



# Legislative UPDATE

December 30, 2016  
Number 48

## City-Related Bills Filed

Each week, League staff summarizes in this section the city-related bills filed during the previous week. For a cumulative list of all city-related bills filed to date, click [here](#).

### Property Tax

**S.B. 376 (Creighton) – Appraisal Cap:** would reduce the property tax appraisal cap on residence homesteads from ten percent to the following applicable percentage: (1) three percent if the appraised value of a homestead is \$1 million or less; or (2) five percent if the appraised value of a homestead is more than \$1 million. (See **S.J.R. 28**, below.)

**S.J.R. 28 (Creighton) – Appraisal Cap:** would amend the Texas Constitution to authorize the legislature to provide for one percentage to be used when calculating the limitation on the maximum appraised value of a residence homestead with a lesser appraised value and another percentage to be used when calculating that limitation on a residence homestead with a greater appraised value. (See **S.B. 376**, above.)

### Sales Tax

**H.B. 660 (Villalba) – Sales Tax Exemption:** would exempt the sale of the state flag from sales taxes.

**H.B. 716 (Wu) – Sales Tax Exemption:** would exempt certain feminine hygiene products from the sales tax.

## **Purchasing**

**H.B. 665 (Canales) – Contracts:** would provide that (1) a public body (which includes cities) cannot contract with a contractor unless the contractor certifies in writing to a public body that within the five years preceding the date of the contract, the contractor, including subcontractors, has not admitted guilt or been found guilty or liable in any judicial or administrative proceeding for a repeated or willful violation of the payment of wages or minimum wage statutes, the Fair Labor Standard Act, or any similar statute or regulation of any state that governs the payment of wages; (2) each contract with a public body has to have a specific prescribed statement included; (3) a contractor shall be disbarred from participating in contracts with a public body by the comptroller if the public body determines that a contractor is ineligible for a contract under (1) and reports to the comptroller its determination; and (4) each public body shall develop procedures for the administration of (1).

## **Elections**

**H.B. 658 (Bernal) – Priority Voting for Voters with Impaired Mobility:** would: (1) allow an election officer to accept a person with a mobility problem that substantially impairs a person's ability to ambulate who is offering to vote before accepting others offering to vote at the polling place who arrived before the person; and (2) require that notice of the priority given to persons with a mobility problem that substantially impairs a person's ability to ambulate be posted: (a) at one or more locations in each polling place where it can be read by persons waiting to vote; (b) on the secretary of state's website; and (c) each internet website relating to elections maintained by a county.

**H.B. 672 (E. Johnson) – Voter Identification:** would provide that a student identification card issued by a public, private, or independent institution of higher education that contains the person's photograph is an acceptable form of photo identification for voting.

**H.B. 675 (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).

## **Open Government**

**H.B. 703 (Wu) – Public Information Act:** would provide that personal information of a child protective services caseworker or investigator would be confidential without the caseworker or investigator electing the information to be confidential.

**S.B. 388 (Burton) – Open Meetings Act:** would repeal the authority for a governing body to conduct economic development negotiations in an executive session pursuant to the Open Meetings Act.

### **Other Finance and Administration**

**H.B. 640 (Phillips) – Halfway Houses:** would: (1) provide that a city may regulate the location of a halfway house by ordinance or order if the city finds it necessary to promote the public health, safety, or welfare; (2) require the owner or operator of a halfway house to provide written notice to the mayor and chief law enforcement officer of the city, if the proposed location of the halfway house is within the city limits, not later than the 60<sup>th</sup> day before the date a facility begins operations; (3) authorize a city to sue in district court for an injunction to prohibit a violation of a regulation adopted under (1); and (4) provide that a person who violates the regulation adopted under (1) commits a Class A misdemeanor.

**H.B. 649 (Hernandez) – Alcohol Permits:** would provide that a person, other than a local official, may anonymously protest the application for a mixed beverage permit or mixed beverage late hour permit.

**S.B. 385 (Burton) – Passenger Rail Projects:** would provide that: (1) a political subdivision may not accept or use federal funds for the construction, maintenance, or operation of a commuter rail or other passenger rail project, including for the repayment of debt issued for a project, unless the acceptance or use of the funds is approved by a majority of voters at an election called for the purpose of authorizing the acceptance or use of the funds; (2) a political subdivision authorized to use federal funds under (1) that has not begun to construct the project before the fifth anniversary of the date of the election may not use the funds unless approved by the voters at another election called for the purpose of authorizing the use of the funds; and (3) a political subdivision, a metropolitan planning organization, or the Texas Department of Transportation may not include in a transportation plan adopted by the entity a commuter rail or other passenger rail project financed wholly or partly with federal funds unless acceptance or use of the funds has been approved by election under (1) or (2).

**S.B. 386 (Burton) – Local Debt:** would prohibit a political subdivision from using federal funds to make payments for a debt obligation of the political subdivision.

**S.B. 387 (Burton) – Local Debt:** would: (1) require a bond proposition to state each specific purpose for which the bonds are to be authorized, if approved; (2) 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 issued; (b) to retire the bonds; or (c) for a purpose other than the specific purpose for which the bonds were issued 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; (3) require the election order and the notice of the election for an election authorized to be held under (2)(c) to state the proposed purpose for which the bond proceeds are to be used; and (4) require a political subdivision to hold the election in the same manner as an election to issue bonds in the political subdivision.

### **Municipal Courts**

**H.B. 662 (Canales) – Jail Time:** would require a judge to give a defendant credit toward payment of costs imposed on the defendant at a rate of \$100 for each day the defendant was confined in jail.

**H.B. 663 (Canales) – Court Reporter:** would: (1) transfer the responsibility for maintaining shorthand notes from the court reporter to the court clerk; and (2) task the court clerk with establishing a transcription fee.

**H.B. 667 (Canales) – Expunctions:** would prohibit a person from waiving their right to an expunction as part of a criminal plea agreement.

**H.B. 669 (Canales) – Magistrate:** would require a magistrate’s name be in typewritten form with the magistrate’s signature on each order pertaining to a criminal matter that is issued by a magistrate.

**H.B. 681 (Wu) – Court Records:** would: (1) require a municipal court to make all records and files of a final conviction or dismissal after deferral of a fine-only misdemeanor confidential after the fifth anniversary of the disposition; and (2) only allow inspection by: (a) judges or court staff, (b) a federal or state criminal justice agency, (c) the Department of Public Safety, (d) the prosecuting attorney, (e) defendant’s counsel, or (f) a vehicle insurance company.

### **Community and Economic Development**

**S.B. 24 (Huffman) – Sermons:** would prohibit a governmental unit from, in any civil action or other civil or administrative proceeding to which the governmental unit is a party, compelling the production or disclosure of a written copy or audio or video recording of a sermon delivered by a religious leader during religious worship of a religious organization or compel the religious leader to testify regarding the sermon.

**S.B. 371 (Watson) – Alcoholic Beverage Licenses:** would: (1) prohibit a county judge from refusing to approve an application for a license as a distributor or retailer if the premises on which beer is to be sold for on-premises consumption does not have: (a) running water, if it is available; or (b) separate free toilets for males and females, properly identified, on the premises for which the license is sought or, if the premises is a restaurant that derives less than 50 percent of its gross revenue from the sale of alcohol, is 2,500 square feet or less, and has an occupancy rating of 50 persons or less, at least one toilet, properly identified, on the premises for which the

license is sought; and (2) prohibit the Texas Alcoholic Beverage Commission or administrator from suspending for not more than 60 days or cancelling an original or renewal retail dealer's on- or off-premise license if it is found, after notice and a hearing, that the licensee does not have at the licensed premises: (a) running water, if it is available; and (b) separate free toilets for males and females, properly identified, on the premises for which the license is sought or, if the premises is a restaurant that derives less than 50 percent of its gross revenue from the sale of alcohol, is 2,500 square feet or less, and has an occupancy rating of 50 persons or less, at least one toilet, properly identified, on the premises for which the license is sought.

**S.B. 373 (Hall) – English as Official State Language:** would: (1) designate the English language as the official language of the state; and (2) provide that an unofficial and nonbinding translation or explanation of an official state document, written material, or website content may be provided or published separately in a language other than the official language only if the translation or explanation: (a) is made and distributed without cost to the state; (b) is appropriately labeled as unofficial and nonbinding; and (c) states the actions required to obtain or view the official state document, written material, or website content.

**S.B. 379 (Perry) – Eminent Domain:** would clarify that failure of an entity to comply with certain eminent domain reporting requirements could result in a penalty of up to \$1000 (Note: Current law requires the penalty for failure to comply with reporting requirements to be \$1,000.)

**S.B. 389 (Burton) – Major Events Reimbursement Program:** would abolish the Major Events Reimbursement Program.

**S.B. 390 (Burton) – Motor Sports Racing Trust Fund:** would abolish the Motor Sports Racing Trust Fund.

**S.B. 391 (Burton) – Events Trust Fund:** would abolish the Events Trust Fund.

**S.B. 392 (Burton) – Events Trust Funds:** would abolish the Major Events Reimbursement Program, the Events Trust Fund, and the Motor Sports Racing Trust Fund.

**S.B. 393 (Burton) – Texas Enterprise Fund:** would abolish the Texas Enterprise Fund.

**S.B. 397 (Kolkhorst) – Local Mental Health Authorities:** would: (1) provide that if a local mental health authority has a governing body, the governing body must include one representative of a local law enforcement agency of a city or county in the local authority's service area; and (2) provide that if a local mental health authority does not have a governing body, the local authority shall consult with a designated representative of a local law enforcement agency of a city or county in the local authority's service area regarding the use of the funds received from the Department of State Health Services for community mental health and intellectual disability services and chemical dependency services for persons who are dually diagnosed as having both chemical dependency and mental illness or an intellectual disability.

## Personnel

**H.B. 656 (Minjarez) – Employee Leave:** would entitle an employee who has been employed by an employer for at least one year to 30 days of leave to: (1) attend to the employee’s own health condition; (2) care for certain family members; or (3) to spend time with a child after birth, adoption, or foster care placement.

**H.B. 718 (Wu) – Family Care Leave:** would provide that an employee who is employed for at least six months by an employer who employs 10 or more employees is eligible for paid family care leave for a period of eight weeks due to: (1) the birth of the employee’s child; or (2) the placement of the child with the employee in connection with the adoption or foster care of the child by the employee.

**S.B. 369 (Garcia) – Union Representation:** would provide that: (1) a public employee can request to have representation from any labor organization for which the employee is eligible for membership by virtue of their employment if the public employee is in an investigatory interview the employee thinks will lead to disciplinary action; (2) a public employer shall either: (a) grant the request and delay the interview until representation arrives and has had an opportunity to consult privately with the employee; (b) deny the request and end the interview; or (c) offer the employee the choice of continuing the interview unrepresented or accepting any disciplinary action determined by the employer without an interview; (3) a public employer that allows a public employee to obtain representation must provide the employee a reasonable amount of time to obtain representation; (4) a public employee is not entitled to representation in: (a) interviews to improve an employee’s work techniques; (b) interviews that are not for disciplinary purposes; (c) interviews to inform employee of the employer’s decision of final disciplinary action; or (d) conversations initiated by the employee about previously determined disciplinary action; and (5) a public employer is not required to inform the public employee of the employee’s right to representation.

## Public Safety

**H.B. 659 (Villalba) – Security Officers:** would, among other things, provide that a political subdivision may not require a religious organization to contract with or employ a peace officer to provide security services for the religious organization unless the requirement is for a religious organization to contract with or employ a peace officer to: (a) provide security services for a public event; (b) provide security services for a private event held at a public facility that is owned or leased by a political subdivision of this state; (c) conduct a public escort; or (d) direct traffic on a public roadway.

**H.B. 673 (E. Johnson) – Criminal Justice Web Portal:** would require the attorney general to develop and maintain a web portal to collect, compile, and analyze data related to criminal justice, including any reports that law enforcement is required to submit to the attorney general.

**H.B. 676 (Wu) – Age of Criminal Responsibility:** would: (1) define a child to be a person between 10 and 17; (2) raise the age for criminal responsibility for sexual abuse from 17 to 18,

when the victim is younger than 14; (3) raise the age for criminal responsibility for sending sexually explicit communications from 17 to 18; (4) raise the age of criminal responsibility for certain traffic offenses from 17 to 18; (5) prohibit a court from issuing a *capias pro fine* until an individual reaches 18; (6) raise the age a municipal court can hold a defendant in contempt from 17 to 18; (7) prohibit a law enforcement officer from taking an individual into custody for an offense alleged to occur before the individual's 18<sup>th</sup> birthday; and (8) prohibit a municipal court from issuing a warrant to an individual that committed an offense when the individual was under the age of 18.

**H.B. 680 (Wu) – Marihuana:** would, with some exceptions, provide that the possession of .35 ounces or less of marihuana is a Class C misdemeanor.

**H.B. 683 (Wu) – False Identification as a Peace Officer:** would: (1) expand the offense of possession or use of law enforcement identification, insignia, or vehicles to apply in all cities with a population of 750,000 or more; (2) clarify that, for purposes of the offense of false identification as a peace officer, an item bearing an insignia of a law enforcement agency includes an item that contains the word “police,” “sheriff,” “constable,” “trooper,” “ranger,” “agent,” or any other designation commonly used by law enforcement agencies in the state; and (3) clarifies that, for purposes of the offenses of false identification as a peace officer and misrepresentation of property, that a person commits an offense if the person misuses or misrepresents a vehicle.

**H.B. 731 (Bohac) – Intimidation by Gang Member:** would provide that a person commits a third-degree felony if the person: (1) is the member of a criminal street gang; and (2) with intent to cause another person to perform or to omit the performance of any act, communicates to the other person, directly or indirectly, by any means, a threat to: (a) inflict bodily injury on the person threatened or any other person; (b) damage or destroy property; (c) subject any person to physical confinement or restraint; or (d) commit an offense punishable as a Class A misdemeanor or any higher category of offense.

**H.B. 732 (Bohac) – Red Light Cameras:** would require that red light camera signs list the possible monetary penalties for violations in addition to the information required by current law.

**S.B. 344 (West) – Emergency Detention:** would: (1) authorize a peace officer who apprehends a person believed to have a mental illness to transfer that person to a licensed paramedic for transport to an appropriate facility so long as the officer determines it is safe for both the person and paramedic; (2) require a peace officer who transfers a person to a licensed paramedic under (1) to provide certain oral notice to the person and a completed notification of detention to the paramedic; and (3) require a paramedic who transfers a person under (1) to file a notification of emergency detention with the facility.

**S.B. 380 (Burton) – Asset Forfeiture:** would repeal civil asset forfeiture provisions and establish criminal asset forfeiture in this state, and among other things: (1) authorize a convicting court to order a person convicted of violating a law subject to forfeiture to forfeit certain property, but only after the state establishes by clear and convincing evidence that the requirements for forfeiture are met or enters into a court-approved plea agreement for the

forfeiture of the property; (2) provide that contraband is not subject to forfeiture, but must be disposed in accordance with state law; (3) establish procedures for the seizure of real and personal property and for the defendant to challenge the seizure; (4) provide that a forfeiture proceeding must be held following the trial of the related alleged offense; (5) require that the county treasurer dispose of all forfeited and abandoned property and deposit the money in the general revenue fund of the county, except that the court may order a portion of the proceeds to be used to pay all outstanding recorded liens and for the expenses for the seizure, storage and maintenance or custody of the items; (6) prohibit a law enforcement agency from: (a) retaining any forfeited or abandoned property for the agency's use; or (b) selling any forfeited or abandoned property directly or indirectly to an employee, a person related to an employee, or another law enforcement agency; (7) require law enforcement agencies to report certain forfeiture information to the Department of Public Safety; (8) require a law enforcement agency to return property under certain circumstances and make the agency responsible for any damage, storage fees, and related costs applicable to the property; and (9) prohibit the transfer of seized property to the federal government, with some exceptions.

**S.B. 381 (Burton) – Law Enforcement:** would provide that: (1) a peace officer who stops a motor vehicle for any alleged violation of a law or ordinance regulating traffic may not search the vehicle unless the peace officer: (a) has probable cause; (b) obtains the operator's written consent on a form that is promulgated by the Texas Commission on Law Enforcement; (c) obtains the operator's oral consent and ensures that the oral consent is evidenced by an audio and video recording by a body-worn camera; or (d) has a reasonable and articulable fear that the operator or another person in the vehicle poses a threat to the safety of the peace officer or another person; and (2) the Texas Commission on Law Enforcement must establish rules regarding: (a) a form to obtain written consent for a vehicle search; and (b) audio and video recordings used as evidence of an operator's oral consent.

**S.B. 395 (Campbell) – Drones:** would, with certain exceptions, make it an offense to operate a drone over or near a corrections facility, including a municipal jail.

### **Transportation**

**H.B. 652 (Clardy) – Automobile Burglary and Theft Prevention Authority:** would require the revenue from the Automobile Burglary and Theft Prevention fee paid by insurers to be deposited to the credit of a subaccount in the Texas Department of Motor Vehicles fund and provide that the revenue may be appropriated only to the department for purposes of the Automobile Burglary and Theft Prevention Authority.

### **Utilities and Environment**

No utility and environment bills were filed this week.

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