



# Legislative UPDATE

April 14, 2017  
Number 15

## **Bad Senate Bills:** **Time to Visit with House Committee Members**

The Texas Senate is passing out bills at record speed. Many of them would be harmful to Texas cities. Now is the ideal time for city officials to visit with their House members who sit on the committees where those bad Senate bills will be heard (or are likely to be heard).

Here's a list of the worst of the Senate bills that have passed in the Senate, with information about each relevant House committee member who needs to hear from us right away.

- S.B. 2 (Bettencourt) – this is the revenue cap bill that lowers the rollback rate from 8 to 5 percent and requires an automatic election. The companion bill is H.B. 15 (Bonnen) in the House. One or both will be heard in the [House Committee on Ways and Means](#). Those committee members are as follows:
  - [Dennis Bonnen](#)
  - [Yvonne Davis](#)
  - [Dwayne Bohac](#)
  - [Drew Darby](#)
  - [Eric Johnson](#)
  - [Jim Murphy](#)
  - [Andrew S. Murr](#)
  - [Richard Peña Raymond](#)
  - [Hugh Shine](#)
  - [Drew Springer](#)
  - [Phil Stephenson](#)

- S.B. 88 (Hall) – this bill bans red light cameras. It will be heard in the [House Committee on Transportation](#). Those committee members are as follows:
  - [Geanie W. Morrison](#)
  - [Armando Martinez](#)
  - [Cindy Burkett](#)
  - [Yvonne Davis](#)
  - [Craig Goldman](#)
  - [Celia Israel](#)
  - [Ina Minjarez](#)
  - [Larry Phillips](#)
  - [Joseph Pickett](#)
  - [Ron Simmons](#)
  - [Ed Thompson](#)
  - [Senfronia Thompson](#)
  - [John Wray](#)
  
- S.B. 488 (Bettencourt) – this bill gives the Secretary of State authority to review and approve city ballot propositions. It will be heard in the [House Elections Committee](#). Those committee members are as follows:
  - [Jodi Laubenberg](#)
  - [Celia Israel](#)
  - [Rodney Anderson](#)
  - [Pat Fallon](#)
  - [Lyle Larson](#)
  - [Ron Reynolds](#)
  - [Valoree Swanson](#)
  
- S.B. 737 (Hancock) – this bill would impose burdensome requirements any time a city imposes any new fee or fee increase, including establishing an email notification system and a required hearing 30 to 60 days before the fee may be adopted. It will be heard in the [House Committee on Urban Affairs](#). Those committee members are as follows:
  - [Carol Alvarado](#)
  - [Jeff Leach](#)
  - [Diego Bernal](#)
  - [Gary Elkins](#)
  - [Jason Isaac](#)
  - [Jarvis D. Johnson](#)
  - [Bill Zedler](#)
  
- S.B. 1004 (Hancock) – this bill allows cell phone companies almost unlimited access to structures in city rights-of-ways to install small cell antennas, and denies cities a

reasonable rental fee for such on city property. It will be heard in the [House Committee on State Affairs](#). Those members are as follows:

- [Byron Cook](#)
  - [Helen Giddings](#)
  - [Tom Craddick](#)
  - [Jessica Farrar](#)
  - [Charlie Geren](#)
  - [Ryan Guillen](#)
  - [Ken King](#)
  - [John Kuempel](#)
  - [Morgan Meyer](#)
  - [René Oliveira](#)
  - [Chris Paddie](#)
  - [Eddie Rodriguez](#)
  - [John T. Smithee](#)
- S.B. 1620 (Taylor) – this bill allows the raising or keeping of up to 6 chickens within a city regardless of city requirements to the contrary. It will likely be heard in the [House Committee on Urban Affairs](#) (it has not yet been formally referred). Members of this committee are:
    - [Carol Alvarado](#)
    - [Jeff Leach](#)
    - [Diego Bernal](#)
    - [Gary Elkins](#)
    - [Jason Isaac](#)
    - [Jarvis D. Johnson](#)
    - [Bill Zedler](#)
- S.B. 715 (Campbell) – this bill hasn't actually passed the Senate yet, but it almost certainly will next week. It would effectively end city annexations by requiring a vote only of the people being annexed, instead of a vote of all affected citizens. It will be heard in the [House Committee on Land and Resource Management](#), which has several similar bills pending right now. Those committee members are as follows:
    - [Abel Herrero](#)
    - [Cecil Bell](#)
    - [Ernest Bailes](#)
    - [César Blanco](#)
    - [Wayne Faircloth](#)
    - [Matt Krause](#)
    - [Lynn Stucky](#)

City officials who need additional information about the bills prior to contacting their House members should email JJ Rocha in the League's legislative department at [jj@tml.org](mailto:jj@tml.org).

## **State Budget Takes Next Step**

After 15 hours of debate, the Texas House approved a \$218 billion budget. It now goes back to the Senate for concurrence. The House and Senate will appoint a conference committee to work out the differences. As reported at the beginning of session, budget writers are working with \$2.8 billion less than they did last biennium. Because of that, programs large and small can expect to take some hits. As passed by the House, the budget contains both good and bad for cities.

S.B. 1 now includes \$443 million in mixed beverage tax reimbursements to aid local law enforcement in curtailing drunk driving and other alcohol related offenses. This amounts to \$35 million more than was appropriated for the current biennium. The bill also includes \$12 million in local law enforcement training grants. This is a different approach than the Senate version, which does not appropriate any money for local law enforcement training but does provide \$25 million for grants to cities to purchase bullet-proof vests.

The House version also includes \$29.4 million in local parks grants, which represents a cut of approximately \$3 million over the current biennium.

Last session, the legislature appropriated \$30 million for grants to military cities and the House version of S.B. 1 continues funding at that level.

In biennia past, certain state agencies have been required to raise additional revenue over and above the amount needed to run an agency. The Senate version of the budget requires the Texas Commission on Fire Protection to raise an additional \$1.5 million over the cost of running the agency to be transferred to the state's general fund. The House version does not.

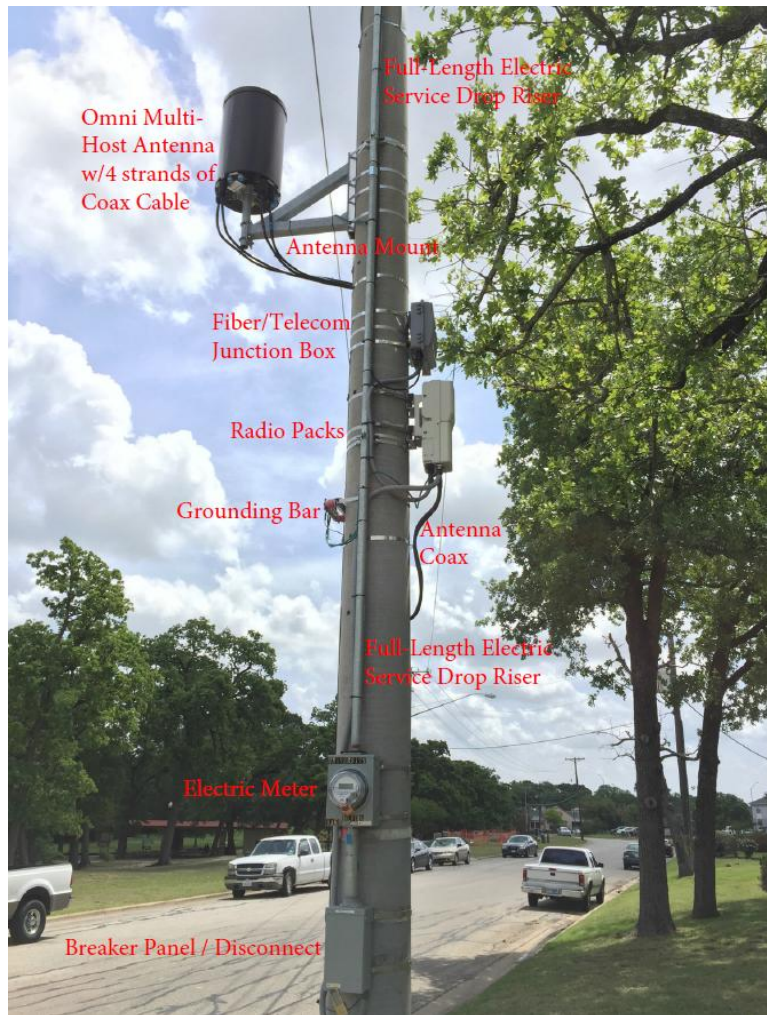
The appropriations process is ever-changing and nothing is final until the budget passes the legislature, usually during the final days of the legislative session. City officials who support the funding levels or oppose cuts found in S.B. 1 should contact members of the conference committee when they are appointed.

## **Small Cell Node Bill Advances: This Is What Urban Cities Can Expect**

Senate Bill 1004 by Senator Kelly Hancock (R – North Richland Hills) would allow private companies to commandeer city light and traffic poles for private use. That use would consist of placing “cell nodes” on those poles with little or no city oversight. (Cell nodes are large, box-shaped antennas that cell phone companies are anxious to deploy to increase cell bandwidth.)

Cell companies want to put hundreds and hundreds of small antennas throughout our cities. The bill would largely preempt a city's ability to control where they go. Moreover, the bill would prohibit a city from getting reasonable compensation from the private companies that use them.

When the bill passed the Senate, its author held up his iPad on the Senate floor and said that the nodes are "no bigger than an iPad." Nothing could be further from the truth. This photo shows what a city's poles will look like should the bill pass as-is:



Concerned city officials should contact their House members immediately to let them know not to hand over public rights-of-way to private companies.

Further, city testimony is needed against the bill's House companion, H.B. 2838, in the [House Committee on State Affairs](#) next Wednesday, April 19, in room JHR 140 at 10:30am or upon adjournment.

City officials who cannot attend Wednesday's hearing are urged to contact members of that committee:

- [Byron Cook](#)
- [Helen Giddings](#)
- [Tom Craddick](#)
- [Jessica Farrar](#)
- [Charlie Geren](#)
- [Ryan Guillen](#)
- [Ken King](#)
- [John Kuempel](#)
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- [John T. Smithee](#)

## **Rural Redlining:** **This Is What Rural Cities Can Expect from the Bad Small Cell** **Node Bill**

Nothing, that's what they can expect from this new technology and the bill that supports it. Because there's no requirement in the bill, S.B. 1004, that rural communities be served by the new technology, those smaller cities will likely be left out of the new service at the same time larger cities are being preempted from any reasonable regulations (see article elsewhere in this edition). Senate Bill 1004 by Senator Kelly Hancock (R – North Richland Hills) would allow private companies to commandeer city light and traffic poles for private use. That use would consist of placing “cell nodes” on those poles. (Cell nodes are large, box-shaped antennas that cell phone companies are anxious to deploy to increase cell bandwidth.) But all of this is only likely to happen in large cities unless the bill is amended to promote deployment in smaller cities.

Cell companies want to put hundreds and hundreds of small antennas throughout our densely-populated cities, but that's not likely in the more rural communities in our state. The bill would largely preempt the large cities' ability to control where they go and cap rental fees that they can charge, while leaving small cities out in the cold altogether. It's doubly insulting.

Concerned city officials in rural cities should contact their House members immediately to let them know not to vote for any bill that doesn't expand broadband access to all Texans.

Further, city testimony is needed against the bill's House companion, H.B. 2838, in the House State Affairs Committee next Wednesday, April 19, in room JHR 140 at 10:30am or upon adjournment.

City officials who cannot attend Wednesday's hearing are urged to contact members of that committee:

- [Byron Cook](#)
- [Helen Giddings](#)
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- [Chris Paddie](#)
- [Eddie Rodriguez](#)
- [John T. Smithee](#)

## **Eminent Domain Reform Moving Through Process**

A number of bills that would further reform the use of eminent domain have been filed this session. Both the House Committee on Land and Resource Management and the Senate State Affairs Committee have held hearings on most of the bills.

The League is currently part of a coalition of entities with eminent domain authority called the [Coalition for Critical Infrastructure](#) (CCI). CCI and its many members are working diligently with bill authors and landowner groups to provide more transparency in the process and appropriate compensation to landowners.

It seems possible that, through continuing negotiations, a workable solution can be negotiated that is better for landowners and meets the infrastructure needs of our growing state.

## **Federal Bill by Marchant Gives Voice to Municipal Health Pools**

In Washington, D.C., much attention has been focused in recent weeks on efforts to “repeal and replace” the Affordable Care Act. Speaker Paul Ryan indicated that the health care reform effort would take place in three phases. The first phase would involve changes that could be made by Congress under an expedited process affecting budget-related provisions. The second phase would involve regulatory changes made by federal health regulators. And the third phase would include non-budgetary policy changes enacted in a separate bill. Congress has not yet finalized the first phase.

However, a proposal of great interest to municipal employees is being promoted for inclusion in the third phase of reform. U.S. Representative Kenny Marchant from Carrollton has introduced the “Local and Municipal Health Care Choice Act of 2017.” He was joined by Representative Mac Thornberry from Clarendon, as well as two other Members from Arkansas. The proposal will allow municipal health care pools like TML Multistate IEBP to sell group health plans across state lines, lowering administrative costs and bringing down premiums. The Marchant bill will provide a uniform national rule book for determining which state laws apply. It will allow the Texas pool to broaden its base of health plan beneficiaries, which will benefit Texas municipal employees who are currently enrolled in an IEBP plan.

“Municipal health pools have not been included in many of the definitions under federal health care laws, leaving a lot of uncertainty,” said Susan Smith, Executive Director of TML Multistate IEBP. “Mr. Marchant is changing all of that. The bill that he and Mr. Thornberry introduced will finally give municipal health care pools and municipal employees recognition. We are so grateful for their efforts.”

The Marchant legislation has been included in the white paper developed by Mr. Ryan and other House leaders as an important component of comprehensive legislation. Reps. Marchant, Thornberry, and other supporters of the municipal proposal will be working hard to assure that the language is included in any comprehensive health care legislation considered by Congress this year.

## **TCEQ Adopts Revised Total Coliform Rules**

The Texas Commission on Environmental Quality has finally adopted the *Revised Total Coliform Rule (RTCR)*. The RTCR is a federal drinking water rule promulgated by the United States Environmental Protection Agency (EPA) on February 13, 2013. The RTCR increases public health protection through the reduction of potential pathways of entry for fecal contamination into the distribution system of public water systems. The TCEQ is required to adopt rules at least as stringent as the federal rules to maintain their authority over public water systems in Texas.

The adopted amendments to Chapter 290 of the Texas Administrative Code provide rule language that is no less stringent than the federal RTCR. They also provide for consistency with other federal drinking water provisions, address the EPA’s comments on the federal Ground Water Rule, and provide clarification on existing state rules.

The final rules are available on the [TCEQ website](#).

## **Significant Committee Actions**

**H.B. 354 (Raney)**, relating to the process for establishing speed limits on roads near certain schools. Reported from the House Committee on Transportation. As reported, the bill would provide that: (1) a city council may not reject a request for a prima facie speed limit by a public



or private elementary or secondary school, an open-enrollment charter school, or an institution of higher education without first making a written finding stating a reasonable basis for the rejection; (2) the governing body of a school or institution of higher education may appeal a rejection of a request for a prima facie speed limit to the district court of the county in which the school or institution is located not later than the 90th day after the date the written finding is made; (3) if the governing body shows by clear and convincing evidence that the rejection of the request was not based on accepted traffic management principles, the district court may grant the requested prima facie speed limit; and (4) the governing body of a school or institution of higher education may consult with the Texas Department of Transportation, the Texas Transportation Commission, and local transportation authorities on the feasibility of a prima facie speed limit during the acquisition and design of property for a public or private elementary or secondary school, an open-enrollment charter school, or an institution of higher education.

**H.B. 561 (Murphy)**, relating to the registration and operation of golf carts and utility vehicles. Reported from the House Committee on Transportation.

**H.B. 563 (Israel)**, relating to whom certain violations of the law by a state or local governmental entity may be reported. Reported from the House Committee on Government Transparency and Operations. As reported, the bill would provide Whistleblower Act protection to an employee who reports a violation of law to a supervisor or human resources staff.

**H.B. 907 (Shaheen)**, relating to a form prescribed by the secretary of state for certain petitions. Reported from the House Committee on Elections.

**H.B. 1185 (Fallon)**, relating to the authority of general-law municipalities to impose term limits on the members of their governing bodies. Reported from the House Committee on Urban Affairs.

**H.B. 1574 (Wilson)**, relating to documentation regarding an arrest of a person without a warrant. Reported from the House Committee on Criminal Justice.

**H.B. 1704 (Kuempel)**, relating to the award of court costs and attorney's fees in actions to determine the applicability of certain local government regulations. Reported from the House Committee on Judiciary and Civil Jurisprudence.

**H.B. 1825 (Goldman)**, relating to the conduct of early voting by personal appearance. Reported from the House Committee on Elections.

**S.B. 445 (Burton)**, relating to the authorization and reporting of expenditures for lobbying activities by certain political subdivisions and other public entities. Reported from the Senate State Affairs Committee.

**S.B. 655 (Bettencourt)**, relating to certain notice of the extent of a municipality or its extraterritorial jurisdiction. Reported from the Senate Intergovernmental Relations Committee.

**S.B. 715 (Campbell)**, relating to municipal annexation. Reported from the Senate Intergovernmental Relations Committee. As reported, this bill would completely rewrite the Municipal Annexation Act to severely curtail the ability of cities to annex property. Specifically, the bill would provide – among many other things – that:

1. A city 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: (a) more than 50 percent of the registered voters of the area; and (b) if the registered voters of the area do not own more than 50 percent of the land in the area, more than 50 percent of the owners of land in the area.
2. In no case may a city annex an area with a population of less than 200 without approval of a majority of the voters voting at an election called and held for that purpose if a petition protesting the annexation is signed by a number of registered voters of the municipality equal to at least 50 percent of the number of voters who voted in the most recent municipal election and is received by the secretary of the city.
3. A city may 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.
4. A city may annex an area if each owner of land in the area requests the annexation if: (a) the governing body of the city first negotiates and enters into a written agreement for the provision of services in the area with the owners of land in the area (the city is not required to provide a service that is not included in the agreement); and (b) the governing body of the city conducts at least two public hearings (the hearings must be conducted not less than 10 business days apart, and during the final public hearing, the governing body may adopt an ordinance annexing the area).
5. Beginning September 1, 2017, a city may not annex an area for the limited purposes of applying its planning, zoning, health, and safety ordinances in the area, regardless of any authority granted by a home rule charter.
6. The procedures for the annexation of a special district are modified, including providing that, beginning September 1, 2017, a strategic partnership agreement may not provide for limited purpose annexation.

**S.B. 877 (Hancock)**, relating to liability of certain political subdivisions in certain workers' compensation actions. Reported from the Senate Business and Commerce Committee.

**S.B. 1408 (Huffines)**, relating to the carrying of a handgun by certain first responders and volunteer emergency services personnel. Reported from the Senate State Affairs Committee.

## **Significant Floor Actions**

**S.B. 42 (Zaffirini)**, relating to the security of courts and judges in the state. Passed the Senate.

**S.B. 452 (Hancock)**, relating to the effect of certain agreements with a collective bargaining organization on certain state-funded public work contracts. Passed the Senate.

**S.B. 460 (Lucio)**, relating to general obligation bonds issued by political subdivisions. Passed the Senate.

**S.B. 461 (Lucio)**, relating to the notice required before the issuance of certain debt obligations by political subdivisions. Passed the Senate.

**S.B. 467 (Lucio)**, relating to a requirement for a ballot proposition. Passed the Senate.

**S.B. 488 (Lucio)**, relating to requirements for certain petitions requesting an election and ballot propositions. Passed the Senate.

**S.B. 626 (Schwertner)**, relating to the acquisition of certain real property in conjunction with the acquisition of real property for a public use through eminent domain procedure. Passed the Senate.

**S.B. 627 (Schwertner)**, relating to notice of a property owner's rights relating to the examination or survey of property by an entity with eminent domain authority. Passed the Senate.

**S.B. 628 (Schwertner)**, relating to establishing actual progress for the purposes of determining the right to repurchase real property from a condemning entity. Passed the Senate.

**S.B. 1987 (Lucio)**, relating to the notice requirements for bills proposing the creation of or annexation of land to certain special purpose districts. Passed the Senate.

## **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.

- Arden Kemler, Manager of Solid Waste and Recycling, City of Denton
- Brad Fortune, Assistant Chief of Police, Plano Police Department
- Brian England, Deputy City Attorney, City of Garland
- Carl Wedige, Deputy Fire Chief, City of San Antonio
- Catherine McManus, City of Irving

- Christopher Mosley, Sr. Asst. City Attorney, City of Fort Worth
- Dana Burghdoff, Asst. Director, Planning & Development, City of Fort Worth
- Don Glywasky, City Attorney, City of Galveston
- Ed Lujan, Dallas Police Department
- Elizabeth Nelson, Mayor, City of Marlin
- Eric Friedland, Asst. City Attorney, City of San Antonio
- Jeff Coyle, Director of Government and Public Affairs, City of San Antonio
- Jennifer Smith, Attorney, City of Marlin
- Jon Branson, Deputy City Manager, City of Pearland
- Larry V. Green, Council Member, City of Houston
- Melinda Ramos, Senior Assistant Attorney, City of Fort Worth
- Robert Sholund, San Antonio Police Department
- Roberto Rivera, Council Member, City of Arlington
- Shane Davis, Solid Waste Administrator, City of Farmers Branch
- Stephen Costello, Chief Resilience Officer, Mayor's Office, City of Houston
- Todd Radford, Police Chief, Lakeway Police Department
- Virginia Collier, City Planner, City of Austin

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