



# Legislative UPDATE

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## **State Budget Designed to Raise Property Taxes**

In his call for the upcoming special session, the governor seemingly acknowledged the connection between the way the state chooses to fund public schools and high property taxes. “One reason why our school finance system must be revised is to rein in skyrocketing property taxes,” he said.

What the governor didn’t mention, however, is that the state budget he just signed is the driving force behind those property tax increases.

The state budget bill, S.B. 1, anticipates a \$6.8 billion increase in local school district property taxes during the 2018-2019 biennium to fund the Foundation School Program. Because the local school districts’ share of funding increases so dramatically, the state will decrease the amount of state funds it allocates towards the Foundation School Program by \$1.6 billion over the same time frame. By 2019, the state’s share of funding the Foundation School Program will reach a low of 37.7 percent. In other words, the state is essentially forcing local school districts to increase property taxes to pick up a portion of the state’s school finance tab.

But that’s not all. At the same time state officials are increasing local school property taxes, many of them are pointing the finger at cities for the higher tax bill and arguing that revenue caps will solve the problem.

Let's compare the property tax increases in the state budget with the purported tax "savings" proposed by revenue cap legislation. The fiscal note for the Senate version of last session's revenue cap bill (S.B. 2) shows a two-year tax savings from city, county, and special purpose district property taxes of about \$619 million dollars. (Ignore for a moment the fact that this estimated tax savings is based on several assumptions that [earned a "Pants on Fire" distinction](#) by *Politifact Texas* only a month ago.)

Even assuming that the inflated savings from S.B. 2 is correct (it's not), the planned increase in local school property taxes under S.B. 1 is *over ten times greater* than the fictional tax cuts promised under S.B. 2. Even if a revenue cap bill similar to S.B. 2 passes during the upcoming special session, property taxes would still go up dramatically in the next two years, and the increase will be entirely due to the state's budget.

In a speech delivered to the Texas Association of School Boards last week, House Speaker Joe Straus called for school finance to be added to the call for the special session. "Somebody is going to pay for public education. It's either going to come from the state or it's going to come from local property taxes. If we want real property tax reform, we need real reform of school finance," he said.

## **TML's Successful Priority Package**

The reality of the legislative process in Texas is that most of the League's time is spent killing bills that would harm the residents of Texas cities. But the League also seeks passage of beneficial legislation. During the regular session, several TML priority bills passed and were signed by the governor. They include:

- **H.B. 1111 (S. Thompson/Rodriguez) – Sex Offender Residency Restrictions:** provides that: (1) a requirement that a releasee stay a certain distance from areas where children gather does not apply while the releasee is traveling immediately to or from: (a) a parole office, (b) the premises where a program required as a condition of release is held, (c) a residential facility where the release is required to reside is located, (d) a private residence where the release is required to reside as a condition of release, or (e) any other premises designed to rehabilitate the release or where it is reasonable and necessary for the release to be present and at which the release has legitimate business, including a place of worship, workplace, health care facility, or funeral; (2) defines "child safety zone" as premises where children commonly gather, including a school, day-care facility, playground, public or private youth center, public swimming pool, video arcade facility, or other facility that regularly holds events primarily for children; (3) a church is excluded from the definition of child safety zone; **(4) the city council of a general law city by ordinance may restrict a registered sex offender from going in, on, or within a specified distance of a child safety zone in the city;** (5) it is an affirmative defense to prosecution of an offense under the ordinance that the registered sex offender is in, on, or within a specified distance of a child safety zone for a legitimate purpose, including transportation of a child that the registered sex offender is legally permitted to be with, transportation to and from work, and other work-related purposes; (6) the distance

imposed by ordinance under (4), above, may be no more than 1,000 feet; (7) the ordinance must provide procedures for a registered sex offender to apply for an exemption from the ordinance; and (8) the ordinance must exempt a registered sex offender who established residency in a residence located within the specified distance of a child safety zone before the date the ordinance is adopted. (Effective September 1, 2017.)

- **H.B. 3045 (Dale/Schwertner) – Economic Development Corporations:** authorizes a city to hold an election to reduce or increase the sales tax rate for a Type B economic development sales tax. (Effective immediately.)
- **H.B. 3046 (Dale/Schwertner) – Sales Tax Ballot Propositions:** authorizes a city to use a combined ballot proposition to lower or repeal any city sales tax and by the same proposition raise or adopt any other city sales tax. (Effective immediately.)
- **S.B. 1440 (Campbell/Larson) – Open Meetings:** provides that the term “meeting” does not include the attendance by a quorum of a governmental body at a candidate forum, appearance or debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the forum, appearance, or debate. (Effective September 1, 2017.)

Thank you to all the city officials who helped shepherd these bills through the process.

## **Governor’s Vetoes Include City-Related Bills**

Governor Greg Abbott has vetoed 50 bills passed by the legislature during the regular session. Ten of the 42 were city-related bills described in the League’s “wrap-up” [Legislative Update](#) on June 2. (Both the PDF and online version of that edition have been updated to reflect vetoed bills and other minor corrections.) Those 10 vetoes are detailed below:

1. **H.B. 2377 (Larson/Perry) – Brackish Groundwater Development:** would have provided that: (1) groundwater conservation districts may 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 brackish groundwater to drinking water standards; (2) the minimum term for a permit issued for a well the produces brackish groundwater from a designated brackish groundwater production zone is 30 years; and (3) the holder of a permit must submit annual reports to the groundwater conservation district on the amount of brackish groundwater withdrawn and aquifer levels.

According to the governor’s veto message, the bill “sought to authorize groundwater conservation districts to implement special permitting rules relating to the completion and operation of wells for the withdrawal of brackish groundwater. The bill’s permitting rules are unduly prescriptive and would create a separate and complex bureaucratic process for the permitting of brackish wells. The Texas Water Development Board

already has significant authority in this area, including the ability to designate brackish groundwater production zones and to approve local water management plans. While the development of brackish water resources as a potential means of meeting our state's future water needs is important, House Bill 2377 went about it the wrong way. The next Legislature should consider a simpler and less bureaucratic way to provide greater access to brackish water.”

2. **H.B. 2475 (S. Davis/Bettencourt) – Sales Tax Exemption:** would have exempted certain amusement services from the sales tax.

According to the governor's veto message, the bill “would have provided a special sales tax loophole for tickets to Broadway shows. As required by the constitution and by basic fairness, Broadway shows should be treated just like any other comparable event for tax purposes.”

3. **H.B. 2783 (Smithee/Watson) – Public Information Lawsuits:** would have provided that the court in a suit for writ of mandamus or declaratory judgment may assess cost of litigation and reasonable attorney fees incurred by a plaintiff to whom a governmental body voluntarily releases the requested information after filing an answer to the suit.

According to the governor's veto message, “By threatening the taxpayers with attorneys' fees, House Bill 2783 creates an incentive for requestors of public information to sue the government as quickly as possible instead of waiting for the statutorily defined public information process to play out. The stated purposes of this bill could have been achieved without giving lawyers the ability to threaten taxpayer-funded attorneys' fees awards against governmental bodies that are just trying to follow the law.”

4. **H.B. 2792 (Gonzalez/Rodriguez) – Public Housing:** would have made various changes to the law related to tax exemptions and other items for public housing projects.

According to the governor's veto message, the bill “sought to expand the property tax exemptions currently applicable to government-subsidized housing. More property tax exemptions means more property tax burden on property owners who are not exempt.”

5. **H.B. 2943 (Larson/Perry) – State Water Pollution Control Fund:** would have provided that: (1) projects eligible for assistance under Section 603(c) of the Federal Water Pollution Control Act are eligible for state funding administered through the Water Development Board; and (2) the Texas Water Development Board may use the revolving fund for loans for a term not to exceed the lesser of 30 years or the projected useful life.

According to the governor's veto message, the bill “makes several changes to the State Water Pollution Control Revolving Fund, most of which can be administered without the statutory mandates prescribed by this legislation. Such statutory mandates are unnecessary and tie the hands of program administrators, impeding the State's ability to continue the program's positive impacts on the promotion of quality water. The bill also lengthens the allowable term of loans made by the program, thus extending the program's

debt liability. Additionally, while conservation easements can serve a valid purpose, using acquisition of easements is not the best use of this particular fund.”

6. **H.B. 3987 (Larson/Nichols) – Financial Assistance:** would have allowed the Texas Water Development Board to use the state participation account of the water development fund to provide financial assistance for desalination or aquifer storage and recovery facilities.

According to the governor’s veto message, the bill “would have created a new state account to provide taxpayer funding for the acquisition and development of certain water facilities. These facilities are already eligible for state funding under the Texas Water Development Fund II state participation account, provided that they cannot be adequately funded with local resources. The purpose of that requirement is to ensure that state resources are used in an efficient manner by denying funding for local projects that already have access to sufficient financial resources. House Bill 3987 exempts desalination and aquifer facility projects from meeting this financial requirement. Additionally, because current law already authorizes the Texas Water Development Board to provide funding for desalination and aquifer storage and recovery facilities, House Bill 3987 is largely unnecessary. The next Legislature should seek to promote desalination and aquifer projects more effectively.”

7. **S.B. 570 (Rodriguez/Walle) – Scrap Tires:** would have provided various measures to protect from the harmful effects of illegal scrap tire disposal.

According to the governor’s veto message, the bill “criminalizes the violation of administrative rules governing the proper disposal of tires. In order to know whether their handling of used tires is a crime or not, Texans would have to consult the Texas Register and the actions of local governments on a regular basis to ensure the rules governing tire disposal have not changed. Surely there are better ways to address the problem of old tires than by creating a new and vaguely defined crime.”

8. **S.B. 744 (Kolkhorst/Phelan) – Tree Mitigation Fees:** would have provided, among many other things, 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; and (2) 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.

According to the governor’s veto message, “cities telling landowners what they can and cannot do with the trees in their own backyard is an assault on private property rights. Senate Bill 744 appears to be a compromise bill that imposes a very minor restriction on some municipal tree ordinances. But in doing so, it gives the imprimatur of state law to the municipal micromanagement of private property, which should be abolished altogether. This bill was well-intentioned, but by the end of the legislative process it actually ended up doing more to protect cities than it did to protect the rights of property

owners. I applaud the bill authors for their efforts, but I believe we can do better for private property owners in the upcoming special session.”

9. **S.B. 1215 (Hughes/Shine) – Construction Contracts:** would have provided for the creation of a joint interim committee to conduct a study on issues relating to construction contracts in this state to the extent the committee determines appropriate.

According to the governor’s veto message, the bill “creates a joint interim committee of the Legislature to study construction contracts. The House and Senate can, and do, study topics in the interim without passage of a law. Legislation mandating legislative studies and legislative interim committees is unnecessary. The Legislature is free to study construction contracts with or without this bill.”

10. **S.B. 1525 (Perry/Larson) – Water Availability:** requires the Texas Water Development Board to study aquifer storage and recovery projects identified in the state water plan and report the results of each study to the regional water planning groups.

According to the governor’s veto message, “The Texas Water Development Board can perform the study mandated by Senate Bill 1525 with or without this legislation.”

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