

TML LEGISLATIVE UPDATE



January 13, 2023
Number 2

88th Texas Legislature Begins

The 88th Legislature gavelled in on Tuesday, January 10. The Texas House of Representatives re-elected Representative Dade Phelan (R – Beaumont) as Speaker of the House by a vote of 143-3, fending off a challenge from Representative Tony Tinderholt (R – Arlington). The Texas Senate selected Senator Kelly Hancock (R – North Richland Hills) as its President Pro Tem.

As the legislature kicks off, TML encourages city officials to stay engaged with their legislators. TML has created an advocacy toolkit to provide resources, tools, and training to help city officials successfully advocate at the Capitol. The toolkit contains information on: (1) the legislative process; (2) a guide to writing an effective advocacy letter; and (3) tips for testifying at the Capitol, amongst other things. The toolkit can be found [here](#).

In addition, 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 your state legislators and if you are willing to communicate with those legislators during session. TML's grassroots approach will be crucial to our efforts.

The GRIP survey can be found [here](#). All city officials are urged to fill out the survey if they haven't done so already.

Comptroller Releases Biennial Revenue Estimate

On Monday, Comptroller Glenn Hegar [released](#) the Biennial Revenue Estimate (BRE) projecting the state to have \$188.2 billion in revenue for general-purpose spending during the 2024-25 biennium – a historic \$32.7 billion budget surplus. A share of the surplus, \$10 billion, is reserved for state or highway funds and some of it will go into the Economic Stabilization Fund, also known as the Rainy Day Fund. The Rainy Day Fund is expected to have a record \$27.1 billion by the end of the 2024-25 biennium.

The projected revenue is more than the Texas Constitution and state law will legally allow the Legislature to spend due to the state's constitutional spending limit. The Legislative Budget Board (LBB) met early last month to set such limit and adopted a 12.3% spending limit which allows about \$12.5 billion more in general revenue spending.

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 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.

Senate Committees Issues Interim Reports

Last week, the League reported on various Senate and House committees that have released 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.

More reports were released this week by Senate committees. Interested city officials can view the reports by clicking on each committee, below.

[Senate Committee on Business and Commerce](#)

[Senate Committee on Natural Resources and Economic Development](#)

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. 1223 (Metcalf) – **Appraisal Cap**: would reduce the property tax appraisal cap on residence homesteads from ten to five percent. (See **H.J.R. 73**, below.)

H.B. 1224 (Metcalf) – **Appraisal Cap**: would expand the application of the ten percent appraisal cap on a residence homestead to all real property. (See **H.J.R. 74**, below.)

H.J.R. 72 (Dean) – **Appraisal Cap**: would authorize the legislature to expand the application of the ten percent appraisal cap on a residence homestead to all real property.

H.J.R. 73 (Metcalf) – **Appraisal Cap**: would amend the Texas Constitution to authorize the legislature to reduce the property tax appraisal cap on residence homesteads from ten to five percent. (See **H.B. 1223**, above.)

H.J.R. 74 (Metcalf) – **Appraisal Cap**: would authorize the legislature to expand the application of the ten percent appraisal cap on a residence homestead to all real property. (See **H.B. 1224**, above.)

Public Safety

H.B. 1152 (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.

H.B. 1178 (Rogers) – Blood Search Warrants: would remove the requirement that a magistrate be an attorney licensed by this state to issue a search warrant to collect a blood specimen from a person who is arrested for certain intoxication offenses.

H.B. 1200 (Reynolds) – Medical Marihuana: would: (1) authorize the possession, use, cultivation, distribution, transportation, and delivery of medical cannabis for medical use by qualifying patients with certain debilitating medical conditions; (2) provide for medical cannabis registry identification cards; (3) authorize the licensing of dispensing organizations and testing facilities; (4) authorize an application fee for licenses to operate a dispensing organization; and (5) prohibit a political subdivision, including a city, from enacting, adopting, or enforcing a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, or possession of medical cannabis.

H.B. 1233 (Gonzalez) – Crime Stoppers Tips: would provide that: (1) a law enforcement agency must acknowledge in its written statement to the attorney representing the state that, among other information, any crime stoppers tips that are required to be disclosed have been disclosed; and (2) a law enforcement agency that receives a tip shall disclose the tip to the attorney representing the state if the agency files a case with the attorney representing the state related to the criminal activity or the conduct described in the tip.

S.B. 357 (Hall) – Peace Officers: would provide, among other things, that a peace officer who receives compensation for private employment as a patrolman, guard, extra job coordinator, or watchman is exempt from certain private security regulations (licensing, continuing education, criminal history check, etc.) if the peace officer is compensated at least at the minimum wage rate by the state or a political subdivision of the state.

Sales Tax

H.B. 1158 (Darby) – Sales Tax Exemption: would, among other things, exempt from the sales tax components of tangible personal property used in connection with the capture, use, reuse, storage, or sequestration of carbon dioxide emissions for the principal purpose of preventing carbon dioxide from entering the atmosphere.

H.B. 1216 (Dean) – Marketplace Seller: would exclude from the definition of “marketplace seller” an affiliate of the marketplace provider.

Community and Economic Development

H.B. 1148 (Rosenthal) – Housing Assistance Regulation: would repeal the provisions in current law that generally prohibit a city or county from adopting or enforcing an ordinance or regulation that prohibits an owner, lessee, sublessee, assignee, managing agent, or other person having the right to lease, sublease, or rent a housing accommodation from refusing to lease or rent the housing

accommodation to a person because the person's lawful source of income to pay rent includes funding from a federal housing assistance program.

H.B. 1159 (Anderson) - 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. (Companion bill is **S.B. 349** by **Campbell**.)

H.B. 1193 (Turner) – Housing Discrimination Prevention: would provide that a property owners' association may not include or enforce a provision in a dedicatory instrument that prohibits or restricts, or has the effect of prohibiting or restricting, a property owner from renting a dwelling to a person based on the person's method of payment.

H.B. 1246 (Craddick) – Automatic Disannexation: would: (1) define "full municipal services" to mean: (a) the provision of: (i) police protection; (ii) fire protection, including fire hydrants; (iii) emergency medical services; and (iv) certain solid waste collection services; and (b) the operation and maintenance of: (i) water and wastewater facilities; (ii) roads and streets including road and street lighting; and (iii) any other facility, building, or service owned by the city; and (2) provide that any area in which the city is not providing or causing the provision of full municipal services is disannexed as of December 31, 2023 unless the city is not currently required to provide full municipal services under a service plan or has entered into a regulatory plan or other written agreement to extend the time for providing or waive provision of full municipal services; (3) provide that should a city fail or refuse to recognize the disannexation of an area under section (2), above, a person owning property located in the area may bring an action against the city to compel disannexation of the portion of the property located in the city and may recover attorney's fees and court costs; and (4) provide that governmental immunity is waived for purposes of section (3), above. (Companion bill is **S.B. 369** by **Campbell**.)

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.

S.B. 367 (Alvarado) – Relocation Assistance Limitation: would provide that a person is not considered to be displaced in connection with an acquisition of real property for purposes of qualifying for relocation assistance if: (1) the person moves or discontinues the person's business, moves personal property, or moves from the person's dwelling as a direct result of code enforcement; and (2) the code enforcement is due to the person's negligence or abandonment of the person's real property.

S.B. 369 (Campbell) – Automatic Disannexation: would: (1) define "full municipal services" to mean: (a) the provision of: (i) police protection; (ii) fire protection, including fire hydrants; (iii) emergency medical services; and (iv) certain solid waste collection services; and (b) the operation and maintenance of: (i) water and wastewater facilities; (ii) roads and streets including road and street lighting; and (iii) any other facility, building, or service owned by the city; and (2) provide that any area in which the city is not providing or causing the provision of full municipal services is disannexed as of December 31, 2023 unless the city is not currently required to provide full

municipal services under a service plan or has entered into a regulatory plan or other written agreement to extend the time for providing or waive provision of full municipal services; (3) provide that should a city fail or refuse to recognize the disannexation of an area under section (2), above, a person owning property located in the area may bring an action against the city to compel disannexation of the portion of the property located in the city and may recover attorney's fees and court costs; and (4) provide that governmental immunity is waived for purposes of section (3), above. (Companion bill is **H.B. 1246** by **Craddick**.)

Elections

H.B. 1160 (Rogers) – **Candidate Qualifications**: would provide that for a person to be eligible to be a candidate for, or elected or appointed to, a public elective office in this state, the person must have paid all child support due and payable by the person unless: (1) the person has made all due payments under a payment plan; or (2) the child support due is being contested or negotiated. (See **H.J.R. 54**, below.)

H.B. 1180 (Paul) – **Mail Ballot Applications**: would, among other things, provide that: (1) an early voting by mail ballot application must be submitted not later than the close of regular business in the early voting clerk's office or 12 noon, whichever is later, on the 15th day before election day; (2) a carrier envelope containing a marked ballot voted by mail must: (a) arrive at the address on the carrier envelope not later than 5 p.m. on the day before election day; (b) be placed for delivery by mail or common or contract carrier on or before the fourth day before election day; and (c) bear a cancellation mark of a common or contract carrier indicating placement for delivery on or before the fourth day before election day; (3) a marked ballot voted by mail that arrives after the prescribed time in (2), above, shall be counted if: (a) the ballot was cast from an address outside the United States; (b) the carrier envelope was placed for delivery before the time the polls are required to be closed on election day; and (c) the ballot arrives at the address on the carrier envelope not later than the fifth day after the date of the election; (4) the early voting clerk shall post notice of each delivery of balloting materials for ballots voted by personal appearance that is to be made before the time for opening the polls on election day; (5) the notice described in (4), above, shall: (a) be posted at the main early voting polling place and on the internet website of the entity conducting the election for at least 24 hours immediately preceding the delivery; (b) include the dates and times that the early voting ballot board will convene to review or count ballots, if that information is known at the time the early voting clerk posts the notice; (6) at least 24 hours before each delivery, the early voting clerk shall notify the county chair of each political party having a nominee on the ballot of the time the delivery is to be made, and such notice must be in writing, by email, or by telephone; (7) the jacket envelopes containing early voting ballots voted by mail may be delivered to the ballot voting board between the end of the 20th day before the last period for early voting by personal appearance and the closing of the polls on election day, or as soon as practicable, at the time or times specified by the presiding judge of the board; (8) the jacket envelopes of early voting ballots voted by mail that are hand delivered in person on election and received by the early voting clerk at or before 3 p.m. on election day shall be delivered to the presiding judge of the early voting ballot board as soon as practicable on election day; (9) the jacket envelopes of early voting ballots voted by mail that are hand delivered in person on election day and received by the early voting clerk after 3 p.m. on election day shall be delivered to the presiding judge of the early voting ballot board at the time overseas mail in ballots are delivered

to the presiding judge; (10) the early voting clerk shall post notice of each delivery of ballot materials described in (7), above, that is made before the time for opening the polls on election day, on the main early voting polling place and on the internet website of the entity conducting the election continuously for 24 hours immediately preceding the delivery; (11) the notice described in (10), above, must include the dates and times that the early voting ballot board will convene to review or count ballots, if that information is known at the time the early voting clerk posts the notice; (12) at least 24 hours before each delivery described in (7), above, the early voting clerk shall notify, in writing, by email, or by telephone, the county chair of each political party having a nominee on the ballot of the time the delivery is made; and (13) not later than 72 hours before the initial date and time that the central counting station begins operations in an election, the central counting station manager shall post notice of the dates and times that the station will operate in the election in the place used for posting notice of meetings of the governing body of and on the internet website of the entity conducting the elections.

H.B. 1208 (Guillen) – Voting: would, among other things, provide that: (1) a child under 18 years of age may accompany the child’s parent to a voting station, and if the child is under 14 years of age, may read or mark the ballot at the direction of the parent; and (2) reading or marking a ballot under (1), above, does not constitute assisting a voter to vote.

H.B. 1210 (Guillen) – May Uniform Election Date: would change the May uniform election dates to: (1) the fourth Tuesday in May in an odd-numbered year; or (2) the fourth Tuesday in May in an even-numbered year, for an election held by a political subdivision other than a county or ordered by the governor. (Note: The fourth Tuesday in May is the same day as the primary runoff election date.)

H.B. 1217 (Swanson) – Temporary Branch: would, among other things: (1) repeal the provision in current law that provides for the days and hours of voting by personal appearance at a temporary branch polling place in certain counties with a population of less than 100,000; and (2) provide for the days and hours of early voting by personal appearance at all temporary branch polling places.

H.J.R. 70 (Rogers) – State Candidate Qualifications: would, among other things, amend the Texas Constitution by providing that for a person to be eligible to be a candidate for, or elected or appointed, to the office of State Senator or Representative, or to be a candidate for or elected to the office of Governor, the person must have paid all child support due and payable by the person unless: (a) the person has made all due payments under a payment plan; or (b) the child support due is being contested or negotiated. (See **H.B. 789** and **H.B. 1160**, above.)

S.B. 359 (Eckhardt) – Preferential Voting: would, among other things, provide that: (1) the governing body of a city or school district may authorize, by majority vote, the use of a preferential voting system for the election of an officer of the city or school district; (2) the system must allow a voter to rank each candidate for an office through a numerical designation from the candidate the voter favors most to the candidate the voter favors least; and (3) a runoff election shall not be held for an office to which preferential voting applies. (Companion bill is **H.B. 259** by **Goodwin**.)

Municipal Courts

S.B. 352 (Zaffirini) – Municipal Court Fines and Costs: would: (1) increase the credit against a fine for time served in jail or laboring in a county jail industries program, workhouse, farm, or improvements and maintenance projects from \$100 to \$150 per day; (2) require a justice or judge to apply any time the defendant was confined in jail or prison while awaiting trial to the defendant's fines and costs; and (3) increase the amount of fines or costs considered to have been discharged for each eight hours of community service performed by a defendant from \$100 to \$150.

Other Finance and Administration

H.B. 1204 (Martinez) – Emergency Services Districts: would: (1) authorize an emergency services district (ESD) to object to the removal of annexed territory by a city if the removal would have the effect of: (a) reducing the level of emergency services provided to the ESD territory inside or outside the annexed area; or (b) reducing ESD revenue to a level that would be insufficient to carry out the ESD's purposes in territory outside the annexed area or require the ESD to increase the tax burden on territory outside the annexed area in order to maintain current services and commitments; and (2) provide that if an ESD objects to the removal of territory under (1), above, the city may not remove the annexed territory from the district.

Personnel

H.B. 1215 (Cook) – Criminal History: would provide, among other things, that: (1) a public employer, including a city, may not, before making an offer of employment to an applicant: (a) obtain criminal history record information relating to the applicant; or (b) ask the applicant to disclose orally or in writing information regarding the applicant's criminal history, if any; (2) before making an offer of employment, a public employer may: (a) notify the applicant for a position that certain criminal convictions disqualify the applicant from consideration for the position under law or the employer's written policy; or (b) include a question on an initial employment application form regarding whether an applicant has been convicted of a criminal offense that would disqualify the applicant from employment under law if the question is limited to offenses that result in disqualification; (3) a public employer may obtain criminal history record information after the public employer has made an offer of employment to an applicant; and (4) the provisions in (1), (2), and (3), above, do not apply to any position with a law enforcement agency for which a Texas Commission on Law Enforcement license is required.

Transportation

H.B. 1156 (Rogers) – Surplus Traffic Safety Equipment: would provide, among other things, that the Texas Department of Transportation and Texas Department of Public Safety may directly donate or sell at a discounted rate surplus traffic and roadwork safety equipment to Texas cities.

Utilities and Environment

H.B. 1194 (Turner) – Oil and Gas: would: (1) provide that the Railroad Commission (RRC) may not grant an application for a permit to drill a new oil or gas well if the proposed well site is located

within 1,500 feet of the property line of a child-care facility, private school, primary or secondary public school, or facility that is owned by a school district and used by students enrolled in that district unless: (a) the RRC holds a public hearing in the county in which the proposed well site is located to receive public comments on whether granting the permit application is in the public interest; and (b) the RRC considers the comments received when determining whether to grant the application; and (2) the bill does not affect the authority of a political subdivision to enact, amend, or enforce an ordinance or other measure related to the drilling of new oil or gas wells.

S.B. 365 (Zaffirini) – Electricity: would provide that an electric utility must provide written notice to each landowner whose property is located within 300 feet of a substation for a transmission line when the utility applies for a certificate of convenience and necessity (CCN) or when the electric utility applies to amend the CCN to construct a transmission line that connects to the utility’s existing transmission facilities to a substation or metering point.

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