

The logo for the Texas Municipal League is a green square with a white star in the center. The words "Texas", "Municipal", and "League" are stacked vertically in white text within the square.

# Legislative UPDATE

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## **Government in Sunshine Week**

“Sunshine week” is a national media initiative that takes place each March with the goal of promoting open government. City officials may have noticed newspaper editorials around the state supporting the public’s right to know. For example, [one editorial](#) asserts that:

You needn’t look so high to find examples of government subdivisions violating the letter or the spirit of open government laws, however. About every week, some school board or city council tries to hold an illegal closed session or some police department tries to withhold public information. Every time the Legislature convenes, the Texas Municipal League or some similar organization attempts to weaken the laws through amendment.

The editor who wrote the above clearly doesn’t understand the purpose of the League. A former League attorney wrote a paper many years ago for cities titled “The Information Business.” His premise was that cities aren’t only in the street, public safety, and water and sewer business. Providing information is also a core city function.

One purpose of the League is to advocate for reasonable laws, including open government laws. But its legislative program has never been forged by “the forces of secrecy” as insinuated in the same editorial. In fact, another purpose of the League is to educate city officials about open government and other laws. In addition to frequent training, TML attorneys answer hundreds of open government questions each month from city officials who want to comply with the laws.

Perhaps, instead of vilifying city officials, certain editors should commend those city officials in the information business who go above-and-beyond to keep local democracy alive.

## **Voter ID Still in Court Nearly Five Years Later**

On March 9, the U.S. Court of Appeals for the Fifth Circuit announced that it will consider *en banc* (i.e., all 15 of the justices will review a previous decision made by a three-judge panel) whether the Texas voter ID law discriminates in violation of the federal Voting Rights Act.

That announcement from the Fifth Circuit is the latest development in an ongoing legal battle over the validity of the voter ID law. The following timeline summarizes some of the major events over the past five years:

- **May 27, 2011** – Voter ID legislation ([S.B. 14](#)) was passed by the Texas Legislature and signed into law.
- **March 12, 2012** – The U.S. Department of Justice [refused](#) to approve or “preclear” the voter ID law, stating that it could disenfranchise voters who are racial minorities.
- **August 30, 2012** – A U.S. federal district court in Washington, D.C. [ruled](#) that the voter ID law violated Section 5 of the Voting Rights Act. This decision was the end-result of a lawsuit filed by the state seeking preclearance in the D.C. district court.
- **June 25, 2013** – The U.S. Supreme Court issued its [opinion](#) in *Shelby County v. Holder*, which struck down the “preclearance” portion of the Voting Rights Act. As a result, federal preclearance for voting changes is no longer required for Texas, and the voter ID legislation [took immediate effect](#).
- **October 9, 2014** – A U.S. district judge in Corpus Christi [struck down](#) the Texas voter ID law under a different provision in the Voting Rights Act, concluding that the law: (1) creates an unconstitutional burden on the right to vote; (2) has an impermissible discriminatory effect against Hispanics and African-Americans; (3) was imposed with an unconstitutional discriminatory purpose; and (4) constitutes an unconstitutional poll tax.
- **October 14, 2014** – The Texas attorney general appealed the district court’s decision and the Fifth Circuit Court of Appeals [“stayed”](#) the district court’s opinion. The stay meant that the voter ID law remained in effect to avoid voter confusion in the November 2014 elections.
- **October 18, 2014** – The stay was appealed to the U.S. Supreme Court, which [rejected](#) an emergency request to prevent the voter ID legislation from going into effect for the 2014 November elections.
- **August 5, 2015** – A three-judge panel of the Fifth Circuit Court of Appeals [unanimously held](#) that the Texas voter ID law has a “discriminatory effect” and therefore violates the federal Voting Rights Act. However, the court overturned the district court’s determinations that the law was enacted with a racially discriminatory purpose and constitutes an impermissible poll tax.

- **March 9, 2016** - The full U.S. Fifth Circuit Court of Appeals agreed to review the panel's holding as requested by Texas attorney general Ken Paxton.

As it stands now, the voter ID law remains in effect in Texas. Due to the recent vacancy on the United States Supreme Court, it is possible that the Fifth Circuit's ruling will represent the last word on the legality of the Texas voter ID law.

The League will continue to monitor and report on the case.

## **U.S. DOT Announces \$500 Million in Transportation Grants**

Last Tuesday, U.S. Department of Transportation (DOT) Secretary Anthony Foxx announced that \$500 million will be made available for transportation projects across the country under an eighth round of the Transportation Investment Generating Economic Recovery (TIGER) competitive grant program.

Like the first seven rounds, FY 2016 TIGER discretionary grants will fund capital investments in surface transportation infrastructure and will be awarded on a competitive basis for projects that will have a significant impact on the nation, a metropolitan area, or a region.

The grant program will focus on capital projects that generate economic development and improve access to reliable, safe, and affordable transportation for communities, both urban and rural.

Since 2009, TIGER has provided nearly \$4.6 billion to 381 projects in all 50 states, the District of Columbia and Puerto Rico. Demand has been overwhelming, and – during the previous seven rounds – the DOT received more than 6,700 applications requesting more than \$134 billion for transportation projects across the country.

TIGER applications are due April 29, 2016. For more information on how to apply, please visit [www.transportation.gov/TIGER](http://www.transportation.gov/TIGER).

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