) \$15 per hour thereafter.

H.B. 1133 (Spiller) – Volunteer Security Services: would, among other things, provide that: (1) a peace officer providing volunteer security services at a place of religious worship or on the premises where an event sponsored by a public school is taking place may: (a) with the consent of the head of the employing or appointing law enforcement agency, wear the uniform of the agency, or (b) wear another uniform or badge that gives the person the appearance of being a peace officer; and (2) the reimbursement or payment of an insurance policy insuring a peace officer who provides volunteer security services for civil liability arising from acts occurring while providing those services is not considered compensation or reimbursement.

Purchasing

H.B. 1132 (Spiller) – Competitive Bidding Thresholds: would, among other things: (1) increase the threshold at which competitive bidding is required for city purchases from \$50,000 to \$100,000; and (2) increase the threshold at which competitive bidding in relation to historically underutilized businesses (HUBs) is required from \$50,000 to \$100,000.

Utilities and Environment

H.B. 1146 (Reynolds) – ERCOT Grid: would, among other things, provide that, so long as the interconnection does not pose a significant and imminent risk to public health and safety, a transmission and distribution utility, municipally owned utility, or electric cooperative that transmits or distributes power purchased at wholesale in the ERCOT power region, may construct, own, and operate facilities as necessary to: (1) access transmission service from outside of the ERCOT power region; and (2) purchase power at wholesale from outside of the ERCOT power region.

S.B. 330 (Hall) – Electric Grid Resilience: would, among other things: (1) prohibit a city from enacting or enforcing an ordinance or other measure that bans, limits, or otherwise regulates inside the boundaries of the extraterritorial jurisdiction of the city a micro-grid that is certified by the Texas Grid Security Commission; and (2) require the Texas Grid Security Commission to establish resilience standards for cities.

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