



Legislative UPDATE

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The PUC's Sustained Bombardment of City Authority: Private Profit from Free Use of City Rights-of-Way?

In [*Complaint of ExteNet Network Sys., Inc. against the City of Houston for imposition of fees for use of public right-of-way*](#), a panel of administrative law Judges (ALJs) has urged the Texas Public Utility Commission (PUC) mandate that 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.

Those large towers have become overcrowded with signals from the smartphones that almost everyone now carries. The industry solution is to deploy smaller antenna in densely-populated areas to provide more bandwidth. Their business plan is to use city right-of-way to quickly deploy the technology. That wouldn't necessarily be problem, except they want to do it for free. And they want cities to have minimal authority over it.

Streets, alleys, and sidewalks. In a city, these transportation assets are held by the city in trust for the public good. Constructing and maintaining them in good and safe conditions are a core municipal function. For over 150 years, private utility companies have sought access to these assets to provide their services, be they gas, electric, or telecommunications.

City residents typically want the services provided by these companies, but most of them probably don't understand the complexities of keeping streets and rights-of-way in working order when private utilities place their facilities on, under, or along them. Natural tensions exist between the city officials charged with protecting the people's assets and quality of life and the employees of private companies that seek to make money by their use.

Telephone, video, gas, and electric companies each have state laws that allow them to use city rights-of-way, with certain conditions. Those laws balance the needs of the people to get the services with the people's demand for functioning streets. They also require the utilities to pay value-based rental for the use of city property. The Texas Constitution requires that because citizens of Texas know that politicians sometimes want to help out their friends. Without the Texas Constitution's prohibition against giving away public property, those politicians could give the valuable use of city property away, harming the interests of the taxpayers.

When a private company has new technology to allow it to better provide a service, it obviously wants to quickly and cheaply deploy that product. Take, for example, video over fiber optic. In the early 2000s, AT&T began rolling out its Uverse product (which included fiber-based video programming). It found that negotiating individual franchises with each city (as the law required at the time) was burdensome to doing that as quickly as it wished. AT&T went to the legislature, and passed legislation allowing it to obtain a franchise from the state instead. That legislation was a compromise under which AT&T could more quickly deploy and cities retained right-of-way management authority and value-based compensation.

The newest technology for cellular broadband is the use of small cellular nodes to supplement the capacity of those massive, existing cellular towers. The industry solution is to deploy smaller antenna in densely-populated areas to provide more bandwidth. (In some locations, the small antennas may even eventually become the replacement for land-line broadband service of any type.)

City officials want this technology, no doubt. But city officials should be concerned with how some companies have tried to deploy it. In October 2015, a wireless tower builder known as ExteNet filed a complaint against the City of Houston at the PUC. The complaint asks the PUC to order the city to allow the company to install equipment for small antennas in the city's rights-of-way on their own poles or existing city or other utility poles without paying compensation to the city. (A similar complaint filed in December 2015 against the City of Dallas by a company known as Crown Castle is still pending.)

The legal aspects of the case are complex, but the underlying premise is not. The case is about wireless antenna poles and towers being installed in the rights-of-way by a private company wanting to profit from the free use of taxpayer-owned property.

The companies claim that a 16-year-old law, Chapter 283 of the Texas Local Government Code, gives them the power to move forward with their plans. Chapter 283 was not written to allow wireless equipment installation in the rights-of-way (because the technology didn't even exist back then). Moreover, these same companies have previously obtained a city's consent to install wireless facilities in the rights-of-way.

Chapter 283 replaced telecommunications franchise agreements with a new system of compensation based on retail, end-user "access lines" for the formerly city franchised wireline providers. Essentially, a PUC certified telecommunications provider (CTP) may use the rights-of-way and pays compensation for the use of the rights-of-way based on how many retail end-

user lines it operates in a city, known as “access lines.” The new access line system represented a relatively successful compromise in 1999 in the context of a rapidly changing, and recently deregulated telecommunications industry.

The ALJs who heard ExteNet’s contested case against Houston concluded that, because it is a CTP, ExteNet’s use of the rights-of-way is governed by Chapter 283, including installation of wireless equipment. However, the ALJs found that, because ExteNet has no retail end-use customers, it has no access lines and thus pays no access line fees under Chapter 283 for that installation.

ExteNet provides a wholesale service to cellular phone companies. This service extends from an antenna located on a utility pole or tower back to the Commercial Mobile Radio Service (CMRS) provider [e.g., AT&T, Verizon, Sprint, and T-Mobile] customer’s macro tower hub location. The antenna system routes customers’ cellphone calls to the CMRS provider’s hub and switch to allow the CMRS provider to connect the caller to the person being called. ExteNet installs equipment to perform the function of routing calls to the CMRS hub. ExteNet calls this service “backhaul.” The ALJs found that this “backhaul service” provided by ExteNet is not counted as an access line.

The ALJs stated that:

If the PUC determines that backhaul service provided by a CTP to wireless carriers should be counted as an access line, a rulemaking can be opened under the statute and, after the rule is enacted, ExteNet would then be subject to the revised definition of access line and any resulting fees. However, under Chapter 283 and the current substantive rules, ExteNet is a CTP providing backhaul service, which is not compensable to the city as an access line.

In an extremely puzzling statement, the ALJs also stated that “ExteNet’s customers, CMRS providers, already pay the city for their use of the right of way, and ExteNet’s backhaul service is part of what is already covered in the CMRS providers’ franchise agreements.” That’s incorrect. Some of those companies have land lines for which they pay fees, but none pays based on wireless accounts. The PUC will conduct an open meeting to discuss the proposal at 9:30 a.m. on March 30, 2017, in Austin.

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, 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.

Legislation has been filed this session relating to the issue as well. (See S.B. 1044, summarized elsewhere in this edition.) The legislation would authorize “streamlined access” to city rights-of-way, but it would also include a fee of up to \$1,000 multiplied by the number of node support

poles (i.e., those installed by a private company dedicated to cell service) and utility poles (i.e., those that provide electric or telecommunications service).

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

FCC Announces Broadband Committee

The Federal Communications Commission (FCC) has formed a new [Broadband Deployment Advisory Committee](#) (BDAC). The BDAC, which is tasked with developing recommendations to expedite wired and wireless broadband deployment in cities by “reducing regulatory barriers,” will consist of members of the public appointed by the FCC.

With state preemption of city right-of-way authority looming, and new leadership at the FCC, it is possible that the BDAC could recommend federal preemption as well. Because of that, the National League of Cities sent a [letter](#) to the FCC recommending municipal experts for service on the committee.

Two of those recommendations (Snapper Carr, Focused Advocacy, Austin and Kevin Pagan, City Attorney, McAllen) are experts from Texas. They received the endorsement from the League and the Texas City Attorneys Association.

The membership of the BDAC has not yet been announced. Meetings, once they have been set, will be open to the public and streamed online.

Voter ID Update: DOJ Changes Sides

This week, the U.S. Department of Justice (DOJ) dropped its claim that the Texas legislature purposefully discriminated against minority voters by adopting voter identification legislation in 2011. The decision was not unexpected considering the change in administration at the federal level.

The DOJ has indicated that it will now argue in support of Texas lawmakers’ claim that the voter identification legislation from 2011 didn’t specifically target minority voters. Even with the DOJ’s role reversal, there is no indication that litigation surrounding the issue is any closer to being resolved.

Meanwhile, two bills related to the issue, S.B. 5 (Huffman) and H.B. 2481 (P. King), have been filed this legislative session. The bills would amend the voter identification law to address its alleged discriminatory aspects as pointed out in federal court rulings over the past five years.

The League will continue to monitor the voter identification issue and provide updates as necessary.

TML Names Legislator of the Month for February



Representative Drew Springer is the TML Legislator of the Month for February 2017. Representative Springer represents House District 68 that covers 22 counties and over 50 cities, which include Gainesville, Graham, Childress, Vernon, Bowie, and Muenster.

First elected in 2012, Representative Springer is serving in his third term, is currently Vice-Chairman of the House County Affairs Committee, and is a member of the powerful House Ways and Means Committee. This session, Representative Springer has filed House Bill 207, which would clarify the authority of general law cities to enact sex offender residency restrictions. We applaud Representative Springer for ensuring that cities across Texas will be able to continue to protect the most vulnerable in our communities.

We hope city leaders across Texas, and particularly those in Representative Springer's district, will express their appreciation to this outstanding leader.

Significant Committee Actions

S.B. 15 (Huffines), relating to an exemption from ad valorem taxation of the residence homestead of the surviving spouse of a first responder who is killed or fatally injured in the line of duty. Reported from the Senate Finance Committee.

S.J.R. 1 (Campbell), a joint resolution proposing a constitutional amendment authorizing the legislature to provide for an exemption from ad valorem taxation of all or part of the market value of the residence homestead of surviving spouse. Reported from the Senate Finance Committee.

City-Related Bills Filed

Property Tax

H.B. 2227 (Murphy) – Property Appraisal: would authorize the chief appraiser to change the appraisal roll at any time to correct an erroneous denial or cancellation of: (1) any residence homestead property tax exemption if the applicant or recipient is disabled or is 65 or older; or (2) a residence homestead exemption for a surviving spouse, a residence homestead exemption of a totally disabled veteran, or a property tax exemption for a disabled veteran. (Companion bill is **S.B. 945** by **Bettencourt**.)

H.B. 2228 (Murphy) – Property Tax Deadlines: would, among other things: (1) provide that the chief appraiser shall accept and approve or deny an application for a Freeport property tax exemption after the deadline for filing it has passed if it is filed not later than June 1; and (2)

provide that rendition statements and property reports for property located in an appraisal district in which one or more taxing units exempt Freeport property must be delivered to the chief appraiser not later than April 1, and the chief appraiser may extend the filing deadline to not later than May 1 for good cause on written request by the property owner. (Companion bill is **S.B. 946** by **Bettencourt**.)

H.B. 2241 (Lozano) – Property Tax Appraisal: would provide that, for purposes of appraising a property, improving the exterior of a replacement structure with higher quality construction and composition than the replaced structure is not considered to be an improvement for a structure that was rendered uninhabitable or unusable by a casualty or by wind or water damage.

H.B. 2253 (Darby) – Property Tax Refund: would provide that the court that makes the final determination of a property tax appeal shall, in its discretion, determine the amount on which interest is to be calculated, provided that the amount is: (1) not greater than the amount refunded; and (2) not less than the difference between the minimum amount the taxpayer was required to pay to preserve the right to appeal and the amount of taxes for which the property owner is liable.

H.B. 2265 (Munoz) – Appraisal District: would, among other things, provide that: (1) an appraisal district is governed by a board of five directors; (2) one director is elected from each of the four commissioners precincts of the county for which the appraisal district is established; (3) the county assessor-collector is a director by virtue of the person's office; (4) if the county assessor-collector is ineligible to serve pursuant to a contract, the appraisal district is governed by the four directors elected from the commissioners precincts and a director elected from the county at large; and (5) the directors other than the county assessor-collector are elected at the general election for state and county officers and serve two-year terms beginning on January 1 of odd-numbered years. (Companion bill is **H.B. 495** by **Phelan**.)

H.B. 2314 (Murphy) – Appraisal of Agricultural or Open-Space Land: would, among other things, eliminate the requirement that a person pay interest along with additional taxes if land that has been designated for agricultural use in any year is sold or diverted to a nonagricultural use. (Companion bill is **S.B. 629** by **Schwertner**.)

H.B. 2356 (Casper) – Military Cities: would provide that, for purposes of the applicability of the law governing the provision of state aid to certain local governments disproportionately affected by the granting of property tax relief to disabled veterans, the term "local government" means a city located wholly or partly in: (1) a county in which a United States military installation is wholly or partly located; or (2) a county adjacent to a county described by (1).

H.B. 2367 (Murphy) – Property Tax Collection: would provide that the interest rate during a period of deferred collection of taxes on the residence homestead of an elderly or disabled individual is the five-year Constant Maturity Treasury Rate reported by the Federal Reserve as of January 1 of the year in which the deferral or abatement was obtained.

H.J.R. 86 (Button) – Property Tax Exemption: would amend the Texas Constitution to provide that: (1) that the surviving spouse of a first responder who is killed or fatally injured in the line of duty is entitled to an exemption from taxation of the total appraised value of the

surviving spouse's residence homestead so long as the surviving spouse has not remarried since the death of the first responder; and (2) that a surviving spouse who receives an exemption under (1) is entitled to receive an exemption from taxation of a property that the surviving spouse subsequently qualifies as the surviving spouse's residence homestead in an amount equal to the dollar amount of the exemption from taxation of the first property for which the surviving spouse received the exemption in the last year in which the exemption applied so long as the surviving spouse has not remarried since the death of the first responder. (Companion bill is **S.J.R. 1** by **Campbell**.)

S.B. 972 (Zaffirini) – Property Tax Appraisal: would provide that a property owner may request the chief appraiser of an appraisal district in which real property owned by the property owner is located to reappraise the property if a building located on the property is completely destroyed by a casualty, so long as the request is made in writing not later than the 180th day after the date the casualty occurs.

S.B. 987 (Buckingham) – Appraisal Review Board: would: (1) authorize the appraisal review board, on motion of the chief appraiser or a property owner, to direct by written order changes in the appraisal roll or related records as provided by (2); and (2) authorize the appraisal review board to order the appraised value of the owner's property in the current tax year and either of the two preceding tax years to be changed to the sales price of the property in the current tax year if, for each tax year for which the change is to be made: (a) the property qualifies as that owner's residence homestead; (b) the sales price of the property is at least ten percent less than the appraised value of the property; and (c) the board makes a finding that the sales price reflects the market value of the property. (Companion bill is **H.B. 1660** by **Phelan**.)

S.B. 1006 (Nichols) – Property Tax Appraisal: would provide that land used principally as an ecological laboratory by a public or private college or university does not qualify for appraisal as qualified open-space land unless the land was appraised as qualified open-space land on the basis of that use for the 2017 tax year.

S.B. 1030 (L. Taylor) – Property Tax Exemption: would exempt from property taxation the real property owned by a person that is leased to an open-enrollment charter school if: (1) the real property is used exclusively by the school for education functions; (2) the real property is reasonably necessary for the operation of the school; (3) the property owner certifies by affidavit to the school that the rent for the lease of the real property will be reduced by a commensurate amount; (4) the property owner provides the school with a disclosure document stating the amount by which the taxes on the real property are reduced due to the exemption and the method to be implemented to ensure that the rent charged reflects the reduction; and (5) the rent charged for the lease of the real property reflects the reduction in the amount of property taxes due to the exemption through a monthly or annual credit against the rent. (See **S.J.R. 42**, below.) (Companion bill is **H.B. 382** by **Murphy**.)

S.B. 1047 (Creighton) – Property Tax Installments: would provide that: (1) a person may pay a taxing unit's taxes imposed on property that the person owns in four equal installments without penalty or interest if the first installment is paid before the delinquency date and is accompanied by notice to the taxing unit that the person will pay the remaining taxes in three equal

installments; (2) if the delinquency date is February 1, the second installment must be paid before April 1, the third installment must be paid before June 1, and the fourth installment must be paid before August 1; (3) if the delinquency date is a date other than February 1, the second installment must be paid before the first day of the second month after the delinquency date, the third installment must be paid before the first day of the fourth month after the delinquency date, and the fourth installment must be paid before the first of the sixth month after the delinquency date; and (4) notwithstanding the deadline in (1) for the payment of the first installment, a person may pay the taxes in four equal installments as provided by (1) if the first installment is paid and the required notice is provided before the first day of the first month after the delinquency date. (Companion bill is **H.B. 1782** by **Faircloth**.)

S.J.R. 42 (L. Taylor) – Property Tax Exemption: would amend the Texas Constitution to authorize the legislature to exempt from property taxation any real property that is leased for use as an open-enrollment charter school for educational purposes. (See **S.B. 1030**, above.)

Sales Tax

H.B. 2171 (Guillen) – Sales Tax Overpayment: would require the comptroller to: (1) notify a city, county, or other local taxing entity if the taxing entity's portion of the tax for which a refund is claimed or a credit is taken is equal to or greater than five percent of the amount of sales and use taxes received by the taxing entity during the preceding calendar year; and (2) provide the notice not later than the 20th day after the date the refund is claimed or the credit is taken.

H.B. 2381 (Frullo) – Sales Tax Exemption: would exempt from sales taxes a service performed by a certified public accountancy firm if less than one percent of the firm's revenue in the calendar year is from services in Texas that would otherwise constitute insurance service. (Companion bill is **S.B. 1083** by **Perry**.)

H.B. 2475 (S. Davis) – Sales Tax Exemption: would exempt certain amusement services from the sales tax.

S.B. 1083 (Perry) – Sales Tax Exemption: this bill is the same as **H.B. 2381**, above.

Purchasing

H.B. 2170 (Kacal) – Construction Liability: would provide that: (1) a person, other than an architect or engineer acting in the scope of the person's profession, who provides plans, specifications, or related documents to another person for a contract for the construction or repair of an improvement to real property, impliedly guarantees and warranties the adequacy, accuracy, sufficiency, and suitability of the plans, specifications, or related documents provided to the other person; and (2) a person may not waive the requirement in (1) by contract or other means.

H.B. 2234 (Shaheen) – Purchasing: would allow the comptroller to authorize governmental entities to purchase goods or services through the comptroller’s office, and allow the comptroller to charge a reasonable administrative fee for such a program.

H.B. 2343 (Workman) – Construction Defects: this bill is somewhat unclear as to its application. It would presumably apply to a construction project owned by a city, and it would mandate that – prior to bringing a lawsuit on a construction defect – an owner must obtain an inspection and report from an engineer and offer the contractor a chance to correct the defect.

S.B. 29 (Creighton) – Israel: would provide that neither a state nor a political subdivision may enter into a contract with a company for goods or services unless the contract contains a written verification from the company that it: (1) does not boycott Israel; and (2) will not boycott Israel during the term of the contract. (Companion bills are **H.B. 89** by **P. King** and **S.B. 134** by **Creighton**.)

Elections

H.B. 1452 (Blanco) – Election Cyber Attack Study: would provide that the secretary of state shall conduct a study regarding cyber attacks on election infrastructure, including: (1) an investigation of vulnerabilities and risks for a cyber attack against voting system machines, the list of registered voters, and election administrators’ websites; (2) information on any attempted cyber attack on voting system machines, the list of registered voters, and election administrator’s websites; and (3) recommendations for protecting voting system machines, the list of registered voters, and election administrators’ websites from a cyber attack.

H.B. 2139 (Schofield) – Election Fraud: would provide, among other things, that a person commits an offense, if, with the intent to establish, maintain, or participate in a vote harvesting organization, the person commits or conspires to commit certain Texas Election Code offenses.

H.B. 2157 (Miller) – Candidate Applications: would provide that: (1) a candidate’s application for a place on the ballot must be sworn to before a person authorized to administer oaths in Texas; and (2) each part of a petition must include an affidavit of the person who circulated it which must be executed before a person authorized to administer oaths in Texas.

H.B. 2178 (Shaheen) – Poll Watchers: would provide that a poll watcher: (1) is entitled to be present at the voting station when a voter is being assisted by an election officer or by a person of the voter’s choice; and (2) may not be present at the voting station when a voter is preparing the voter’s ballot.

H.B. 2201 (Vo) – Voting: would provide that a person commits an offense if, with respect to another person over whom the person has authority in the scope of employment, the person knowingly: (1) refuses to permit the other person to be absent from work on election day or while early voting is in progress for the purpose of attending the polls to vote; or (2) subjects or threatens to subject the other person to a penalty for attending the polls on election day or while early voting is in progress to vote.

H.B. 2202 (Vo) – Voter Identification: would provide that the following are acceptable forms of photo identification for voting: (1) a student identification card issued by a public institution of higher education located in this state that contains the person’s photograph; and (2) an identification card issued by a state agency of this state that contains the person’s photograph. (Companion bill is **S.B. 284** by **Watson**.)

H.B. 2219 (Lozano) – Economic Development: would provide that a water desalination project is eligible for a limitation on appraised value for school tax purposes under Chapter 313 of the Tax Code.

H.B. 2270 (Paul) – Election Officers: would: (1) require a member of the early voting ballot board to repeat aloud a specific oath before performing any duties as a member; (2) provide that each member of the early voting ballot board shall be issued a form of identification, prescribed by the secretary of state, to be displayed by the member during the member’s hours of service on the board; (3) require a central counting station officer to repeat a specific oath aloud before performing any duties as a member; (4) provide that each election officer shall be issued a form of identification, prescribed by the secretary of state, to be displayed by the officer during the officer’s hours of service at the central counting station; (5) provide that to be eligible for appointment as an assistant to the tabulation supervisor, a person must be a registered voter of the political subdivision served by the authority establishing the counting station or an employee of the political subdivision that adopts or owns the voting system; and (6) require the plan for counting station operation to be available to the public on request not later than 5 p.m. on the fifth day before the date of the election.

H.B. 2311 (Miller) – Application for Ballot by Mail: would provide that: (1) an application for a ballot to be voted by mail may indicate a change of residence address; and (2) if a voter includes a change of residence address in the voter’s application, the early voting clerk shall notify the appropriate voter registrars of the change.

H.B. 2323 (Israel) – Special Election to Fill Vacancy: would: (1) clarify that, for a special election to be held on the date of the general election for state and county officers, the filing deadline is 5 p.m. of the 75th day before election day; and (2) require that a declaration of write-in candidacy for a special election must be filed not later than: (a) 5 p.m. of the 62nd day before election day, if election day is on or after the 70th day after the date the election is ordered; or (b) 5 p.m. of the 40th day before election day, if election day is on or after the 46th day and before the 70th day after the date the election is ordered.

H.B. 2325 (Israel) – Candidate Applications: would require that an official form for an application that a candidate is required to file include, among other things: (1) a space for the candidate’s public mailing address; and (2) a space for the candidate’s email address at which the candidate receives correspondence relating to the candidate’s campaign.

H.B. 2327 (Israel) – Candidate Application: would require a candidate’s application for a place on the ballot to include a public mailing address at which the candidate receives correspondence relating to the candidate’s campaign, if available.

H.B. 2391 (Swanson) – Runoff Ballot: would, among other things, provide that the order of the candidates' names on the ballot of any resulting runoff election or election held to resolve a tie vote shall be in the relative order of names on the original election ballot.

H.B. 2411 (Israel) – Online Election Database: would: (1) require the secretary of state to post on the secretary of state's Internet website a database containing information about each holder of and candidate for any elected office; (2) require the database to include the following information about a holder of elected office: (a) name; (b) office title, including any district, place, or position; (c) if the office is elected at large or by district; (d) the date of the previous and next election for the office; (e) a public mailing address; (f) a public telephone number, if available; and (g) a public email address, if available; (3) require the database to include the following information about a candidate for an elected office: (a) name; (b) office sought, including any district, place, or position; (c) if the office is elected at large or by district; (d) date of the election; (e) public mailing address; (f) public telephone number, if available; (g) public e-mail address, if available; (h) name of the incumbent; and (i) if the candidate has filed as a write-in candidate; (4) require the authority with whom a declaration of candidacy is filed to provide information about a candidate or officeholder to the secretary of state; (4) provide that a candidate's name may not be printed on the ballot until the candidate's name appears on the secretary of state's Internet database; and (5) require the authority with whom the application is filed to provide the secretary of state with the candidate's information required for the secretary of state's Internet database.

H.B. 2436 (Alonzo) – Voting Rights: would provide that a law of this state or a regulation, rule, order, ordinance, practice, or procedure of a political subdivision of this state may not be enacted, adopted, or applied in a manner that results in the denial or abridgement of the right of an individual to vote on account of race, color, ethnicity, or membership in a language minority group. For purposes of the bill, an individual's ethnicity includes the individual's membership in a group that shares a common primary language.

H.B. 2452 (Reynolds) – Voter Identification: would, among other things, provide that a voter must present only a voter registration certificate in order to vote, rather than any form of photo identification. (Companion bill is **H.B. 1005** by **Israel**.)

H.B. 2481 (P. King) – Voter Identification: would, among other things: (1) require the secretary of state to establish a program using mobile units to provide election identification certificates to voters; (2) provide that a mobile unit under (1) may be used at special events or at the request of a constituent group; (3) provide that, upon offering to vote, a voter must present to an election officer at the polling place: (a) one form of acceptable photo identification; or (b) one form of acceptable proof of identification accompanied by a declaration stating the voter has a reasonable impediment to meeting the requirement for providing photo identification; (4) provide that an election officer may not question the reasonableness of an impediment sworn to by a voter in a declaration; (5) provide that if the requirement for identification prescribed by (3)(b) is not met, an election officer must notify the voter that the voter may be accepted for voting if the voter meets the requirement for identification prescribed by (3)(b) and issues the declaration declaring that the voter has one of the following reasonable impediments to meeting

the requirement for photo identification: (a) lack of transportation; (b) lack of birth certificate or other documents needed to obtain an acceptable form of photo identification; (c) work schedule; (d) lost or stolen identification; (e) disability or illness; (f) family responsibilities; or (g) an acceptable form of identification for voting has been applied for but not received; (6) provide that a person is subject to prosecution for perjury for a false statement or false information on the declaration; (7) provide that a person commits a third degree felony if the person knowingly makes a false statement on a declaration under (3)(b); (8) provide that the following documentation is acceptable as proof of identification for voting: (a) a government document showing the name and address of the voter, including the voter's voter registration certificate; (b) one of the following documents that shows the name and address of a voter: (i) a copy of a current utility bill; (ii) a bank statement; (iii) a government check; or (iv) a paycheck; or (c) a certified copy of a domestic birth certificate or other document confirming birth that is admissible in a court of law and establishes the person's identity; and (9) provide that a person 70 years of age or older may use a form of identification listed in (8) that has expired for the purposes of voting if the identification is otherwise valid. (Companion bill is **S.B. 5** by **Huffman**.)

H.B. 2485 (Elkins) – Uniform Election Dates: would eliminate the first Saturday in May in an even-numbered year as a uniform election date.

S.B. 5 (Huffman) – Voter Identification: this bill is the same as **H.B. 2481**, above.

Open Government

H.B. 2222 (Hunter) – Address Confidentiality: would provide, among other things, that victims of sexual abuse and trafficking of persons are added to the address confidentiality program administered by the Office of the Attorney General. (Companion bill is **S.B. 256** by **V. Taylor**.)

H.B. 2328 (Lucio III) – Public Information: would provide procedures for an expedited response to a Public Information Act request.

H.B. 2387 (Herrero) – Crime Victim Compensation Fund: would, with certain exceptions, prohibit the release or disclosure of an application for compensation to a crime victim. (Companion bill is **S.B. 843** by **Perry**.)

Other Finance and Administration

H.B. 1157 (Davis of Harris) – Pawnbrokers: would provide that: (1) a pawnbroker may not modify, sell, or otherwise dispose of an item of goods acquired by the pawnbroker for a period of at least 20 days after the date the item of goods is acquired, unless the city enacts an ordinance that specifies the hold period; and (2) a pawn broker and a city law enforcement may agree to establish a reduced hold period of seven days or less if: (a) the ticket information for acquired goods is exchanged electronically; (b) the agreement for reduced hold period does not conflict

with an ordinance of the city; and (c) the agreement is submitted in writing to the commissioner by the chief city law enforcement.

H.B. 2260 (Dutton) – Tort Claims: would require the Texas Supreme Court to adopt rules under which a Texas Tort Claims Act claimant may obtain reasonable discovery to investigate whether circumstances exist that would confer jurisdiction on the court if the defendant asserts a plea to the jurisdiction.

H.B. 2274 (Guillen) – Animal Regulation: would make various changes to the law regarding dangerous wild animals, including: (1) repealing the current law governing dangerous wild animals; (2) changing the definition of “dangerous wild animal” to include fewer animals; (3) prohibiting a person from owning, possessing, harboring, or having custody of a dangerous wild animal; (4) excepting certain persons from the prohibition in (3), including cities and animal shelters housing an animal upon seizure or on request of an animal control authority or law enforcement agency; (5) requiring certain owners of dangerous wild animals to register the animal with the Department of State Health Services; (6) providing the circumstances under which a dangerous wild animal may be seized and disposed of, which involves an animal control authority or peace officer; and (7) incorporating the new definition of “dangerous wild animal” into the disorderly conduct and cruelty to nonlivestock offenses.

H.B. 2281 (Darby) – Utility Gross Receipts Tax: would, for purposes of the miscellaneous gross receipts tax on utility companies, provide that the tax is imposed on each utility company making sales to ultimate consumers in an incorporated city having a population of more than 1,000, without regard to whether the utility company is actually located in the city.

H.B. 2288 (Gutierrez) – Fireworks: would repeal the prohibition against a home rule city banning, as a nuisance, the sale of fireworks or similar materials within 5,000 feet outside the city limits.

H.B. 2333 (Elkins) – Credit Card Information: would: (1) require that a business, including a city: (a) keep confidential retained credit card information; (b) secure the information from a breach of system security; (c) if there is a breach where credit card information is compromised, give notice to the attorney general and the financial institution which issued the card; and (2) create a civil penalty of \$50 for a business to pay for each credit card or debit card whose information is compromised due to an unsecured computer system.

H.B. 2335 (Miller) – Day Care Centers: would provide that the executive commissioner of the Department of Family and Protective Services by rule shall require an owner, operator, or employee of a day-care center to receive training in trauma-based care.

H.B. 2338 (Bell) – Federal Action: would: (1) establish a joint legislative committee to review any federal action to determine whether such action is unconstitutional; (2) provide that any federal action found by the joint legislative committee to be unconstitutional be sent to the legislature for a determination and then on to the governor for approval or disapproval; (3) provide that any federal action declared to be unconstitutional has no legal effect in Texas; (4) prohibit the state or a political subdivision of the state from spending money to implement a

federal action declared unconstitutional; (5) authorize the attorney general (and others) to prosecute a person who attempts to implement or enforce an unconstitutional federal action for official oppression, as well as other provisions of law; and (6) entitle a person to seek a declaratory judgment that a federal action is unconstitutional and give all courts original jurisdiction over such a proceeding.

H.B. 2353 (T. King) – Pension Review Board: would increase the membership of the Pension Review Board from seven to nine members to include one person from the Texas State Association of Fire Fighters and one person from either the Texas Municipal Police Association or the Combined Law Enforcement Association of Texas.

H.B. 2362 (Lozano) – Oil and Gas Grants: would: (1) create the oil and gas downturn assistance fund as an account in the state’s general revenue fund to provide grants for the purpose of economic development and diversification in eligible cities, counties, and school districts; (2) provide that, if the state’s revenue exceeds that stated in the comptroller’s biennial revenue estimate for that fiscal biennium, the comptroller shall transfer any excess general revenue to the credit of the fund; and (3) provide that the governor shall administer the fund.

H.B. 2390 (E. Rodriguez) – Animal Shelters: would provide for the medical treatment and care of animals by certain persons in animal shelter settings and releasing agencies (collectively, referred to here as shelters) and:

1. require that, before an animal adoption becomes final, a shelter provide the proposed new owner with a written history showing if the animal has been screened or tested for diseases and conditions common to the species along with any test dates and results;
2. allow a veterinarian acting on behalf of a shelter that has taken possession of an animal to: (a) perform sterilization of a dog or cat that shows no evidence of ownership, is surrendered by the owner, or that remains unclaimed for the designated hold period; (b) prescribe or administer a vaccine or medication; and (c) provide any other treatment the veterinarian reasonably believes will promote the health and well-being of the animal or alleviate the pain, suffering, or discomfort of the animal;
3. allow an unlicensed employee, volunteer, or agent acting on behalf of a shelter that takes possession of an animal to provide nonsurgical care or treatment to the animal: (a) under the authorization and general supervision of a veterinarian; or (b) pursuant to a protocol approved by a veterinarian;
4. authorize an employee, volunteer, or agent acting on behalf of a shelter that has taken possession of an animal to provide emergency veterinary care or treatment to an animal;
5. provide that a veterinarian who provides treatment on behalf of a shelter may deliver or cause to be delivered a medication to an unlicensed employee, volunteer, or agent who may then administer the medication in accordance with the veterinarian’s instructions, and that the veterinarian must comply with the State Board of Veterinary Medical Examiners recordkeeping system for controlled substances;
6. provide that the Veterinary Licensing Act be construed in favor of veterinarians and others who are acting in good faith to save animals’ lives;
7. establish no-kill benchmarks for those shelters that declare an intent to satisfy the benchmarks in writing;

8. except a veterinarian treating an animal on behalf of a shelter from the veterinarian-client-patient relationship requirement;
9. provide that controlled substance records may be maintained in a daily log or in billing records and that employees, volunteers, or agents acting under the general supervision or protocol of a veterinarian may contribute to the records; and
10. provide the disciplinary standard for those treating or caring for animals in an animal shelter setting.

(Companion bill is **S.B. 1084** by **Watson**.)

H.B. 2423 (Schofield) – Home Rule City Bankruptcy: would provide that a home rule city that adopts proceedings to avail itself of federal bankruptcy laws or otherwise seeks bankruptcy protection forfeits its home rule charter.

H.B. 2434 (Flynn) – Local Retirement Systems: would provide that certain local retirement systems, not including the Texas Municipal Retirement System, that do not have a sufficient funding level shall follow certain requirements, including the adoption of a written plan that identifies specific measures to restore funding to an adequate level to achieve and maintain an amortization period that does not exceed 30 years.

H.B. 2470 (S. Davis) – Ethics Commission: would permit the Texas Ethics Commission to provide seminars addressing any laws administered and enforced by the commission and charge an attendance fee for those seminars.

H.B. 2471 (S. Davis) – Political Expenditures: would: (1) prohibit an officer or employee of a political subdivision from: (a) spending or authorizing the spending of public funds to make a political contribution or political expenditure; or (b) directly or indirectly employing a person to use public funds to make an unlawful political contribution or political expenditure; and (2) provide that a person who violates the prohibitions in (1) commits a Class A misdemeanor.

H.B. 2473 (S. Davis) – Conflicts Disclosure: would amend the law relating to the disclosure by vendors of gifts to certain local government officers and of certain relationships with local government officers (Local Government Code Chapter 176) to:

1. define “entertainment” to include transportation to, lodging for, and attendance at a function, event or performance that: (a) a local government officer accepts as a guest of a vendor; (b) is not required to be reported under other law; and (c) is not prohibited by law;
2. define “gift” to mean a benefit, including entertainment, offered by a vendor and accepted by a local government officer, and excluding: (a) a benefit offered based on kinship or a personal, professional, or business relationship independent of the official status of the local government officer; or (b) food or beverages accepted as a guest of a vendor;
3. define “local government officer” to mean: (a) a member of the governing body of a local governmental entity; or (b) a director, superintendent, administrator, president, or

- other executive officer of a local governmental entity who exercises discretion in the planning, recommending, selecting, or contracting of a vendor;
4. define “vendor” to mean a person or agent of the person who enters or seeks to enter into a contract with a local governmental entity for the provision of goods or services;
 5. require a vendor, not later than the 15th day of the first month of each calendar quarter, to submit a completed disclosure form if the vendor has a contract or is seeking a contract with a local governmental entity and has given one or more gifts during the preceding calendar quarter with an aggregate value of more than \$100 to a local government officer of the entity;
 6. except from (5) a gift given by a vendor directly as part of the vendor’s sponsorship of or contribution to an event that benefits certain nonprofit organizations;
 7. require a local governmental entity to mail a written notice to a vendor if the vendor has not submitted a disclosure form as soon as practicable after the local governmental entity discovers the omission, in which event, the vendor has until the 30th day after the notice is mailed to submit the form, and provide that a knowing failure to submit the form before the 31st day is a Class C misdemeanor;
 8. require a local governmental entity to: (a) create and update a complete list of all local government officers; (b) provide the list to each vendor that enters or seeks to enter into a contract with the entity; and (c) post and maintain the list on the entity’s website (if there is one);
 9. prohibit a local government officer from soliciting from a vendor a gift on behalf of the officer, the officer’s family member, or another person, including a local governmental entity or nonprofit charitable organization, and except from this prohibition contributions authorized by the Election Code;
 10. authorize the Texas Ethics Commission to prepare written advisory opinions regarding the application of Chapter 176, Local Government Code;
 11. provide that a local government officer must file a conflicts disclosure statement with respect to a vendor if the vendor enters into a contract with the local governmental entity and: (a) the vendor and officer (or officer’s family member) have certain employment or business relationships; or (b) the vendor has a family relationship with the local government officer; and
 12. require the local governmental entity to post each disclosure statement and questionnaire (Form CIS and Form CIQ) not later than the 30th day after the date it is filed.

H.B. 2494 (Faircloth) – Unclaimed Property: would modify the dates on which a city for holding unclaimed property must report that property to the comptroller.

H.J.R. 85 (Flynn) – Local Retirement Systems: would amend the Texas Constitution to provide that the state is not liable and may not appropriate money to pay for any debts or other obligations of a local retirement system. (Companion is **S.J.R. 43** by **Huffman**.)

S.B. 1020 (V. Taylor) – Texas Cybercrime Act: would, among other things, create: (1) a third degree felony for a person who intentionally interrupts or suspends access to a computer system or computer network without the effective consent of the owner; and (2) a Class A misdemeanor for a person who: (a) alters data as it transmits between two computers in a computer network or computer system without the effective consent of the owner; or (b) introduces malware,

including ransomware, onto a computer, computer network, or computer system without the effective consent of the owner. (Companion is **H.B. 9** by **Capriglione**.)

S.B. 1057 (West) – Abandoned Animals: would require a landlord, owner, or mortgagee in control of a vacant property to inspect the property for abandoned animals and, if an abandoned animal is encountered, to immediately report it to an animal control officer or a law enforcement officer.

S.B. 1084 (Watson) – Animal Shelters: this bill is the same as **H.B. 2390**, above.

S.B. 1086 (Seliger) – Hotel Occupancy Taxes: would: (1) prohibit a state agency from posting on a public Internet website information that identifies the taxable receipts of an individual business that is contained in or derived from a record, report, or other document related to the collection of hotel occupancy taxes; and (2) provide that information described by (1) and that is collected or maintained by a state agency is considered to be public information. (Companion bill is **H.B. 1924** by **Elkins**.)

S.B. 1089 (Perry) – Food Service Certificates: would prohibit a local health jurisdiction from charging a fee for a certificate issued to a food service worker who provides proof of completion of a food handler training course that is accredited by the American National Standards Institute or accredited by the Department of State Health Services and listed on their registry.

S.B. 1090 (Lucio) – Dog Restraint: would: (1) prohibit, with certain exceptions, a person who owns or has custody or control of a dog: (a) from leaving the dog outside and unattended by use of a restraint unless the owner provides the dog adequate shelter, a dry area, shade, and potable water; and (b) from restraining a dog outside and unattended by use of certain restraints; (2) make a knowing violation of the prohibitions in (1) a Class C misdemeanor or a Class B misdemeanor if the person has previously been convicted; and (3) provide that the provisions of the bill do not preempt a local regulation relating to the restraint of a dog or affect the authority of a city to adopt or enforce an ordinance or requirement relating to the restraint of a dog that is equal to or more stringent than its provisions.

S.B. 1101 (Taylor of Collin) – Day Care Centers: would, among other things, impose numerous requirements related to provide that epinephrine auto-injectors used at a day care center, including a center operated by a city.

S.B. 1113 (Garcia) – Government Bathrooms: would provide: (1) that a governmental entity, including a city, that has control over a bathroom or changing facility in a building owned or leased by the entity shall allow a person to use a bathroom or changing facility located in the building consistent with the person's gender identity or gender expression; and (2) for an attorney general complaint and enforcement process. (See **S.J.R. 44**, below.)

S.J.R. 43 (Huffman) – Local Retirement Systems: would amend the Texas Constitution to provide that the state is not liable and may not appropriate money to pay for any debts or other obligations of a local retirement system. (Companion is **H.J.R. 85** by **Flynn**.)

S.J.R. 44 (Garcia) – Equal Rights: would propose an amendment to the Texas Constitution that would provide that: (1) all men and women, when they form a social compact, have equal rights, and no man or woman, or set of men or women, is entitled to exclusive separate public emoluments, or privileges, but in consideration of public services; and (2) equality under the law shall not be denied or abridged because of sex, race, color, creed, military status, health status, ethnicity, sexual orientation, gender identity or expression, age, religion, disability, genetic information, family, marital status, previous incarceration, or national origin. (See **S.B. 1113**, above.)

Municipal Courts

H.B. 2315 (Landgraf) – Protective Order Registry: would require the Office of Court Administration to establish and maintain a protective order registry that allows city management systems to easily interface with the registry.

Community and Economic Development

H.B. 2160 (Wray) – Eminent Domain: would provide that a property owner, including a city, is entitled to additional damages (such as those for impairment or placing or routing of utilities) for property condemned by a high-speed rail company.

H.B. 2185 (Krause) – Charter Schools: would, among other things: (1) provide that a city shall consider an open-enrollment charter school a school district for purposes of zoning, permitting, code compliance, and development (but would maintain the exemption in current law that a campus of an open-enrollment charter school located in whole or in part in a city with a population of 20,000 or less is not subject to zoning); and (2) exempt an open-enrollment charter school from paying impact fees unless the governing body of the charter school consents.

H.B. 2272 (Schofield) – Annexation: would provide that a city may not annex an area for full or limited purposes unless, in addition to the requirements of current law, one of the following conditions is met: (1) the city holds an election in the area proposed to be annexed and a majority of the votes received at the election approve the annexation; (2) a majority of the registered voters of the area request the governing body in writing to annex the area; (3) each owner of land in the area requests the governing body in writing to annex the area; or (4) the municipality owns the area.

H.B. 2312 (Dukes) – Housing Discrimination: would: (1) prohibit housing discrimination under the Texas Fair Housing Act on the basis of military status or sexual orientation; and (2) prohibit the Texas Workforce Commission from deferring proceedings and referring a complaint under the Texas Fair Housing Act to a city in which alleged discrimination occurs if the city does not have laws that prohibit the alleged discrimination.

H.B. 2336 (Dutton) – Low Income Housing Tax Credit Program: would provide, among other things, that if an elected official comments on an application for low income housing tax

credits during the application evaluation process, the elected official may withdraw the comment and disuse a new comment before the end of that process.

H.B. 2435 (Wray) – Public Improvement Districts: would, among other things: (1) add the following to the list of authorized public improvement projects: (a) recreational facilities; (b) acquisition, construction, or improvement of a facility related to the generation of renewable energy from wind, solar, geothermal, or other renewable sources of energy; (c) acquisition, construction, or improvement of a facility related to a water feature, including a recreational lagoon or artificial body of water used for: (i) aesthetic purposes; or (ii) swimming, boating, or other aquatic recreational sports or activities; and (d) acquisition, by purchase or otherwise, of right-of-way in connection with an authorized improvement; (2) provide that a public improvement project does not include the payment of expenses related to the operation and maintenance of mass transportation facilities; (3) authorize the governing body of a city or county to call and hold a public hearing for the purpose of increasing the area of a public improvement district if a petition requesting the increase is filed; (4) provide that after the hearing held under (3) the governing body may by ordinance or order increase the area of the district in accordance with the increase proposed in the hearing; (5) provide that if the governing body of a city or county increases the area of a public improvement district under (4) and the governing body has levied an assessment on property in the district before the increase, the governing body may: (a) make a supplemental assessment; or (b) reapportion the existing assessment after notice is given and a hearing is held; (6) provide that the governing body of a city or county may only make a reassessment or new assessment when increasing the area of the district for the purpose of reducing the overall principal amount of a prior assessment; (7) provide that a special improvement district fund may be used to pay the initial cost of the improvement until temporary notes, time warrants, or general obligation bonds or revenue have been issued and sold; (8) authorize the governing body of a city or county to transfer a public improvement project, for the purpose of operation and maintenance of the project for the benefit of the city or county to certain special purpose districts; (9) provide that the interest rate on unpaid amounts due under an installment sales contract, reimbursement agreement, temporary notes, or time warrants may not exceed, for a period of not more than seven years, as determined by the governing body of the city or county, five percent above the highest average index rate for tax-exempt revenue bonds reported in a daily or weekly bond index approved by the governing body and reported in the month before the date the obligation was incurred; (10) authorize a city to pledge for the payment of debt obligations undedicated tax increment revenue generated from property taxes and sales taxes imposed in a tax increment reinvestment zone as designated by the city and located wholly or partly within the boundaries of the public improvement district; (11) authorize the governing body of a city or county to enter into an agreement with one of the following entities that provides for payment of amounts pledged to the entity to secure indebtedness issued by the entity to finance an improvement project: (a) a corporation created by the city or county under the Texas Constitution or other law; (b) a local government corporation; or (c) a political subdivision or instrumentality created and authorized to issue bonds secured by pledged revenue from a city or county; and (12) authorize a refunding bond to be issued in a principal amount in excess of the bonds to be refunded.

H.B. 2480 (E. Johnson) – Tax Increment Financing: would, among other things: (1) provide that, before adopting an ordinance designating a tax increment reinvestment zone, a city must

prepare or have prepared an affordable housing impact statement; (2) require that the statement under (1) be made available to the public and posted on the city's website at least 60 days before the city holds the hearing required prior to creation of the zone; and (3) require the statement under (1) include estimates of the impact on the availability of affordable housing in the area of the proposed zone for the 30-year period following designation of the proposed zone.

H.B. 2535 (Zedler) – Tree Ownership: would provide that: (1) a landowner owns all trees and timber located on the landowner's land as real property until cut or otherwise removed from the land, unless otherwise provided by a contract, bill of sale, deed, mortgage, deed of trust, or other legally binding document; (2) a governmental entity may not prohibit a landowner from trimming or removing trees or timber located on the landowner's land; (3) a governmental entity may, if authorized by other state law and subject to the limitations of that law, assess a mitigation fee against a landowner for the removal of a mature tree on the landowner's land; (4) a mitigation fee under (3): (a) must be proportional to the value of the mature tree removed; (b) may not exceed \$100 per inch of girth of the mature tree removed measured at 4-1/2 feet above the natural grade; and (c) may be used only in the jurisdiction in which the fee is collected and only for the purpose of tree planting and other related activities; (5) a landowner is entitled to plant a replacement tree at the landowner's expense instead of paying a mitigation fee, and a landowner who chooses to plant a replacement tree is not required to plant a number of replacement trees whose total girth is greater than the total girth of all the mature trees to which the mitigation fee would have applied; (6) a city may not regulate the trimming or removal of trees or timber in the extraterritorial jurisdiction (ETJ); and (7) San Antonio and other cities with a military base in their ETJ are exempt from the bill. (Companion bill is **S.B. 782** by **Campbell**.)

H.B. 2556 (Holland) – Eminent Domain: would provide that, to be considered a bona fide offer for purposes of acquiring property through eminent domain, a condemnor's appraisal must include an appraisal of damages arising from: (1) any construction, maintenance, repair, replacement, or removal of a structure on the owner's property made necessary by the proposed acquisition; or (2) any replacement, relocation, or removal of, or injury to, any other property, whether real or personal, located on or affixed to the owner's land, including livestock, growing crops, or other growing plants.

S.B. 1028 (Estes) – Economic Development: would: (1) require the state Economic Incentive Oversight Board (board) to examine the effectiveness, efficiency and financial impact on this state of programs administered by local governments that award to business entities and other persons monetary or tax incentives for which the local government has discretion in determining whether or not to award the incentives; (2) require the board to develop a performance matrix that clearly establishes the economic performance indicators, measures, and metrics that will guide the board's evaluations of those programs; (3) require a local government to provide to the board on request information concerning a program described by (1) as necessary to enable the board to perform its duties; (4) require the board to review and make findings and recommendations regarding each class or type of program administered by local governments according to a review schedule; and (5) require the board to submit a biennial report containing findings and recommendations resulting from each review of local government incentive programs.

S.B. 1049 (Uresti) – Assisted Living Facilities: would: (1) require the Health and Human Services Commission (commission) to issue a technical memorandum providing guidance on the minimum life safety code standards for assisted living facilities, and provide that the memorandum is legally binding and must be followed by a person conducting a life safety code survey; (2) authorize a city fire marshal to grant a waiver for a violation of a life safety requirement or fire safety standard cited in a official statement of violation from the commission provided that the waiver will not have any adverse effect on the safety of the residents in the assisted living facility; (3) require the commission to specify an edition of the Life Safety Code of the National Fire Protection Association to be used for assisted living facilities; and (4) require the commission to recognize a certificate of occupancy or other approval issued by a city or county indicating that a structure complies with all building, fire, and health requirements of the city or county.

S.B. 1082 (Burton) – Trees: would provide that: (1) a landowner owns all trees and timber located on the landowner’s land as real property until cut or otherwise removed from the land, unless otherwise provided by a contract, bill of sale, deed, mortgage, deed of trust, or other legally binding document; (2) a governmental entity may not prohibit a landowner from trimming or removing trees or timber located on the landowner’s land or assess a fee against a landowner who removes trees or timber from the landowner’s land; and (3) a city may not regulate the trimming or removal of trees or timber in the extraterritorial jurisdiction.

S.B. 1114 (Lucio) – Unsafe Housing: would: (1) require the state to establish programs to provide financial assistance: (a) for the demolition and replacement of owner-occupied single-family homes that are in a condition that poses a risk to the health and safety of the occupants; and (b) to eligible persons for the purchase of new manufactured homes; (2) require the Manufactured Housing Board to adopt rules in regard to the programs described in (1), and involve certain local government officials and entities in nominating eligible participants.

Personnel

H.B. 2350 (Muñoz, Jr.) – Health Care Benefits: would prohibit the provision of health care benefits by entities such as insurers and health maintenance organizations through provider networks, preferred providers, or similar arrangements.

H.B. 2486 (Stucky) – Military Service: would provide that an employee of the state, a city, a county, or another political subdivision who is a member of the Texas military forces, a reserve component of the armed forces, or a member of a state or federally authorized urban search and rescue team and who is ordered to duty by proper authority is entitled, when relieved from duty, to be restored to the position that the employee held when ordered to duty.

H.B. 2510 (Longoria) – Wage Claims: would: (1) prohibit an employer from suspending or terminating the employment of, or in any other manner disciplining, discriminating against, or retaliating against an employee who in good faith seeks to recover wages owed to the employee by filing a wage claim; and (2) authorize a person who has reason to believe an employer has violated the prohibition in (1) to file a complaint with the Texas Workforce Commission, and if

it is determined that an employer violated the prohibition, the employer must be ordered to pay to the employee damages in an amount equal to the greater of: (a) \$1,000; or (b) the amount of wages ordered to be paid in the underlying wage claim, if the payment of wages is ordered in the underlying wage claim.

S.B. 1036 (Perry) – Workers’ Compensation: would: (1) require the Office of Injured Employee Counsel (office) to designate an employee to act as a first responder liaison to assist injured first responders during a workers’ compensation administrative dispute resolution process; and (2) require an employer that employs first responders or supervises volunteer first responders to notify them of the liaison described in (1) in the manner prescribed by the office. (Companion bill is **H.B. 2082** by **Burrows**.)

S.B. 1060 (West) – Public Service Loan Forgiveness: would require a city employer to provide written notice of the ability of eligible employees to participate in the Public Service Loan Forgiveness Program within five days of an employee beginning employment with the city.

S.B. 1111 (Rodriguez) – Disabilities: would, among other things: (1) provide that an individual with a disability who qualifies for an employment preference (i.e., the person is eligible to receive supported employment service from the Texas Workforce Commission or through the Medicaid waiver program) is entitled to a preference in employment with a state agency or political subdivision over other applicants for the same position who do not have a greater qualification; (2) authorize a state agency or political subdivision to designate an open position for employment as a vocational rehabilitation services position and only accept applications for that position from individuals who are entitled to an employment preference; (3) authorize a state agency or political subdivision to hire for an open position an individual who is entitled to an employment preference without announcing or advertising the position if certain requirements are met; and (4) authorize an individual entitled to an employment preference who is aggrieved by a decision of a state agency or political subdivision in regard to hiring or retaining the individual to appeal the decision by filing a written complaint with the administrative head of the agency or political subdivision, who must respond not later than the 15th business day after receiving the complaint.

Public Safety

H.B. 927 (J. White) – Guns and Knives: would provide that a political subdivision or an officer of a political subdivision may not adopt or enforce a local regulation relating to a firearm, a knife, or ammunition unless authorized by state law.

H.B. 1189 (Wray) – Reserve Law Enforcement Officers: would provide that (1) a reserve law enforcement officer may not, for compensation from a private business, use or operate a private patrol vehicle, direct traffic on a public highway, or provide motor vehicle escort services: (a) outside the jurisdiction in which the reserve officer is appointed or employed; or (b) inside the jurisdiction in which the officer is appointed or employed, unless the reserve officer receives permission from the reserve officer’s appointing law enforcement agency; (2) The Texas Commission on Law Enforcement shall revoke or suspend a license of a reserve officer if they violate (1) above; and (3) while performing security officer duties, a reserve officer may not

wear their reserve officer uniform or use any title, insignia or identification card or make any statement with the intent to give an impression that the officer is a law enforcement officer.

H.B. 1244 (Geren) – Red Light Cameras: would provide that: (1) neither the county assessor-collector nor the Texas Department of Motor Vehicles may refuse to transfer the title of or register a motor vehicle alleged to have been involved in a red light camera violation solely: (a) based on the alleged violation; or (b) because the owner of the motor vehicle is delinquent in the payment of a red light camera civil penalty; and (2) a local authority or the person with which the local authority contracts for the administration and enforcement of a photographic traffic signal enforcement system may not provide information about a red light camera violation to a person authorized to register or issue a title for a vehicle.

H.B. 2189 (Krause) – Blue Alert System: would create a blue alert system designed to aid in the apprehension of an individual suspected of killing or causing serious bodily injury to a law enforcement officer.

H.B. 2191 (Dale) – Law Enforcement Grants: would provide that the governor’s criminal justice division may not award a grant to a police department of a city with a population of 800,000 or more unless the department is a party to an agreement with the United States Secretary of Homeland Security and United States Immigration and Customs Enforcement under Section 287(g) of the Immigration and Nationality Act.

H.B. 2205 (Kuempel) – Child Abuse Reports: would provide that an employee of a school district or open-enrollment charter school must make the report of child abuse or neglect, including trafficking of a child, to both the Department of Family and Protective Services and a local or state law enforcement agency.

H.B. 2226 (Lang) – Peace Officer Complaints: would amend the state laws that apply to handling peace officer complaints (except in cities that have meet and confer or collective bargaining agreements that deal with complaints). Specifically, it would:

1. delete certain references to peace officers and specific law enforcement agencies and replace them with a broader reference to a “law enforcement agency,” defined to mean an agency of this state or an agency of a political subdivision of this state authorized by law to employ a law enforcement officer, including a peace officer;
2. prohibit the head of a law enforcement agency from disciplining, demoting, indefinitely suspending, or terminating the employment of a law enforcement officer, peace officer, detention officer, or county jailer based on a complaint that alleges the officer threatened the use of deadly force or used force against a person that resulted in bodily injury or death unless: (a) the agency investigates the complaint; and (b) the head of the agency determines there is sufficient evidence the officer or employee violated a written policy or procedure of the agency;
3. require a law enforcement agency to notify an officer or employee in writing if the head of the agency takes a disciplinary action against the officer or employee under (2), and require the notice include: (a) a statement indicating each policy or procedure that the officer or employee violated and describing each act alleged to have been committed by

the officer or employee in violation of the policy or procedure; (b) a statement that the officer or employee is entitled to appeal to a hearing examiner; and (c) a statement that the officer or employee waives the right to appeal to district court if the officer appeals to a hearing examiner;

4. establish procedures for an appeal to an independent hearing examiner as described in (3), including: (a) a requirement that the officer or employee provide certain notice of the appeal to the head of the law enforcement agency, which must be filed not later than the tenth day after the office receives the written notice; and (b) a requirement that the parties attempt to agree on the selection of an impartial hearing examiner or, if there is no agreement, use one of seven neutral arbitrators from the American Arbitration Association or the Federal Mediation and Conciliation Service;
5. provide for the authority and duties of a hearing examiner described in (4), including: (a) the authority to issue subpoenas; (b) the authority to prohibit a witness from discussing the hearing; (c) the duty to promptly reverse any disciplinary action and restore the officer or employee to his/her status if the requirements in (3) are not met; and (d) the requirement to issue a final decision within a certain timeframe;
6. make the final decision in a hearing described in (4) final and binding on all parties to the appeal, and provide that the fees and expenses of the hearing examiner are shared equally between the parties, but the cost of a witness is paid by the party who calls the witness; and
7. provide that a district court may hear an appeal of the final decision of a hearing examiner described in (6) only on the ground that the hearing examiner was without jurisdiction, exceeded his/her jurisdiction, or that the final decision was procured by fraud, collusion, or other unlawful means.

H.B. 2245 (Dukes) – Public Schools: would restrict the use of sprays, Tasers, and stun guns to subdue one or more students on school property or while attending a school-sponsored activity.

H.B. 2280 (Dean) – Immigration Enforcement: would: (1) provide that not later than 48 hours after a person is arrested and before the person is released on bond, a law enforcement agency performing the booking process must: (a) review any information available under the federal Priority Enforcement Program; or (b) request information regarding the person's immigration status from a federal immigration officer or other officer authorized under federal law to verify a person's immigration status; (2) except a law enforcement agency from complying with (1) with respect to a person who is transferred to the custody of the agency by another law enforcement agency if the transferring agency already performed those duties; (3) require a law enforcement agency that has custody of a person subject to a federal immigration detainer to: (a) provide to the judge or magistrate notice of the detainer; and (b) detain the person as required by the detainer; and (4) prohibit a law enforcement agency from considering race, color, language, or national origin while enforcing immigration laws except to the extent permitted by the U.S. or Texas constitutions.

H.B. 2306 (Guillen) – Abandoned Motor Vehicles: would allow a law enforcement agency to use proceeds from the auction of an abandoned motor vehicle for compensation to property owners whose property was damaged as a result of a pursuit involving the motor vehicle.

H.B. 2351 (Nevarez) – Fire Fighter Investigation: would apply the administrative procedures for the investigation of misconduct applicable in certain civil service cities to firefighters in non-civil service cities.

H.B. 2380 (Swanson) – Licensed Carry: would provide that the holder of a license to carry a handgun who is carrying a handgun and personally given notice that carry is prohibited on property pursuant to Texas Penal Code Sections 30.06 and 30.07 and who promptly departs from the property has an affirmative defense to prosecution for violating those sections.

H.B. 2399 (P. King) – F5 Employment Termination Reports: would: (1) provide that, at any time after the head of a law enforcement agency (or his/her designee) submits an employment termination report regarding a license holder to the Texas Commission on Law Enforcement (TCOLE), an amended report may be submitted if it is determined that it is necessary based on a reconsideration of the circumstances under which the license holder resigned, retired, was terminated, or separated from the agency; and (2) require that a copy of the amended report in (1) be provided to certain persons (e.g., license holder, next of kin) not later than seven business days after the amended report is submitted to TCOLE.

H.B. 2404 (Alvarado) – Sexual Assault Reports: would provide that:

1. within 72 hours of receipt of the allegation of sexual assault, an institution of higher education or a private or independent institution of higher education shall report to an appropriate local law enforcement agency an allegation of sexual assault made to the institution if: (a) a perpetrator or a victim of the alleged sexual assault is a student enrolled at the institution; or (b) the alleged sexual assault occurred on the institution's campus or on any other property owned by or under the control of the institution;
2. the institution may not report an allegation of sexual assault to a local law enforcement agency if, before the institution makes the report, the victim of the alleged sexual assault requests in writing that the report not be made;
3. on receipt of an allegation to which (1) applies, the institution shall inform the victim of the alleged sexual assault of: (a) requirements of (1) and (2) and the use of a pseudonym form in connection with the report and the victim's right to request that the form not be used; (b) the importance of preserving any evidence as proof for potential criminal proceedings; (c) the victim's right to report or decline to report the allegation to the campus peace officers or to the local law enforcement agency, including the right to be assisted by the institution in making a report; (d) the victim's right to seek a protective order or an order for emergency protection and the institution's responsibilities, if any, in enforcing those orders; (e) the victim's crime victims rights including the right to have a forensic medical examination conducted at no cost to the victim and where to obtain the examination; and (f) applicable counseling, health, mental health, legal, victim advocacy, and other resources available to the victim at the institution or locally;
4. the report under (1) must be made using the pseudonym form unless the victim of the alleged sexual assault objects in writing to the submission of the form; and
5. campus peace officers and the appropriate local law enforcement agency shall develop policies regarding an investigation into an allegation of sexual assault reported to the agency by the institution under (1) and the policies must: (a) provide for the cooperation

of the officers and the agency; and (b) establish the respective roles of the officers and the agency in handling the investigation.

H.B. 2450 (Price) – Search Warrants: would modify the requirements for a warrant authorizing the search of a cellular telephone or other wireless communications device and allow a peace officer to search such a device without a warrant in certain circumstances.

H.B. 2458 (Price) – Search Warrants: would allow any magistrate, rather than one who is an attorney, to issue a search warrant to collect a blood specimen from a person arrested for certain intoxication offenses.

H.B. 2467 (S. Davis) – Stress Debriefing Grant Program: would require the governor’s Criminal Justice Division to establish and administer a grant program to assist law enforcement agencies in providing critical incident stress debriefing to peace officers.

H.B. 2477 (Davis) – Removal of Motor Vehicles: would allow a city that regulates the operation of vehicles for hire to designate an employee, who is not a peace officer, to request the removal of a vehicle operated in violation of the ordinance.

H.B. 2505 (Hernandez) – Silver Alerts: would provide that local law enforcement agency may require the family or legal guardian of the missing senior citizen to provide documentation of the senior citizen’s impaired mental condition to verify the senior citizen has an impaired mental condition and shall, as soon as practicable, determine whether the senior citizen’s disappearance poses a credible threat to the senior citizen’s health and safety.

H.B. 2522 (Schaefer) – Immigration: would provide that, the director of the Texas Department of Public Safety shall negotiate the terms of a memorandum of understanding between the state and the United States Department of Homeland Security concerning the role of the department in enforcing federal immigration laws, in accordance with federal law; (2) the memorandum of understanding must be signed by the director or by another individual as required by the United States Department of Homeland Security; and (3) not later than March 1, 2018, the director shall report to the legislature the results of the director’s negotiations under the bill.

S.B. 966 (Watson) – Juvenile Offenses: would provide that the offenses of consumption or possession of an alcoholic beverage by a minor does not apply to a minor who reports the sexual assault of the minor or another person to: (1) a health care provider treating the victim of the sexual assault; (2) an employee of a law enforcement agency, including an employee of a campus police department of an institution of higher education at which the victim of the sexual assault is enrolled; or (3) the Title IX coordinator of an institution of higher education at which the victim of the sexual assault is enrolled or another employee of the institution responsible or responding to reports of sexual assault.

S.B. 983 (Estes) – Cemeteries: would provide that a dead body may be transferred without a funeral director directing the transfer at the direction of a justice of the peace or other law enforcement official. (Companion bill is **H.B. 1292** by **Raymond**.)

S.B. 986 (Buckingham) – Immigration Enforcement: would: (1) require the criminal justice division in the governor’s office (division) to establish a competitive grant program to provide financial assistance to a local entity to offset costs related to: (a) enforcing immigration laws; or (b) complying with, honoring, or fulfilling any immigration detainer request; and (2) provide that the division may use any revenue available for the program described in (1).

S.B. 997 (Garcia) – Immigration Enforcement: would: (1) require a law enforcement agency or governmental entity that employs a peace officer to adopt and enforce a policy that prohibits officers from participating in the enforcement of federal immigration laws on the property of a place of worship, hospital, public school, institute of higher education, or courthouse; and (2) require the attorney general to develop and publish a model policy for the enforcement of federal immigration law at places of worship, hospital, public schools, and courthouses.

S.B. 1013 (Kolkhorst) – Motor Vehicle Records: would provide that: (1) a written agreement with an agency is needed to disclose personal information by an agency in connection with a motor vehicle record; (2) in the written agreement, the agency agrees to maintain records that: (a) specify the requestor’s use of the personal information; and (b) identify any person or entity receiving the personal information and the permitted use for which it was obtained if the requestor resells or rediscloses that information and provides any other information as required by the agency; (3) an authorized recipient who resells or rediscloses personal information shall notify the agency that provided the information of the resale or redisclosure not later than the 30th day after the date the recipient resells or rediscloses the personal information; (4) an authorized recipient shall provide copies of all records required to be maintained to the agency that provided the information on request; and (5) an administrative penalty is created for the misuse of personal information.

S.B. 1041 (Buckingham) – Sex Offenders: would prohibit a registered sex offender from residing on the campus of a public or private institution of higher education. (Companion bill is **H.B. 355** by **Raney**.)

S.B. 1069 (Hughes) – Survivor Benefits: would provide, in regard to certain claims and benefits or compensation by survivors of fire fighters, that: (1) the opinion of the individual’s employer on whether the individual’s death resulted from a personal injury sustained in the line of duty may not be considered; (2) any reasonable doubt arising from the circumstances of the individual’s death shall be resolved in favor of payment when the person died as a result of an illness sustained in the line of duty and any scientific evidence is presented that establishes: (a) the incidence rate for the illness is significantly higher among persons performing the same job; or (b) a causal link between the illness and a hazardous condition encountered in the individual’s job; and (3) deference shall be given to the medical opinion of a treating physician in favor of payment when there is any reasonable doubt regarding the circumstances of the individual’s death as a result of a newly discovered or rare illness sustained in the line of duty. (Companion bill is **H.B. 1922** by **E. Rodriguez**.)

S.B. 1077 (Burton) – Theft: would provide that the offense of theft is a state jail felony if the value of the property stolen is less than \$30,000 and the property is: (1) aluminum, bronze, copper, or brass stolen from; (a) structure owned or operated by a telecommunication provider;

or (b) a structure in which the stolen property was used to provide basic local telecommunications services; or (2) regulated materials stolen from: (a) a public utility or telecommunications provider; or (b) a cable service provider or video service provider.

S.B. 1096 (Zaffirini) – Guardianships: would impose numerous mandates related to the arrest or detention of a ward by a police officer. Specifically, the bill would provide that: (1) as soon as practicable, but not later than the first working day after, the date a peace officer detains or arrests a ward, takes into custody a ward because there is probable cause the ward violated a penal statute, a penal ordinance, delinquent conduct, conduct indicating a need for supervision or conduct that violates a condition of probation imposed by the juvenile court, the peace officer or the person having custody of the ward shall notify the probate court having jurisdiction over the ward’s guardianship of the ward’s detention, arrest or custody; (2) the Department of Public Safety (DPS) shall make information for the guardianship database available to law enforcement personnel through the Texas Law Enforcement Telecommunications System or successor system of the telecommunication used by law enforcement agencies and operated by DPS; (3) the only information that may be disclosed from the guardianship database to a law enforcement official inquiring into guardianship is: (a) the name, sex, and date of birth of a ward; (b) the name, telephone number, and address of the guardian of a ward; and (c) the name of the court with jurisdiction over the guardianship; and (4) a law enforcement agency or officer that receives the information must maintain the confidentiality of the information, may not disclose the information under the PIA or any other law, and may not use the information for purpose that does not directly relate to the purpose for which it was obtained.

Transportation

H.B. 2166 (Isaac) – Nonconsent Tows: would: (1) authorize the Texas Commission of Licensing and Regulation (commission) to establish, by rule, the maximum amount that may be charged for nonconsent tows and the fees that may be charged in connection with nonconsent tows; and (2) provide that a city may regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the city if the nonconsent tow fees are authorized by commission rule and don’t exceed the maximum amount authorized by commission rule.

H.B. 2212 (Stephenson) – Vehicle Weight Limits: would allow a vehicle powered by an engine fueled primarily by natural gas to exceed any weight limit by an amount equal to the difference between the weight of the vehicle attributable to the natural gas tank and fueling system carried by that vehicle and the weight of a comparable diesel tank and fueling system, provided that the maximum gross weight of the vehicle may not exceed 82,000 pounds. (Companion bills are **H.B. 2319** by Paddie and **S.B. 1102** by Creighton.)

H.B. 2319 (Paddie) – Weight Limits: this bill is the same as **H.B. 2212**, above.

H.B. 2371 (Hernandez) – Motor Vehicle Accident Reports: would provide that Texas Department of Transportation or a governmental entity shall release various accident reports on written request and payment of any required fee to the first lienholder of a vehicle damaged on

the accident, including: (1) a vehicle storage facility and is the first lienholder of the vehicle; and (2) a towing company and is the first lienholder of the vehicle.

H.B. 2374 (Blanco) – Border Infrastructure: would require the governor to, each fiscal year, designate at least five percent of funds available to Texas under the Surface Transportation Block Grant program for border infrastructure projects.

H.B. 2508 (Kuempel) – Towing, Booting, and Parking Facilities: would:

1. make various amendments to the Vehicle Storage Facility Act (Occupations Code Chapter 2303), including the following: (a) provide that the law does not, unless expressly provided otherwise, trump a city ordinance or charter or a contract with a governmental entity to provide services for incident management towing; (b) delete the requirement that local law enforcement be informed when a vehicle is accepted by a facility under the Act and replace it with a requirement that law enforcement be informed when a vehicle is accepted under the Texas Towing and Booting Act (Occupations Code Chapter 2308); (c) alter the provisions regarding notification to law enforcement about a vehicle abandoned at a facility; and (d) require the Texas Commission of Licensing and Regulation to adjust governmental vehicle storage facility fees (up or down) in accordance with the Consumer Price Index;
2. make various amendments to the Towing and Booting Act (Occupations Code Chapter 2308), including the following: (a) delete certain references to booting companies and parking facilities; (b) provide that the chapter does not, unless expressly provided otherwise, trump a city ordinance or charter or a contract with a governmental entity to provide incident management towing; (c) establish new requirements for an incident management towing permit, private property towing permit, and consent towing permit; (d) provide that when a tow truck is used for a nonconsent tow initiated by a peace officer, the permit holder is an agent of law enforcement and is not liable for damage to personal property or failure to exercise authority; (e) prohibit a license holder from charging a fee for a private property tow or incident management tow that is greater than a fee established in the Act or authorized by a political subdivision; (f) authorize a city to adopt an ordinance regulating booting companies and operators; and (g) provide that if a court finds that a person or law enforcement agency authorized, with probable cause, the towing and storage of a vehicle, the person who requested the hearing shall pay the costs of towing and storage, and if the court finds it was without probable cause, the towing company, facility, or law enforcement agency that authorized the tow shall pay the costs of towing and storage; and
3. add new provisions in the Property Code, to be cited as the Texas Parking Facility Act, that include the following: (a) define “parking facility” to include public property used for restricted or paid vehicle parking, including a commercial lot or right-of-way on government-owned property that is leased to a private person; (b) define “parking facility owner” to include any legal entity owning or operating a parking facility; (c) establish certain prohibitions against parking unattended vehicles in certain areas of a parking facility, and provide an exception for emergency vehicles; (d) provide for the towing and storage of an unauthorized vehicle at a parking facility; (e) establish prohibitions for parking vehicles on a parking facility of an apartment complex and provide for the

towing and storage of the same; (f) provide that a parking facility may not have an unauthorized vehicle towed from the facility except as provided by the Act, a city ordinance that complies with the Towing and Booting Act, or under the direction of a peace officer of the owner/operator of the vehicle; (g) provide for signs prohibiting unauthorized vehicles and notice requirements for designating restricted parking areas; and (h) establish the circumstances under which a parking facility owner or towing company may tow an unauthorized vehicle from public roadway parking facilities.

H.B. 2513 (Uresti) – Diesel Fuel Tax: would increase the state’s diesel fuel tax rate from 20 to 22 cents per gallon.

Utilities and Environment

H.B. 963 (Perez) – System Benefit Fund: would provide that a retail electric provider, municipally owned utility, or electric cooperative that provided reduced rates to customers using support from the former system benefit fund shall provide to those customers, at least one time, written notice of each bill payment assistance program that might be available to assist those customers.

H.B. 2187 (Lucio) – Certificates of Convenience and Necessity: would, among other things: (1) extend the time in which the Public Utility Commission must grant a application for a water certificate of convenience and necessity (CCN) from 60 to 90 days; (2) provide that the commission may not grant a petition for expedited release from a CCN if, before the 30th day after the date the landowner files the petition, the CCN holder demonstrates that, through planning, design, construction of facilities, or contractual obligations to serve the tract of land, it has made service available to the tract; and (3) modify the procedures for determining how much a petitioner requesting decertification from an existing CCN must pay the CCN holder upon decertification.

H.B. 2204 (Kacal) – Texas Water Development Board Financial Assistance: would provide: (1) a definition of “iron and steel products;” and (2) that a contract for a water project may allow the use of iron and steel products that are not produced in the United States, so long as the use is incidental or *de minimis*.

H.B. 2240 (Lucio) – Texas Water Development Board Financial Assistance: would require a city to have enforceable time-of-day outdoor watering limitations as part of the city’s water conservation program in order to apply for financial assistance provided by the Texas Water Development Board.

H.B. 2252 (Faircloth) – Coastal Barrier System: would provide that the legislature shall establish a joint interim committee to continue to study the feasibility and desirability of creating and maintaining a coastal barrier system in this state that includes a series of gates and barriers to prevent storm surge damage to gulf beaches or coastal ports, industry, or property. (Companion bill is **S.B. 1000** by **Taylor**.)

H.B. 2359 (Ortega) – Nuisance: would provide that the delivery, possession, manufacture, or use of other item in violation of the Texas Substance Control Act, criminal trespass, disorderly conduct, arson, criminal mischief that causes a pecuniary loss of \$500 or more and a graffiti offense are activities added to the common nuisance statute.

H.B. 2369 (Nevarez) – Water Rates: would: (1) require that a city utility that provides water or sewer service to a public school district charge the district the lowest rates the utility charges commercial businesses or nonprofit organizations that receive water or sewer service; (2) allow a public school district to appeal the water rates charged to the district by a city by filing a petition with the Public Utility Commission; (3) place the burden of proof on the city to establish that the rates are just and reasonable; and (4) prohibit a city owned utility from charging a school district a fee based on the number of district students or employees.

H.B. 2377 (Larson) – Brackish Groundwater Development: would: (1) require groundwater conservation districts to 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) provide for a minimum term of 30 years for a permit issued for a well the produces brackish groundwater from a designated brackish groundwater production zone; and (3) require the holder of a permit to report to the groundwater conservation district on the amount of brackish groundwater withdrawn and aquifer levels.

H.B. 2378 (Larson) – Groundwater Conservation District: would automatically extend the term of a permit to transfer groundwater outside of a groundwater conservation district to a term not shorter than the term of the operating permit and for each additional term an operating permit is renewed. (Companion bill is **S.B. 774** by **Perry**.)

H.B. 2386 (Bailes) – Outdoor Burning: would allow a person to burn outdoor waste under the supervision of a volunteer firefighter. (Companion bill is **S.B. 1064** by **Nichols**.)

H.B. 2476 (S. Davis) – Environmental Lawsuits: would provide that a public agency, including a city, may not enter into a contingent fee contract to bring a suit under the Water Code in which the Texas Commission on Environmental Quality is a necessary and indispensable party without review and approval of the contract by the comptroller.

H.B. 2479 (Bell) – Solid Waste Facility Permits: would: (1) require the Texas Commission on Environmental Quality to deny a permit application for a solid waste facility that TCEQ finds to be incomplete or inaccurate, if a previous version was returned as incomplete or inaccurate; and (2) prohibit TCEQ from approving a subsequent application for a solid waste facility at the site that was the subject of the denied permit application. (Companion bill is **S.B. 551** by **Kolkhorst**.)

H.B. 2517 (Stephenson) – Grease Trap Waste: would prohibit the Texas Commission on Environmental Quality from issuing a permit, registration, or other authorization for land application of grit or grease trap waste. (Note: this would not apply to a permit issue to an entity

for the disposal of grit or grease trap waste at a municipal solid waste landfill.) (Companion bill is **S.B. 746** by **Kolkhorst**.)

S.B. 300 (V. Taylor) – Railroad Commission: this is the Texas Railroad Commission sunset bill. Of interest to cities, the bill would provide: (1) that the oil and gas division of the commission shall develop and publish an annual plan to use the oil and gas monitoring and enforcement resources of the commission strategically to best ensure public safety and minimize damage to the environment; (2) that the commission by rule may establish pipeline safety and regulatory fees to be assessed for permits or registrations for pipelines under the jurisdiction of the commission’s pipeline safety and regulatory program; and (3) for certain additional regulatory over intra- and interstate pipelines. (Companion bill is **H.B. 1818** by **L. Gonzales**.)

S.B. 1000 (L. Taylor) – Coastal Barrier System: would provide that the legislature shall establish a joint interim committee to continue to study the feasibility and desirability of creating and maintaining a coastal barrier system in this state that includes a series of gates and barriers to prevent storm surge damage to gulf beaches or coastal ports, industry, or property. (Companion bill is **H.B. 2252** by **Faircloth**.)

S.B. 1004 (Hancock) – Small Cellular Network Deployment: this bill is sought by wireless industry vendors (“network providers”) to quickly install small cellular equipment (“network nodes”) and/or towers in a city’s rights-of-way. It would make various findings related to the deployment of cellular network nodes in the public rights-of-way and municipal authority over those rights-of-way, and – substantively – would provide that:

1. Except as provided by the bill, a city may not prohibit, regulate, or charge for the installation or collocation of network nodes in a public right-of-way.
2. A city may not directly or indirectly require, as a condition for issuing a permit required under the bill, that the applicant perform services unrelated to the installation or collocation for which the permit is sought, including in-kind contributions such as reserving fiber, conduit, or pole space for the city’s use.
3. A city may not enter into an exclusive arrangement with any person for use of the public rights-of-way for the construction, operation, marketing, or maintenance of network nodes or node support poles, and any regulations must be nondiscriminatory and competitively neutral.
4. A city can never impose a moratorium on network nodes or support poles.
5. A city may require a network provider to obtain one or more permits (up to 30 in one “batch application”) to install a network node or node support pole in a public right-of-way only if the permit: (a) is of general applicability to users of the public rights-of-way; and (b) does not apply exclusively to network nodes. (This is essentially a construction permit that can’t require more than a city would of a land-line user of the right-of-way.)
6. A 30-day “shot clock” is imposed on a city to notify a network provider that its application is complete.
7. A 150-day shot clock is imposed on a city to approve or deny a completed application for a new node support pole and a 90-day shot clock is imposed for any other application (e.g. a node to be placed on an existing pole).
8. Detailed procedures must be followed if a city denies a permit.

9. A network provider shall begin the installation for which a permit is granted not later than the 90th day after the date the permit is approved and shall complete the installation not later than the 180th day after the date the installation begins, unless a city grants a longer time.
10. A city may charge an application fee for a permit only if it requires the payment of the fee for similar types of commercial development inside the city's territorial jurisdiction, and any fee must be cost-based and not contingent-based. (This restriction is for permits to access the right-of-way. An additional rental fee is provided for in (1), below.)
11. A city may not require a network provider to submit an application for: (a) routine maintenance that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; or (b) replacing or upgrading a network node or pole with a node or pole that is substantially similar in size (defined as not more than 10 percent higher than existing equipment) or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way.
12. A city that chooses to allow collocation of network nodes on municipal poles must do so in a non-discriminatory manner.
13. Subject to the bill's provisions and to applicable federal and state law: (a) a city may continue to exercise zoning, land use, planning, and permitting authority in the city's boundaries, including with respect to utility poles; and (b) a city may exercise that authority to impose police-power-based regulations for the management of the public rights-of-way that apply to all persons to the extent that the regulations are reasonably necessary to protect the health, safety, and welfare of the public.
14. A network provider must indemnify a city for damages caused solely by the negligent act, error, or omission of the provider, but not for liability resulting from the negligence of the city, its officers, employees, contractors, or subcontractors.
15. A network provider shall relocate or adjust network nodes in a timely manner and without cost to the city if the city requires the relocation or adjustment to accommodate public improvements constructed on behalf of the city in a public right-of-way.
16. A network provider shall ensure that the operation of a network node does not cause any harmful radio frequency interference to a Federal Communications Commission-authorized mobile telecommunications operation of the city operating at the time the network node was initially installed or constructed, and a network provider shall take all steps reasonably necessary to remedy any harmful interference.

Additionally, with regard to the use of and rental compensation for the use of a city's rights-of-way, the bill would provide that:

1. A public right-of-way rate or fee for use of the public rights-of-way may not exceed an annual amount equal to \$1,000 multiplied by the number of node support poles (i.e., those installed by a private company dedicated to cell service) and utility poles (i.e., those that provide electric or telecommunications service), other than municipally owned utility poles, inside the municipality's corporate boundaries on which the network provider has installed a network node. (The fee is adjusted annually to reflect changes in inflation based on the consumer product index.)

2. At the city's discretion, it may charge a network provider a lower rate or fee if the lower rate or fee is: (a) nondiscriminatory; (b) related to the use of the public rights-of-way; and (c) not a prohibited gift of public property.
3. The current-law access line compensation system for right-of-way use applies to telecommunications network facilities, other than network nodes, installed by a network provider. (For purposes of calculating that fee, each network node is considered an end-use customer termination point.)
4. Subject to the approval of a permit application (if required by the city) and to any applicable building codes, a network provider is entitled, as a permitted use that is not subject to zoning review or similar approval, and is not subject to further land use approval in an area that is not zoned, to do the following in the public rights-of-way: (a) construct, modify, maintain, and operate a network node; (b) construct, modify, maintain, and operate a utility pole or network support pole; and (3) collocate on a pole with the discretionary, nondiscriminatory, and express written consent of the pole's owner.
5. A network provider shall construct and maintain its structures and facilities in a manner that does not: (a) obstruct, impede, or hinder the usual travel or public safety on a public right-of-way; (b) obstruct the legal use of a public right-of-way by other utility providers; (c) violate applicable codes; (d) violate or conflict with the city's publicly-disclosed public rights-of-way design specifications; or (e) violate the federal Americans with Disabilities Act.
6. A network provider shall ensure that each new, modified, or replacement utility pole or node support pole installed in a public right-of-way in relation to which the network provider received approval of a permit application: (a) does not exceed the greater of: (i) 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or (ii) 50 feet above ground level; and (b) is spaced at least 300 linear feet from the nearest existing pole that is capable of supporting network nodes and is located in a public right-of-way.
7. A network provider may not install a new node support pole in a public right-of-way without the city's discretionary, nondiscriminatory, and written consent if the public right-of-way is adjacent to a street or thoroughfare: (a) that is not more than 50 feet wide; and (b) both sides of which are adjacent to single-family residential lots or other multifamily residences.
8. A network provider shall ensure that the vertical height of an equipment cabinet installed as part of a network node does not exceed certain height limitations, subject to approval of the pole's owner if applicable.
9. A network provider shall, in relation to installation for which a city approved a permit application, comply with nondiscriminatory undergrounding requirements, except in relation to existing structures.
10. A city may adopt a design manual for the installation and construction of network nodes and new node support poles in the public rights-of-way that includes additional installation and construction details that do not conflict with the bill.

S.B. 1045 (Estes) – Air Quality Permits: would allow an applicant for an air quality permit to combine the notice of intent and notice of preliminary decision into one notice, if: (1) before the 16th day after the application is received, the TCEQ determines the application to be

administratively complete; and (2) the preliminary decision and draft permit are available at the time of the TCEQ's determination.

S.B. 1053 (Perry) – Desired Future Conditions: would expand the definition of “affected person” able to appeal a groundwater conservation district's adoption of desired future conditions.

S.B. 1064 (Nichols) – Outdoor Burning: would allow a volunteer firefighter to supervise a person burning waste. (Companion bill is **H.B. 2386** by **Bailes**.)

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