



Legislative UPDATE

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The End Is Near: Marching Orders for the Last 18 Days

This week's message to city officials is to remain vigilant: continue to focus on the two largest threats to cities this session. Personal conversations with your legislators remain the best way to stop revenue caps and annexation prohibition legislation from passing. Those conversations should relate clear opposition to both issues, regardless of rumors that both bills might be amended to exclude cities of various sizes or budgets.

- **Revenue Caps:** call your House members right now and urge them to continue opposing S.B. 2 (Bettencourt). A call is even more important if your member serves on the [House Ways and Means Committee](#). Last Wednesday, the committee heard testimony on the bill. Due to the efforts of the more than 100 city and county officials who signed up in opposition, and a joint press conference hosted by the Texas Association of Counties and the League, the bill remains bottled up in committee.
- **Annexation:** call your House members right now and urge them to oppose S.B. 715 (Campbell) [H.B. 424, the subject of previous alerts, has died in the House]. This bill would end city annexation by allowing a vote only of people being annexed, instead of the entire region. It could get to the House floor as early as next week. Here are the [talking points](#), and [here is a study](#) showing the economic impact of restrictive annexation laws.

All Fronts Attack on City Right-of-Way Authority Continues

Previous editions of the *Legislative Update* have reported on the efforts of the cell phone industry to take city rights-of-way for their own private use. Those attacks on city authority continue unabated.

On May 4, the Public Utility Commission adopted the recommendations of a panel of administrative law judges (ALJs) in [*Complaint of ExteNet Network Sys., Inc. against the City of Houston for imposition of fees for use of public right-of-way*](#). The order could mean certain wireless telecommunications companies are entitled to free use of city rights-of-way. These companies (e.g., ExteNet and others) are using small cellular nodes to supplement the capacity of those massive cellular towers that now dot the landscape.

The ALJs ExteNet proposal to the PUC comes on the heels of similar aggressive action at the federal level. At the end of 2015, the Federal Communications Commission (FCC) issued a public notice seeking comment on two topics that could shape the future of cities' control over their rights-of-way. The FCC's Wireless Bureau [requested public comment](#) on how to "streamline" the deployment of small wireless facilities (comments are due June 9), primarily through potential changes to local land-use ordinances, and it also seeks comment on a petition filed by infrastructure company Mobilitie regarding local government rules and procedures.

Last month, the FCC sought applicants for its newly-created [Broadband Deployment Advisory Committee](#) (BDAC). The League worked with the National League of Cities to provide several highly-qualified nominees from Texas. The FCC initially chose to appoint only one local government representative, Mayor Sam Liccardo of San Jose, California. Through the efforts of the National League of Cities, it is likely that another city representative, this one from Texas, will be appointed to the BDAC. The industry-dominated committee will likely recommend preemption of local right-of-way authority.

Legislation relating to the issue is moving in Texas as well. Senate Bill 1004 by Kelly Hancock (R – North Richland Hills) would authorize "streamlined access" to city rights-of-way. In other words, it would preempt much local authority. It would provide for some compensation (\$250 per antenna node), but that amount is much less than what is fair. The bill has been voted from the House State Affairs Committee. City officials should contact their House members now to express opposition.

League staff will continue to monitor and participate in this quickly-changing regulatory landscape.

How Not to Get Sued by the State

As a service to TML member cities, the League has developed an informational clearinghouse on its website containing information about how to avoid getting sued by the state's attorney general over issues relating to municipal government.

Here's the first item:

- Express an opinion about the constitutionality of a new state law, and you might get sued. [Here](#)'s the case. Note to members: It's not necessary that you actually take any action to refuse to comply with the new state law. Mere opinion about the law seems to be enough.

We will add possible new violations as they come to light. City officials concerned that a particular thought or opinion might run afoul of our state's leaders are encouraged to visit with their city attorney.

If you are just generally concerned that free speech ought not be prosecuted, by no means express that opinion publicly until we know whether that, too, will get you sued.

Finally, if this web clearinghouse suddenly disappears, it's likely because we got sued.

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 the legislative session.

- Aaron Woolverston, Assistant Chief, Austin Fire Department
- Andrea Gardner, City Manager, City of Copperas Cove
- Anthony Groves, Mayor, City of Brady
- Art Reinhardt, Asst. Director, Trans. & Capital Improvements, City of San Antonio
- Curt Van De Walle, City Manager, City of Castle Hills
- Dale Mitchell, Mayor, City of Lago Vista
- Doug Athas, Mayor, City of Garland
- Heather Cook, Assistant City Attorney, Houston
- J.R. Trevino, Alderman, City of Castle Hills
- James Fisher, City Manager, City of Forney
- Juan L. Perez, Jr., Investigator, Laredo Police Department
- Jeffery Weatherford, Mayor's Office, City of Houston
- Kim Lenoir, City Manager, City of Brady
- Kurt Banowsky, Senior Assistant City Attorney, City of Garland
- Laura Mueller, Assistant City Attorney, City of West Lake Hills

- Matt May, Captain, Houston Police Department
- Rebecca Giello, Asst. Director, Neighborhood Housing and Comm. Dev., City of Austin
- Rhonda McCollough, Councilmember, City of West Lake Hills
- Ron Kelley, Councilmember, City of Plano
- Sally Bakko, Legislative Coordinator, City of Galveston
- Samuel Garcia, Mayor, City of Three Rivers
- Stan Graham, Mayor Pro Tem, City of West Lake Hills
- William Kasper, City Engineer, City of Bryan

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