



Legislative UPDATE

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Number 29

Round One – Cities down but Not out: TML Speaks Forcefully Against Assault on Cities

The Texas Senate has wasted no time moving the governor and Lt. governor's anti-city agenda forward. The first special session began 11 days ago, and the Senate has passed at least *six* bills that would seriously harm city residents. Those bills would impose taxing and spending limits, grant a property owner veto from development regulations, eliminate annexation, preempt tree and cell phone ordinances, and more. (See detailed information on each in "Significant Floor Actions" elsewhere in this edition.)

Prior to passage by the full Senate, Senate committees held testimony on the bills. The [Senate Business and Commerce Committee](#) met last Saturday to consider numerous preemption bills, including "super-vesting," expedited permitting, trees, and handsfree cell phone ordinances. TML President Mary Dennis, Mayor of Live Oak, testified in favor of compromise tree mitigation fee legislation (H.B. 7) in lieu of complete preemption of city authority (H.B. 70). To see her testimony, which ended in a standing ovation from most of the crowd in the committee room, click [here](#).

The newly-formed [Senate Select Committee on Government Reform](#) also met last Saturday to consider revenue cap and other property tax reforms. League staff testified for over half an hour on the detrimental effects of a revenue cap, with committee members resorting to attacks on the integrity of the League's witness when their substantive arguments fell short. To see that exchange, click [here](#).

The [Senate State Affairs Committee](#) met last Sunday to consider annexation limitations (S.B. 6). League staff and numerous city officials testified about the detrimental affects that annexation restrictions would have on the Texas economy. To see the League testimony, click [here](#).

All these harmful ideas are now in the hands of the Texas House. City officials who oppose any or all of them should contact their House member immediately.

2017 Public Sector Lobby Organization Rankings

This past February, lobby “power rankings” from the longtime [Capitol Inside](#) website were released. Once again, the Texas Municipal League ranked first amongst public sector lobbying organizations. Here’s the entire list in rank order:

1. Texas Municipal League
2. Texas Conference of Urban Counties
3. Combines Law Enforcement Association of Texas
4. Texas Municipal Police Association
5. County Judges and Commissioners Association
6. Texas Association of Counties
7. Texas Association of School Administrators
8. Texas Association of School Boards
9. Texas Classroom Teachers Association
10. Texas American Federation of Teachers
11. Association of Texas Professional Educators
12. Texas District and County Attorneys Association
13. Texas Department of Public Safety Officers Association
14. Texas Public Employees Association

TML Names Legislator of the Week for Special Session

Representative Diego Bernal is the TML Legislator of the Week for the second week of the first called special session. He represents House District 123, which includes San Antonio, Castle Hills, and Balcones Heights.



First elected to the House of Representatives in February 2015, Representative Bernal currently serves as the Vice-Chairman of the House Committee on Public Education and is also a member of the House Urban Affairs Committee. Representative Bernal previously served on the San Antonio City Council, which gives him an understanding of matters that affect cities.

During an Urban Affairs Committee hearing this week, Representative Bernal came to the defense of several city witnesses. One member of the

committee sought to assert the legislature’s “supremacy” over cities. Representative Bernal pointed out that, just because the legislature can preempt cities, that doesn’t mean that it should. To watch his five minute response in defense of city officials, click [here](#).

We hope that city leaders across Texas, and particularly those in Representative Bernal’s district, will express their appreciation to this outstanding leader.

Significant Committee Actions

1H.B. 7 (Phelan), relating to a tree planting credit to offset tree mitigation fees imposed by a municipality. Reported from the House Urban Affairs Committee. As reported, the bill would:

1. a city that imposes a tree mitigation fee for tree removal that is necessary for development or construction on a person’s property must allow that person to apply for a credit for tree planting under this section to offset the amount of the fee.
2. an application for a credit under (1), above, must be in the form and manner prescribed by the city.
3. to qualify for a credit under the bill, a tree must be: (a) planted on property for which the tree mitigation fee was assessed or mutually agreed upon by the city and the person planting the tree; and (b) at least two inches in diameter at the point on the trunk 4.5 feet above ground.
4. for purposes of determining a mutually agreed upon planting location, the city and the person planting the tree may consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science-based benefits of trees and other reforestation needs of the city.
5. the amount of a credit provided to a person under the bill must be: (a) applied in the same manner as the tree mitigation fee assessed against the person; and (b) at least 50 percent of the amount of the tree mitigation fee assessed against the person.
6. as long as the municipality meets the requirement to provide a person a credit under (1), above, the bill does not affect the ability of or require a city to determine: (a) the size, number, and type of trees that must be planted to receive a credit under the bill, except as provided by (3)(b), above; (b) the requirements for tree removal and corresponding tree mitigation fees, if applicable; or (c) the requirements for tree planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity.
7. the bill does not apply to property within five miles of a federal military base in active use as of September 1, 2017.

1H.B. 111 (Murphy), relating to general obligation bonds issued by political subdivisions. Reported from the House Committee on Investments and Financial Services. As reported, the bill would: (1) require a political subdivision to include any sample ballot prepared for a general obligation bond election to be prominently posted on the political subdivision’s website during the 21 days before the election along with the election order, notice of the election, and contents of the proposition, if the political subdivision maintains a website; (2) provide that at an election at which a political subdivision submits a proposition to the voters to approve the issuance of general obligation bonds, the entity that establishes early voting polling places may not establish

the polling places with the intent to affect the outcome of the election; (3) provide that a political subdivision may not issue general obligation bonds to purchase, improve, or construct improvements or to purchase personal property if the weighted average maturity of the issue of bonds to finance the improvements or personal property exceeds 120 percent of the reasonably expected weighted average economic life of the improvements or personal property financed with the issue of bonds; (4) provide that a political subdivision may use the unspent proceeds of issued general obligation bonds only: (a) for the specific purpose for which the bonds were authorized; (b) to retire the bonds; or (c) for a purpose other than the specific purpose for which the bonds were authorized if: (i) the specific purpose is accomplished or abandoned; and (ii) a majority of the votes cast in an election held in the political subdivision approve the use of the proceeds for the proposed purpose; (5) require the election order and the notice of the election for an election authorized to be held under (4)(c) to state the proposed purpose for which the bond proceeds are to be used; and (6) require a political subdivision to hold the election under (4)(c) in the same manner as an election to issue bonds in the political subdivision.

Significant Floor Actions

**Note: Because of the haste with which Senate Committees considered and voted out bills (in spite of significant opposition testimony), and how quickly the Senate approved those bills, there are no Senate bills in the “Significant Committee Actions” section in this editon. City officials concerned with the bills below should focus their efforts on the Texas House.*

1S.B. 1 (Bettencourt), relating to ad valorem taxation. Passed the Senate. As passed, the bill would, of primary importance to cities:

1. adjust the property tax rollback rate in the following ways: (a) define “small taxing unit” means a taxing unit, other than a school district, for which the sum of property tax proposed to be collected for the tax year and sales and use tax projected to be received from the state comptroller during the fiscal period is \$20 million or less; (b) maintain an eight percent rollback rate for all small taxing units (However, see Sections 2 and 3, below); (c) for a taxing unit other than a small taxing unit, provide for a rollback rate of four percent; and (d) provide that the governing body of a taxing unit other than a small taxing unit may direct the designated officer or employee to calculate the rollback tax rate of the unit in the manner provided for a small taxing unit if any part of the unit is located in an area declared a disaster area during the current tax year by the governor or by the president of the United States;
2. provide that any adopted rate of a taxing unit exceeding the applicable rollback rate would subject the taxing unit to an automatic rollback election held on the November uniform election date in the applicable tax year, at which the voters would determine whether or not to reduce the tax rate adopted for the current year to the rollback rate;
3. require all small taxing units to hold an election on the May uniform election date in 2018 for the purpose of allowing the voters in the taxing unit to determine whether the law governing a taxing unit other than a small taxing unit (four percent rollback rate plus automatic rollback elections) shall apply to the taxing unit; and

4. make numerous calendar changes to the property tax appraisal, collection, and rate-setting process in order to have property tax rollback elections for taxing units other than small taxing units on the November uniform election date.

1S.B. 3 (Kolkhorst), relating to the regulation of certain facilities and activities of political subdivisions. Passed the Senate. This is the “bathroom bill.” As passed, it would provide – among other things – that each multiple-occupancy restroom, shower, and changing facility of a political subdivision, must be designated for and used only by persons of the same sex as stated on a person’s birth certificate or driver’s license, personal identification certificate, or license to carry a handgun, issued to the person by the Department of Public Safety of the State of Texas.

1S.B. 6 (Campbell), relating to municipal annexation. Passed the Senate. As passed, this bill would completely rewrite the Municipal Annexation Act to severely curtail the ability of cities to annex property. Generally, the bill would provide that:

1. A “Tier 1 county” means a county with a population of less than 125,000.
2. A “Tier 2 county” means a county with a population of 125,000 or more.
3. A “Tier 1 municipality” means a municipality wholly located in one or more tier 1 counties that proposes to annex an area wholly located in one or more tier 1 counties.
4. A “Tier 2 municipality” means a municipality: (a) wholly or partly located in a tier 2 county; or (b) wholly located in one or more tier 1 counties that proposes to annex an area wholly or partly located in a tier 2 county.
5. A tier 2 municipality is authorized to annex an area with a population of 200 or more only if the following conditions are met, as applicable: (a) the city holds an election in the area proposed to be annexed at which the qualified voters of the area may vote on the question of the annexation and a majority of the votes received at the election approve the annexation; and (b) if the registered voters of the area do not own more than 50 percent of the land in the area, the city obtains consent to annex the area through a petition signed by more than 50 percent of the owners of land in the area.
6. A tier 2 municipality may annex an area with a population of less than 200 only if the city obtains consent to annex the area through a petition signed by more than 50 percent of the registered voters of the area, or if the voters don’t own more than 50 percent of the land in the area, the petition must be signed by the owners of more than 50 percent of the land in the area.
7. A city may annex for full or limited purposes any part of the area located within one-half mile of the boundaries of a military base in which an active training program is conducted only if the city and the military base enter into a memorandum of agreement to establish provisions to maintain the compatibility of the city’s regulation of land in the area with the military base operations following the annexation.

1S.B. 7 (Hughes), relating to payroll deductions for state and local government employee organizations. Passed the Senate. As passed, the bill would: (1) prohibit the state or a political subdivision of the state from deducting or withholding from an employee’s salary or wages payment of dues or membership fees to a labor organization or other similar entity, including a trade union, labor union, employees’ association, or professional organization; and (2) except from the prohibition in (1) certain fire, police, and emergency medical services personnel.

1S.B. 13 (Burton), relating to the issuance of a permit by a political subdivision. Passed the Senate. This bill mandates an expedited permitting process for city permits. As passed, the bill would - among many other things, provide that:

1. Not later than the 30th day after the date an application for a permit is submitted, the city must: (a) grant or make a preliminary determination to deny the permit; (b) provide written notice to the applicant stating the reasons why the city has been unable to act on the permit application; or (3) reach a written agreement with the applicant providing for a deadline not later than the 120th day after the date the application was submitted for granting or denying the permit;
2. For a permit application for which notice is provided under (1)(b), above, the city must grant or make a preliminary determination to deny the permit not later than the 15th day after the date the notice is received.
3. A city may not extend the period for the city to act on an application under the bill more than once.
4. If a city fails to act on a permit application within the period required by (2), above, or by an agreement, the permit application is considered approved and the city: (a) may not collect any permit fees associated with the application; and (b) shall refund to the applicant any permit fees associated with the application that have been collected.
5. If a city makes a preliminary determination to deny a permit application, the city must send written notice of the determination to the applicant not later than the first business day after the date the determination is made stating: (a) each application deficiency that is a reason for the determination, including a citation to the specific ordinance, order, regulation, or policy relevant to the determination; (b) the specific actions required by the applicant to remedy each specified deficiency; and (b) a deadline not earlier than the 30th day after the date the notice is sent for the applicant to complete the remedial actions specified in the notice before the denial becomes final.
6. If an applicant substantially completes the remedial actions specified in the notice under (5), above, within the period required, the applicant may request reconsideration of the determination.
7. The city shall grant the permit if the city determines the applicant has substantially completed the specified remedial actions.

1S.B. 14 (Hall), relating to property owner's right to remove a tree or vegetation. Passed the Senate. As passed, the bill would provide that: (1) a city may not enact or enforce any ordinance, rule, or other regulation that restricts the ability of a property owner of residential real property to remove a tree or vegetation on the owner's property, including a regulation that requires the owner to file an affidavit or notice before removing the tree or vegetation; (2) a city can continue to enforce an ordinance related to high grass or weed removal for the purpose of fire prevention; and (3) the bill does not prevent the enforcement of: (i) certain deed restrictions by certain cities; (ii) an ordinance, rule, or other regulation designed to mitigate tree-borne diseases as recommended by the Texas A&M Forest Service; or (iii) an ordinance, rule, or other regulation applicable to a person who owns a tract of land that subdivides the property for purposes of developing it to sell as residential.

First Special Session – City-Related Bills Filed

**Note: Some of the bills listed here also appear in other sections (such as “Significant Floor Actions” and “Significant Committee Actions”) because of the speed at which the Senate moved through its process.*

Property Tax

1H.B. 5 (D. Bonnen) – Appraisal Cap: would provide that an appraisal office may increase the appraised value of a parcel of commercial or industrial real property for a tax year to an amount not to exceed the lesser of: (1) the market value of the property for the most recent tax year that the market value was determined by the appraisal office; or (2) the sum of: (a) 20 percent of the appraised value of the property for the preceding tax year; (b) the appraised value of the property for the preceding tax year; and (c) the market value of all new improvements to the property.

1H.B. 220 (Shaheen) – Revenue Cap: would make numerous changes to the process for calculating and adopting property tax rates. Of primary importance to cities, the bill would adjust the property tax rollback rate in the following ways:

1. define “small taxing unit” as a taxing unit other than a school district for which the maintenance and operations tax rate proposed for the current tax year is: (a) two cents per \$100 of taxable value; or (b) would impose taxes of \$10 million or less when applied to the current total value for the taxing unit;
2. maintain an eight percent rollback rate for all small taxing units;
3. for a taxing unit other than a small taxing unit, provide for a rollback rate of five percent;
4. provide that any adopted rate of a taxing unit other than a small taxing unit exceeding the rollback rate would subject the taxing unit to an automatic rollback election to be held not less than 30 or more than 90 days after the day on which it adopted the tax rate, at which the voters would determine whether or not to reduce the tax rate adopted for the current year to the rollback rate; and
5. provide that the governing body of a taxing unit other than a small taxing unit may direct the designated officer or employee to calculate the rollback tax rate of the unit in the manner provided for a small taxing unit if any part of the unit is located in an area declared a disaster area during the current tax year by the governor or by the president of the United States.

(See **1H.J.R. 2**, below.)

1H.B. 223 (Nichols) – Property Tax Appraisal: would provide that land used principally as an ecological laboratory by a public or private college or university does not qualify for appraisal as qualified open-space land unless the land was appraised as qualified open-space land on the basis of that use for the 2017 tax year. (Companion bill is **1S.B. 78** by **Nichols**.)

1H.B. 239 (Capriglione) – Property Tax Exemption: would: (1) exempt from property taxation precious metal that is held in the Texas Bullion Depository regardless of whether the

precious metal is held or used by the person for the production of income; and (2) prohibit the governing body of a taxing unit from providing for the taxation of precious metal exempted from taxation under (1). (See **1H.J.R. 38**, below.)

1H.B. 249 (Phillips) – Property Tax Exemption: would provide that, if a change is made in the use of land appraised as qualified open-space land, an additional tax is imposed on land equal to the difference between the taxes imposed on the land for each of the three years preceding the year in which the change of use occurred, plus interest at an annual rate of five percent calculated from the dates on which the differences would have become due.

1H.B. 251 (Phillips) – Property Tax Appraisal: would define “wildlife management” for purposes of a property tax appraisal as actively using land in specific ways in accordance with standards developed by the Parks and Wildlife Department and the comptroller.

1H.B. 261 (Neave) – Property Tax Limitation: would provide that: (1) for a residence homestead that is located in an area declared by the governor to be a disaster area following a natural disaster and rendered uninhabitable or unusable as a result of the disaster, a taxing unit may not increase the total amount of property taxes the taxing unit imposes on a residence homestead above the amount of the taxes the taxing unit imposed on the residence homestead for the tax year in which the residence homestead was rendered uninhabitable; and (2) the limitation described in (1): (a) takes effect on January 1 of the first tax year following the tax year in which the natural disaster that renders the residence homestead uninhabitable or unusable occurs; and (b) expires on January 1 of the earlier of the first tax year: (i) following the tax year in which the fifth anniversary of the natural disaster occurs; or (ii) in which the property no longer qualifies as the property owner or surviving spouse’s residence homestead. (See **1H.J.R. 40**, below.)

1H.B. 266 (Munoz) – Appraisal District: would, among other things, provide that: (1) an appraisal district is governed by a board of five directors; (2) one director is elected from each of the four commissioners precincts of the county for which the appraisal district is established; (3) the county assessor-collector is a director by virtue of the person’s office; (4) if the county assessor-collector is ineligible to serve pursuant to a contract, the appraisal district is governed by the four directors elected from the commissioners precincts and a director elected from the county at large; and (5) the directors other than the county assessor-collector are elected at the general election for state and county officers and serve two-year terms beginning on January 1 of odd-numbered years.

1H.B. 298 (Cosper) – Appraisal Cap: would: (1) impose a seven percent appraisal cap on the appraised value of a residence homestead; and (2) provide that an appraisal office may increase the appraised value of real property other than a homestead for a tax year to an amount not to exceed the lesser of: (1) the market value of the property for the most recent tax year that the market value was determined by the appraisal office; or (2) the sum of: (a) 20 percent of the appraised value of the property for the preceding tax year; (b) the appraised value of the property for the preceding tax year; and (c) the market value of all new improvements to the property. (See **1H.J.R. 43**, below.)

1H.B. 299 (Metcalf) – Appraisal Review Boards: would, among other things, provide: (1) that an appraisal review board consists of five members elected by the voters of the county in which the appraisal district is established at the general election for state and county officers; and (2) that the members of the appraisal review board serve two-year terms beginning on January 1st of odd-numbered years.

1H.B. 314 (Gervin-Hawkins) – Property Tax Exemption: would provide that an eligible peace officer is entitled to a property tax exemption for the total appraised value of the officer's residence homestead if the residence homestead is located in a qualified high crime area. (See **1H.J.R. 44**, below.)

1H.J.R. 2 (D. Bonnen) – Appraisal Cap: would propose an amendment to the Texas Constitution to authorize the legislature by general law to limit the maximum appraised value of a parcel of commercial or industrial real property for a tax year to an amount not to exceed the lesser of: (1) the most recent market value of the property as determined by the appraisal entity; or (2) 120 percent, or a greater percentage, of the appraised value of the property for the preceding tax year of the appraised value of the property for the preceding tax year. (See **1H.B. 5**, above.)

1H.J.R. 35 (D. Bonnen) – Appraisal Cap: would propose an amendment to the Texas Constitution to authorize the legislature by general law to limit the maximum appraised value of a parcel of commercial or industrial real property for a tax year to an amount not to exceed the lesser of: (1) the most recent market value of the property as determined by the appraisal entity; or (2) 120 percent, or a greater percentage, of the appraised value of the property for the preceding tax year of the appraised value of the property for the preceding tax year.

1H.J.R. 38 (Capriglione) – Property Tax Exemption: would amend the Texas Constitution to authorize the legislature to exempt from property taxation precious metal held in the Texas Bullion Depository.

1H.J.R. 40 (Neave) – Property Tax Limitation: would propose an amendment to the Texas Constitution to provide that for a temporary period following a natural disaster the total amount of property taxes imposed on a residence homestead by a political subdivision may not exceed the amount of taxes the political subdivision imposed on the property in the year in which the property was rendered uninhabitable or unusable as a result of the disaster. (See **1H.B. 261**, above.)

1H.J.R. 43 (Casper) – Appraisal Cap: would propose an amendment to the Texas Constitution to authorize the legislature, by general law, to: (1) impose a seven percent appraisal cap on the appraised value of a residence homestead; and (2) limit the maximum appraised value of a parcel of real property for a tax year to an amount not to exceed the lesser of: (a) the most recent market value of the property as determined by the appraisal entity; or (2) 120 percent, or a greater percentage, of the appraised value of the property for the preceding tax year of the appraised value of the property for the preceding tax year.. (See **1H.B. 298**, above.)

1H.J.R. 44 (Gervin-Hawkins) – Property Tax Exemption: would propose an amendment to the Texas Constitution to provide that an eligible peace officer is entitled to a property tax exemption for the total appraised value of the officer’s residence homestead if the residence homestead is located in a qualified high crime area. (See **1H.B. 314**, above.)

Sales Tax

1H.B. 244 (Fallon) – Sales Tax Exemption: would exempt from sales taxes a taxable item sold, leased, or rented within the boundaries of a United States military installation to a person who is a member of the United States armed forces on active duty if the sale, lease, or rental is made by a seller physically located at the installation.

1H.B. 301 (Krause) – Sales Tax Substitute for Property Tax: would authorize a city that, before June 30 of each year, adopts an ordinance or order providing that the city will not impose a property tax to adopt an ordinance to adopt, increase, reduce, or abolish a supplemental sales tax that acts as a substitute for the lost property tax revenue at any rate necessary to generate an equivalent amount of revenue as was being received when the property tax was in effect.

Elections

1H.B. 267 (Fallon) – Early Voting at Temporary Branch Polling Place: would provide that: (1) in an election in which the authority ordering the election has established at least five temporary branch polling places in the territory served by the early voting clerk, early voting by personal appearance at no less than 80 percent of the temporary branch polling places shall be conducted on the same days and during the same hours as voting is conducted at the main early voting polling place; (2) for all other elections, early voting by personal appearance at a temporary branch polling place may be conducted on any one or more days and during any hours of the period for early voting by personal appearance, as determined by the authority establishing the branch; and (3) the authority authorized to order early voting on a Saturday or Sunday may order such voting at any temporary branch polling place that is not required to conduct voting on the same days and during the same hours as voting is conducted at the main early voting polling place under (2).

1H.B. 269 (Fallon) – Cell Phones: would provide that: (1) a person may not use any mechanical or electronic means to take photographs, take video, or record sound within 100 feet of a voting station; and (2) a person may use the person’s mobile phone to access information.

1H.B. 279 (Reynolds) – Voter Identification: would, among other things, provide that a voter must present only a voter registration certificate in order to vote, rather than any form of photo identification.

1H.B. 294 (Fallon) – Early Voting: would: (1) shorten the period for early voting by personal appearance on the November uniform election date to the 10th day before election day through the fourth day before election day, except as otherwise provided by state law; (2) for an election

ordered by a city, reduce the time that early voting by personal appearance at the main early voting place must be conducted to at least 12 hours on only one weekday (instead of 12 hours on two weekdays under certain circumstances); and (3) provide that the authority ordering an election may order early voting by personal appearance at the main early voting polling place to be conducted on a Saturday or Sunday during the early voting period.

1S.B. 88 (Huffines) – Voting by Non-Citizens: would increase the criminal punishment for conviction for a false statement on a voter registration application or illegal voting if the crime was committed by a person who is not a citizen of the United States.

1S.B. 99 (Miles) – Election Cybersecurity: would provide that: (1) in conducting a study regarding cyber attacks on election infrastructure, the secretary of state shall consult with county election officials, local law enforcement officials, and federal law enforcement officials; and (2) a county clerk shall report any cyber attack or attempted cyber attack on a county’s voting system to the secretary of state not later than 48 hours after the discovery of the attack or attempted attack.

1S.B. 101 (Menendez) – Voter Registration: would provide that: (1) voter registration information released to a person by the voter registrar may not include: (a) a voter’s social security number; or (b) the residence address of a voter who is a federal or state judge, if the voter has submitted the requisite affidavit; (2) a registrar may only furnish information from the voter registration list that is public information subject to required disclosure under the Texas Public Information Act, another law, or subpoena; and (3) the secretary of state may only furnish information from the statewide computerized voter registration list that is public information subject to required disclosure under the Texas Public Information Act, another law, or subpoena.

Other Finance and Administration

1H.B. 14 (Springer) – Abortion Providers: would, with limited exceptions, prohibit a governmental entity from entering into a taxpayer resource transaction or contract with an abortion provider or an affiliate of an abortion provider. (Companion bills are **1S.B.4** and **1S.B. 77** by **Schwertner**.)

1H.B. 245 (Fallon) – Term Limits: would authorize the governing body of a general law city to order an election to impose, amend, or repeal a limit on the number of terms of service a member of the governing body may serve.

1H.J.R. 37 (Larson) – Term Limits: would amend the Texas Constitution to provide that: (1) the legislature by general law shall require a political subdivision of this state that is governed by one or more elected officers to establish a limit on the number of terms a person may be elected to serve in an office of the political subdivision to ensure that a person may not serve longer than 12 years in an office; and (2) an officer who has been elected to serve for the maximum number of terms established by the political subdivision under (1) is not eligible for election to serve an additional term of that office.

1S.B. 3 (Kolkhorst) – Local Government Bathrooms: would: (1) provide that each multiple-occupancy restroom, shower, and changing facility of a political subdivision or an open-enrollment charter school must be designated for and used only by persons of the same sex as stated on the person’s birth certificate; and (2) except in accordance with federal law, as enacted by Congress and interpreted in controlling federal case law, and state law, as enacted by the legislature and interpreted in controlling case law of this state, prohibit a political subdivision or an open-enrollment charter school from adopting an order, ordinance, policy, or other measure to protect a class of persons from discrimination to the extent that the order, ordinance, policy, or measure regulates: (a) access to multiple-occupancy restrooms, showers, or changing facilities; or (b) participation in athletic activities; and (3) authorize the attorney general to enforce the requirement in (1) and the prohibition in (2) through mandamus or injunctive relief, and allow the attorney general to recover costs and attorney’s fees. (Note: This bill has passed the Senate – see “Significant Floor Actions” elsewhere in this edition.)

1S.B. 91 (Kolkhorst) – Local Government Bathrooms: would: (1) provide that each multiple-occupancy restroom, shower, and changing facility of a political subdivision or an open-enrollment charter school must be designated for and used only by persons of the same sex as stated on the person’s birth certificate; (2) except in accordance with federal and state law, prohibit a political subdivision or open-enrollment charter school from adopting an order, ordinance, policy, or other measure to protect a class of persons from discrimination to the extent the order, ordinance, policy, or measure regulates: (a) access to multiple-occupancy restrooms, showers, or changing facilities; or (b) participation in athletic activities; and (3) authorize the attorney general to enforce the requirement in (1) and prohibition in (2) through mandamus or injunctive relief, and allow the attorney general to recover costs and attorney’s fees.

Community and Economic Development

1H.B. 7 (Phelan) – Tree Mitigation Fees: would provide that:

1. a city that imposes a tree mitigation fee for tree removal that is necessary for development or construction on a person’s property must allow that person to apply for a credit for tree planting under this section to offset the amount of the fee.
2. an application for a credit under (1), above, must be in the form and manner prescribed by the city.
3. to qualify for a credit under the bill, a tree must be: (a) planted on property for which the tree mitigation fee was assessed or mutually agreed upon by the city and the person planting the tree; and (b) at least two inches in diameter at the point on the trunk 4.5 feet above ground.
4. for purposes of determining a mutually agreed upon planting location, the city and the person planting the tree may consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science-based benefits of trees and other reforestation needs of the city.
5. the amount of a credit provided to a person under the bill must be: (a) applied in the same manner as the tree mitigation fee assessed against the person; and (b) at least 50 percent of the amount of the tree mitigation fee assessed against the person.

6. as long as the municipality meets the requirement to provide a person a credit under (1), above, the bill does not affect the ability of or require a city to determine: (a) the size, number, and type of trees that must be planted to receive a credit under the bill, except as provided by (3)(b), above; (b) the requirements for tree removal and corresponding tree mitigation fees, if applicable; or (c) the requirements for tree planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity.
7. the bill does not apply to property within five miles of a federal military base in active use as of September 1, 2017.

(Companion bill is **S.B. 107** by **Kolkhorst**.) (Note: This bill has been reported from a House committee – see “Significant Committee Actions” elsewhere in this edition.)

1H.B. 293 (J. Johnson) – Group Homes: would: (1) prohibit a person from establishing or operating a group home for recovering substance abusers unless the person holds a license issued by the Health and Human Services Commission (HHSC); (2) authorize HHSC to adopt rules and fees related to licensing a group home for recovering substance abusers; and (3) provide that the prohibition in (1) does not apply to: (a) certain persons with other types of licenses or exempt from licensing; (b) a hotel; (c) a retirement community; (d) a monastery or convent; (e) certain child-care facilities; (f) family violence shelter centers; or (g) a sorority, fraternity, or any other dormitory associated with an institution of higher education.

1H.B. 308 (Bell) – Eminent Domain: would provide, among other things, that: (1) after making a bona fide offer, an entity with eminent domain authority shall disclose to the property owner any new, amended, or updated appraisal report produced or acquired by or on behalf of the entity after making the offer and used in determining the entity’s opinion of value; (2) a disclosure required by (1) must be made not later than the earlier of: (a) the 10th day after the date the entity receives the appraisal report; or (b) the third business day before the date of a special commissioner’s hearing if the appraisal report is to be used at the hearing; (3) a court shall dismiss a condemnation proceeding unless the entity that files a petition proves to the court that the entity has not violated legal procedural requirements; and (4) a court that grants a motion to dismiss shall make an allowance to the property owner for reasonable and necessary fees for attorneys, appraisers, and photographers and for the other expenses incurred by the property owner to the date of the hearing.

1H.J.R. 41 (Uresti) – Annexation/Taxation: would propose an amendment to the Texas Constitution that would apply only to the ad valorem taxation by a city of property located in an area that is first included in the corporate boundaries on or after January 1, 2019, and provide that the tax is phased in over a four-year period.

1S.B. 83 (Bettencourt) – Annexation/Extraterritorial Jurisdiction: would provide that: (1) a home rule city shall make publicly available a digital map (in addition to a paper map under current law) reflecting annexations and extraterritorial jurisdiction (ETJ) changes; (2) a city, before the 90th day after the date it adopts or amends an annexation plan, shall give written notice with certain provisions to each property owner in any area that would be newly included in the city’s extraterritorial jurisdiction as a result of the proposed annexation; (3) a home rule city, before the 90th day after the date it adopts or amends an annexation plan, shall create and make publicly available a digital map that identifies the area proposed for annexation and any

area that would be newly included in the city's ETJ as a result of the proposed annexation; (4) in addition to publishing notice of annexation hearings in a newspaper of general circulation in the city and area to be annexed, the notice must be published in a newspaper of publish notice of the hearings in a newspaper of general circulation in any area that would be newly included in the city's ETJ resulting from the proposed annexation; and (5) if applicable, the notice for each annexation hearing must include: (a) a statement that the completed annexation of the area will expand the city's ETJ; (b) a description of the area that would be newly included in the city's ETJ; (c) a statement of the purpose of ETJ designation; and (d) a list of municipal ordinances that would be applicable in the area that would be newly included in the city's ETJ; and (6) in addition to the notice requirements for a plan-exempt annexation, a home rule city, before it may institute annexation proceedings, shall create and make publicly available a digital map that identifies the area proposed for annexation and any area that would be newly included in the city's ETJ as a result of the proposed annexation.

1S.B. 86 (Campbell) – Tree Ordinance Preemption: would provide, among other things, that: (1) a city may not regulate the trimming or removal of trees or timber in the extraterritorial jurisdiction of the city; and (2) the bill does not apply to the trimming or removal of a tree in the easement or right-of-way of a pipeline or utility line.

1S.B. 98 (V. Taylor) – Chickens: would provide that: (1) a political subdivision may not impose a requirement that prohibits an individual from raising or keeping six or fewer chickens in the boundaries of the political subdivision; (2) a city may impose reasonable requirements on the raising or keeping of poultry that do not have the effect of prohibiting the raising or keeping of six or fewer chickens, including: (a) a limit on the number of chickens an individual may raise or keep in excess of six; (b) a prohibition on breeding poultry; (c) a prohibition on raising or keeping roosters; or (d) the minimum distance an individual must maintain between a chicken coop and a residential structure; and (3) a requirement adopted by a political subdivision that violates the prohibition in (1) is void.

1S.B.104 (Uresti) – Annexation: would completely rewrite the Municipal Annexation Act in essentially the same way as 1.S.B. 6 (Campbell) to severely curtail the ability of cities to annex property, but with two less burdensome provisions. Generally, the bill would provide that:

1. A "Tier 1 county" means a county with a population of less than 500,000.
2. A "Tier 2 county" means a county with a population of 500,000 or more.
3. A "Tier 1 municipality" means a municipality wholly located in one or more tier 1 counties that proposes to annex an area wholly located in one or more tier 1 counties.
4. A "Tier 2 municipality" means a municipality: (a) wholly or partly located in a tier 2 county; or (b) wholly located in one or more tier 1 counties that proposes to annex an area wholly or partly located in a tier 2 county.

The two provisions that differ from 1S.B. 6 would provide that:

1. A new subchapter C-5 of the Local is created that applies only to a tier 2 municipality and authorizes the annexation of an area with a population of 200 or more only if the following conditions are met, as applicable: (a) the city holds an election in the area

proposed to be annexed at which the qualified voters of the area *and the city* may vote on the question of the annexation and a majority of the votes received at the election approve the annexation

2. A city may annex any part of the area located within five miles of the boundaries of a military base under the requirements applicable to a tier 1 municipality.

Personnel

1S.B. 94 (Hughes) – Labor Organizations/Payroll Deductions: would: (1) prohibit the state or a political subdivision of the state from deducting or withholding from an employee’s salary or wages payment of dues or membership fees to a labor organization or other similar entity, including a trade union, labor union, employees’ association, or professional organization; and (2) except from the prohibition in (1) certain fire, police, and emergency medical services personnel. (Companion bill is **1H.B. 156** by Isaac.)

Public Safety

1H.B. 235 (Fallon) – Red Light Cameras: would provide that the county assessor-collector or the Texas Department of Motor Vehicles may not refuse to register a motor vehicle solely because the owner of the motor vehicle is delinquent in the payment of a civil penalty resulting from a violation detected by a photographic traffic signal enforcement system.

1H.B. 240 (S. Thompson) – Drug Offenses: would provide that the offense of possession of a Penalty Group 1 controlled substance must be a usable quantity of more than 0.02 grams but less than one gram. (Note: current law provides that it is an offense to possess less than one gram.)

1H.B. 241 (S. Thompson) – Drug Offenses: would reduce the penalty for possession of a small amount of certain controlled substances from a state jail felony to a class A misdemeanor.

1H.B. 280 (Fallon) – Driver’s License: would provide that a voter registration certification is not satisfactory proof of authorization to be in the United States for purposes of obtaining a driver’s license.

1H.B. 296 (Stickland) – Handguns: would provide, among many other things and with certain exceptions, that a person who is not otherwise prohibited by law may, without a license, openly carry a handgun.

1H.B. 316 (Dutton) – Juveniles: would modify the age of criminal responsibility in various statutes.

1H.B. 317 (Uresti) – Immigration Enforcement: would repeal most of the provisions from S.B. 4 (the so-called “sanctuary cities” bill) from the 2017 regular session.

Transportation

1H.B. 221 (Pickett) – Overweight Vehicles: would make various changes to the certain laws related to overweight vehicles, including automobile transport backhauls, emergency vehicles, boat transporters, and others.

1H.B. 250 (Fallon) – Injury of Protestor: would provide that a person operating a motor vehicle who injures another person with the motor vehicle is not liable for the injury if: (1) the person operating the motor vehicle was exercising due care; and (2) the person injured was blocking traffic in a public right-of-way while participating in a protest or demonstration.

1S.B. 92 (Zaffirini) – Cell Phone Ban: would: (1) preempt a city from regulating or prohibiting distracted driving, including the use of a wireless communication device while operating a motor vehicle; and (2) create the state law offense of distracted driving, which would prohibit a person from operating a motor vehicle while engaging in an activity that is not related to the operation of the motor vehicle and interferes with the operator’s ability to safely operate the vehicle.

Utilities and Environment

1H.B. 26 (Larson) – Regulation of Groundwater: would provide: (1) the rules of a groundwater conservation district in effect on the date of an application for a permit or permit amendment are the only district rules that may govern the district’s decision to grant or deny the application; (2) a groundwater conservation district may not deny a permit because the applicant intends to export groundwater for use outside the district; and (3) procedures for a groundwater conservation district to adopt a moratorium on the issuance of a permit or permit amendment.

1H.B. 27 (Larson) – Brackish Groundwater: would: (1) allow groundwater conservation districts to adopt rules for the issuance of permits to withdraw brackish groundwater from a well in a designated brackish groundwater production zone for a project designed to treat the brackish groundwater to drinking water standards; (2) require groundwater conservation districts to adopt such rules, if the district receives a petition from a person with a legally defined interested in groundwater in the district; (3) provide for a minimum term of 30 years for a permit issued for a well that produces brackish groundwater from a designated brackish groundwater production zone; and (4) require the holder of a permit to report to the groundwater conservation district on the amount of brackish groundwater withdrawn and aquifer levels.

1H.B. 226 (Larson) – Interregional Water Planning Council: would require the Texas Water Development Board to appoint an interregional planning council consisting of one member from each regional water planning group to improve coordination among the regional water planning groups.

1H.B. 228 (Larson) – Aquifer Storage and Recovery: would, among other things, provide: (1) for an expedited procedure on an application for a water right involving an aquifer storage and recovery project; and (2) specific procedures for an application for an amendment to a water right to convert use from reservoir storage to aquifer storage and recovery.

1H.B. 229 (Larson) – State Participation Account: would allow the Texas Water Development Board to use the state participation account to provide financial assistance for the development of a desalination or aquifer storage and recovery facility to meet existing or projected future water needs.

1H.B. 230 (Larson) – State Water Pollution Control Fund: would: (1) provide that persons for projects eligible for assistance under Section 603(c) of the Federal Water Pollution Control Act are eligible for state funding administered through the Texas Water Development Board (TWDB); and (2) allow the TWDB to use the revolving fund for loans for a term not to exceed the lesser of 30 years or the projected useful life.

1H.B. 275 (Ashby) – Groundwater Conservation District: would automatically extend the term of a permit to transfer groundwater outside of a groundwater conservation district to a term not shorter than the term of the operating permit and would also extend the permit term for each additional term an operating permit is renewed.

1H.B. 276 (E. Thompson) – Municipal Solid Waste Facilities: would require the Texas Commission on Environmental Quality to conduct an assessment of the safety and regulation of municipal solid waste facilities.

1H.B. 277 (Larson) – Texas Water Development Board: would require the Texas Water Development Board to conduct studies of aquifer storage and recovery projects identified in the state water plan and report the results of each study to regional water planning groups and interested persons.

1H.B. 295 (Anchia) – Climate Change: would create the Texas Climate Change Mitigation and Adaptation Commission, which must include a representative of the municipal electricity sector.

1H.B. 304 (Morrison) – Grease or Grit Trap Waste: would: (1) prohibit the Texas Commission on Environmental Quality (TCEQ) from issuing a permit, registration, or other authorization for land application of grease trap waste or grit trap waste; and (2) provide that the prohibition in (1) does not apply to: (a) the disposal of grease trap waste or grit trap waste at a municipal solid waste (MSW) Type I landfill permitted by the TCEQ; (b) the processing of grease trap waste or grit trap waste at a MSW Type V compost facility permitted or registered by the TCEQ; or (c) land application of Grade 1 or Grade 2 compost generated at a Type V compost facility permitted to compost grease trap waste by the TCEQ.

City Officials Testify

When the legislature is in session, nothing compares to the effectiveness of city officials testifying at the Capitol. City officials who take their time to travel to Austin to speak out on

important city issues should be applauded by us all. The League extends its thanks to all those who have vigilantly represented cities during this special session.

The following officials testified in committee hearings held through July 25:

- Aaron Bovos, Chief Financial Officer, City of Fort Worth
- Aaron Woolverton, Assistant Chief, City of Austin
- Allen Bogard, City Manager, City of Sugar Land
- Charles Cato, Chief of Police, City of Mesquite
- Craig Farmer, Planning and Development Director, City of Weatherford
- Craig Foshee, ADA Coordinator (Facilities), City of Mesquite
- Betsy Price, Mayor, City of Fort Worth
- Beth South, Councilmember, City of Westlake Hills
- Brian Plunkett, Councilmember, City of Westlake Hills
- David Billings, Councilmember, City of Fate
- Deborah Fisher, Councilmember, City of Lucas
- Derrick K. Freeman, Mayor, City of Port Arthur
- Donald Glywasky, Lawyer, City of Galveston
- Hilary Shine, Executive Director of Public Information, City of Killeen
- James Jones, Sargeant, San Antonio Police Department
- James M. Kuykendall, Mayor, City of Oak Ridge North
- Jeff Casper, Mayor Pro-Tem, City of Mesquite
- Jerry Bark, Director of Parks and Recreation, City of Harker Heights
- Jimmy Flannigan, Councilmember, City of Austin
- Jocelyn Murphy, Planning Manager, City of Fort Worth
- Joe Zimmerman, Mayor, Sugar Land
- Jungus Jordan, Council Member, Fort Worth
- Ret. Major General Juan G. Ayala, Director of Military Affairs, City of San Antonio
- Keith Mars, City Arborist, City of Austin
- Laura Hill, Mayor, City of Southlake
- Linda Anthony, Mayor, City of West Lake Hills
- Mary Dennis, Mayor, City of Live Oak
- Mary Elliott, Director of Planning and Annexation, City of Fort Worth
- Melinda Ramos, Senior Assistant City Attorney, City of Fort Worth
- Michael Barger, Sergeant, Austin Police Department
- Michael Loftin, Assistant City Manager of Finance, City of Galveston
- Michael Sawaya, Exec. Director of Convention and Sports Facilities, City of San Antonio
- Mike Shannon, Development Services Director, City of San Antonio
- Patricia Link, Assistant City Attorney, City of Austin
- Peter Zanoni, Deputy City Manager, City of San Antonio
- Randal Scott, Division Manager of Park Planning, City of Austin
- Rhonda McCollough, Council Member, City of West Lake Hills
- Richard DePalma, Vice Chair of Parks and Recreation Board, City of Austin
- Rick Ramirez, Intergovernmental Relations Manager, City of Sugar Land

- Robert Garza, Mayor, Del Rio
- Rodney Gonzales, Director of Development Services, City of Austin
- Ron Nirenberg, Mayor, City of San Antonio
- Ronnie Morris, Assistant Police Chief, City of Grand Prairie
- Sam Drugan, City Attorney, City of Kingsbury
- Steve Adler, Mayor, City of Austin
- Suzanne Bellsnyder, City Manager, City of Spearman
- Virginia Collier, City Planner, City of Austin
- Tim Tietjens, Director of Development, City of Galveston
- Tom Tagliabue, Director of Intergovernmental Relations, City of Corpus Christi
- Troy Elliott, Deputy Chief Financial Officer, City of San Antonio
- William McManus, Chief of Police, City of San Antonio

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