



DRIPPING SPRINGS
Texas

Legislative Update – 2023

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88th Regular Session -- 2023

- 33 Billion Dollar Surplus
- 8,345 bills and joint resolutions filed
- 1,258 bills and joint resolutions to the governor for his signature
- 230 bills will have a direct impact on Texas cities

Special Session ends with Property Tax Bill.

- Lowers school property taxes
- Caps appraisals on non-residential property worth less than \$5 million

Additional Special Sessions are expected



Finance and Economic Development

Property Tax Calculation – S.B. 2350 (Bettencourt/Shine)

- S.B. 2350 -- Changes definition of voter approval rate (again).**
- **Adopted rate less unused increment rate for the preceding tax year**
 - **Prohibits changes to the Truth in Taxation Worksheet after adoption of the tax rate**

***Next Steps:* The City has not adopted anything close to the voter approval rate, usually adopting the de minimus rate. However, if we get close or adopt it in the future, we need to ensure that the adoption is done properly and our next year's tax rate will be determined by the previous year's adopted tax rate.**

Property Tax Exemption – S.B. 1145 (West/Talarico)

- S.B. 1145 -- City may adopt an exemption for certain child-care facilities**
- Percentage of Appraised Value of the property
 - Exemption must be between 50% and 100%
 - If adopted, owner of facility has to lower rent

SJR 64 Constitutional Amendment has to pass first before this is enacted

Next Steps: Determine whether the City has child-care facilities that meet this criteria, determine the possible budgetary impact, and decide whether and how much of an exemption to give.

Sales Tax Exemption – S.B. 379 (Huffman/Howard)

S.B. 379 – Sales Tax Exemptions

- Adult and children's diapers
- Feminine hygiene products
- Maternity/infant care items
- Wound care dressings (bandaids and gauze)

Statewide Fiscal Impact \$227 million over the next 2 years.

***Next Steps:* Expect slight dip in sales tax receipts. We could do some education or repost state education if desired.**

Hotel Occupancy Tax – H.B. 3727 (Anderson/Birdwell) S.B. 1420

H.B. 3727/S.B. 1420

- Parking Facilities eligible to use HOT funds must be within 1,500 feet of the Convention Center
- Requires that at least 1% of HOT funds be used for advertising
- Additional time to submit HOT tax report to the Comptroller
- Must report amount of reserves of Hotel Taxes
- Must report percentage of tax revenue by category
- Only up to 15% of tax can be used on historical projects

Next Steps: Update proposed Hotel Occupancy Budget to comply with both requirements and reporting.

Certificates of Obligation – H.B. 4082 (Goldman/Bettencourt)

H.B. 4082 –Public Works eligible for COs

- Roads and Parking
- Utility systems
- Drainage projects
- Parks
- City Halls
- Not stadiums or hotels

Still limited to Maintenance and Operations Tax for City Hall COs

Next Steps: Look at budget for future capital projects for use of COs.

Tax Increment Reinvestment Zone -- S.B. 1998 (Bettencourt/Shine)

S.B. 1998

- TIRZs must be calculated separately when calculating how each affects the property tax rate
- The form showing our property tax rate must be uploaded to the website with a link

Not effective until January 1, 2024

Next Steps: Next year's tax rate calculation will be more complicated. Will need to ensure that the City Website includes a link to the form that calculates the tax rate which is provided by the County.

Economic Development -- S.B. 543 (Blanco/Ordaz)

S.B. 543:

- 380 agreements can include property transfer with proper agreement
- Cannot transfer public park property
- Cannot transfer property obtained through eminent domain
- Notice requirements

Next Steps: Option for commercial development.

In addition, the Office of Texas Economic Development Council was extended through Sunset Bill.

Economic Development Reporting -- S.B. 1340 (Incentive Agreements); S.B. 1916 (Public Improvement Districts)

S.B. 1340:

- Report Tax Abatement Agreements using state form
- Agreement is available on website

S.B. 1916:

- Post copies of PID Service Plan on Website
- Submit and Assessment Roll to Appraisal District
- Post additional PID Information on City Website

Both effective on January 1, 2024.

Next Steps: Designate employee or consultant for posting of information. Ensure information is provided to employee/consultant.

Planning and Building

H.B. 3699 (Wilson/Bettencourt) – Platting Shot Clock

H.B. 3699:

- **Site Plans and Construction Plans no longer part of 30 day shot clock**
- **Specifically authorizes submittal calendars**
- **Notice requirements added related to master transportation plans and street construction**
- **Administrative completeness review for filing dates cannot require an analysis, study, or similar requirement unless explicitly allowed by statute**
- **Plats without variances can be approved by staff if voted on by P&Z**
- **Platting checklists have to be online**

H.B. 3699 (Wilson/Bettencourt) – Platting Shot Clock *continued*

H.B. 3699:

- **Multiple 30 day extensions can be done for subdivision**
- **Required roads must be intended by the property owner and in the city's capital improvement plan**
- **Provides for court action for a city that violates these sections including attorney's fees**

H.B. 3699 (Wilson/Bettencourt) – Platting Shot Clock

NEXT STEPS

Next Steps:

- **Ensure proper notices are on the City's Website**
- **Begin process for adopting a Capital Improvement Plan that is in compliance with the City's Master Transportation Plan**
- **Review Platting Checklist to ensure only requests information that is allowed by state statute**
- **Consider providing city staff the authority to approve or disapprove plats where there is a statutory requirement that they either be approved or disapproved**

Effective September 1, 2023

S.B. 2038 (Bettencourt/C.Bell) – ETJ Release

H.B. 2038:

- Can petition to be released from ETJ if were not voluntarily annexed into ETJ
- Provides petition requirements
- Provides election process to determine ETJ inclusion for areas where there has not been a voluntarily petition for inclusion
- Annexations do not automatically add to the ETJ after January 1, 2023

Next Steps: Make a list/map of ETJ addresses that requested voluntary inclusion. Respond to inquiries related to ETJ release.

H.B. 1381 (Hernandez/Alvarado) – Zoning Hearing

H.B. 1381:

- P&Z has to hold at least one public hearing for any zoning classification (currently both P&Z and Council hold public hearings)

Next Steps: Ensure our ordinances reflect state law but staff recommends continuing with the current process.

H.B. 14 (Cody Harris/Bettencourt) – Third Party Inspections and Review of Development Applications

H.B. 14:

- Third-party inspections are required if the City misses a review deadline plus 15 days
- Lists those who would be qualified to do the third-party review
- City can approve the list of qualified persons
- Third-party reviews have to follow City regulations

Next Steps: City staff does not miss the 30 day deadline or other land use or building code deadlines so this bill should not affect us. We will work with other cities to create a list of qualified inspectors.

H.B. 1707 (Klick/Hughes) – Open-Enrollment Charter Schools

H.B. 1707:

- Open Enrollment Charter Schools must be treated the same as public schools for land use purposes.
- Open Enrollment Charter Schools are not public schools for impact fees

Next Steps: Ensure our ordinances reflect state law and update any provisions related to public school but staff recommends continuing with the current process.

H.B. 1750 (Burns/Perry) – Regulation of Agricultural Operation

H.B. 1750:

- Limits regulation of agricultural operations
- Expands definition of “agricultural operation”
- Limits regulation of pesticide use
- Maintains authority to regulate height of weeds to 12 inches within proximity to public infrastructure

Next Steps: Ensure our ordinances reflect state law, modify our ordinances, or readopt ordinances regulating certain agricultural operations after meeting required reports and notice.

H.B. 2308 (Ashby/Perry) – Enforcement Against Agricultural Operations

H.B. 2308:

- Expands definition of “agricultural operation”
- Defines substantial change
- Protects agricultural operations that have been in operation at least one year

***Next Steps:* Ensure our ordinances reflect state law or modify our ordinances.**

H.B. 2947 (Cain/Perry) –Agricultural Operation

H.B. 2947:

- Expands definition of “agricultural operation”
- Limits regulation of agricultural operation as it relates to nuisance ordinances

***Next Steps:* Ensure our ordinances reflect state law or modify our ordinances.**

H.B. 586 (E.Thompson/Bettencourt) – Annexation of Roadways

H.B. 2956 (Shine/Flores) – Annexation Across Railway Right-of-Way

H.B. 586:

- Allows the City to annex a roadway that is contiguous to the City or contiguous to an area being annexed by the City
- Provides a process for obtaining approval for annexation of the roadway

H.B. 2956:

- Allows the City to annex railroad right-of-way if its contiguous to the City or contiguous to an area being annexed by the City

Next Steps: Review annexation areas to determine whether a roadway annexation or railroad right-of-way should also occur.

H.B. 3526 (Raymond/Springer) – Solar Pergolas

H.B. 3526:

- Prohibits the City from applying the building code to a solar pergola



Next Steps: Review the Building Code for definition and regulation of solar pergolas. Confirm which ordinances could be affected by this bill.

S.B. 929 (Parker/Rogers) – Nonconforming Use Compensation

S.B. 929:

- All zoning changes require notice of the public hearing to any property owner where a nonconforming use will be created
- Allows nonconforming uses to continue after zoning change
- Provides requirements for a city to stop a nonconforming use
- Requires compensation for a property owner who is required to stop a nonconforming use

Next Steps: Ensure that the proper notice is given out at the time of any rezoning including the new Zoning Code. Provide for compensation in the Zoning Code that tracks this bill.

S.B. 2440 (Perry/Burrows) – Certification of Groundwater Supply

S.B. 2440:

- **Requires plat applications who intend to use groundwater to provide evidence of adequate groundwater supply when applying**
- **Can allow for an exception for tracts being subdivided into 10 or less parts**

Next Steps: Update subdivision ordinance and checklists to include this requirement.

S.B. 2453 (Menendez/Hernandez) – Exceptions to Building Material Preemption

S.B. 2453:

- Allows requirements for certain building materials if they are allowed by energy and water conservation design standards

Next Steps: Update exterior design ordinance to include this requirement if appropriate.

H.B. 1922 (Dutton/Bettencourt) – Reauthorization of Building Permit Fees

H.B. 1922:

- Requires reauthorization of building fees at least each 10 years

Next Steps: Maintain current process ensuring regular update of Building Fees.

H.B. 2334 (Burns/Paxton) – Plumbers

H.B. 2334:

- Allows certain plumbing work without a plumbing license including:
 - Plumbing work outside right-of-way or easement if not less than five feet from structure
 - Does not apply to residential plumbing work

***Next Steps:* Ensure that enforcement of building codes reflects this exception.**

H.B. 3492 (Stucky/Springer) – Value-Based Fees

H.B. 3492:

- Prohibits fees from being based on the construction cost of public infrastructure
- City has to consider actual cost of review including:
 - Actual costs of third party review
 - Hourly rate of estimated amount of time for city employees to review
- Prohibits the City from requiring disclosure of the cost of infrastructure
- Requires publication of the cost of reviewing construction plans

Next Steps: Update construction plan fees to not include value-based review.



Election and Open Government

H.B. 3033 (Landgraf/Zaffirini) – Public Information

H.B. 3033:

- Limits the number of non-business days for responding to Public Information Requests in addition to holidays
- Defines holiday
- Allows the City to only designate 10 non-business days (holidays)
- Allows the AG to require public officials to take PIA training
- Provides for more cost protections for the City

H.B. 3033 (Landgraf/Zaffirini) – Public Information

H.B. 3033:

- Requires use of the AG's electronic filing system
- Provides a process for releasing information after receiving an AG opinion especially in the cases where the information is voluminous

Next Steps: Update our Public Information Act Policy and designate up to the 10 non-business days. Update staff and official training.

S.B. 569 (Springer/Stucky) – Subpoenas

S.B. 569

- Allows a city to charge the same amount charged for PIA information for information sought through subpoena so long as the City is not a party

Next Steps: Update our Public Information Act Policy and clarify that subpoena information will be charged the same as a PIA release.

H.B. 3440 (Canales/Hinojosa) – Agendas

H.B. 3440:

- Requires all cities to post both agendas and notices on websites

Next Steps: Maintain current process.

H.B. 943 (Kolkhors/Hunter) – Online Public Notices

H.B. 943:

- Requires newspaper to post any printed city notice online without charge
- Places certain requirements on the website to make it more accessible

***Next Steps:* Ensure that the newspaper is placing our notices online.**

H.B. 1817 (Capriglione/Hancock) – Contract Disclosure

H.B. 1817 (1295 Contracts Disclosure):

- A contract is only voidable for failure to provide 1295 disclosure if the City:
 - Let's the contractor know in writing that it is required
 - Contractor fails to submit the 1295 within 10 business days of written notice

***Next Steps:* Draft template of written notice of missing 1295 disclosure.**

H.B. 2626 (Tepper/Paxton) – Political Reporting

H.B. 2626:

- City Secretary has to place campaign finance reports for city elected officials online
- Allows the City Secretary to redact confidential information related to contributors
- Reports have to stay online for 5 years

Next Steps: Update website to make room for these reports. After September 1, 2023, start placing new campaign reports online.

H.B. 3372 (Thimesch/Parker) – Political Reporting

H.B. 3372:

- Requires candidates/officeholders to report the credit card processing fees as part of the political contribution
- Report the processing fees as a political expenditure if paid by the candidate/officeholder
- Report the processing fees as a political contribution if paid by the contributor

Next Steps: Campaign treasurers should be informed.

S.B. 477 (Zaffirini/Morales) – Disabled Voters

S.B. 477:

- Provides additional options for disabled voters including those with temporary disabilities
- Requires election sites to provide additional assistance to those with mobility issues
- Requires election sites to have a special parking space/spaces for individuals with mobility issues that is in addition to handicapped parking spaces

***Next Steps:* Update election site plan to include these items.**

S.B. 232 (Hinojosa/Geren) – Removal from Office

S.B. 232:

- **Elected or appointed public officials will automatically removed from office if convicted of:**
 - **Bribery**
 - **Theft of Public Money**
 - **Perjury**
 - **Coercion of Public Servant**
 - **Tampering with a governmental record**
 - **Misuse of official information**
 - **Abuse of official capacity**

S.B. 232 (Hinojosa/Geren) – Removal from Office

S.B. 232:

- Once removed City Council has to either:
 - Call an election; or
 - Fill the vacancy
- Appeal does not superseded removal

Next Steps: Educate Elected and Appointed Public Officials on these requirements.

Public Works and Utilities

H.B. 679 (K.Bell/Schwertner) – Soliciting and Awarding Construction Contracts

H.B. 679:

- Cannot place experience requirement in Request for Bids
- Experience modifier cannot be considered when choosing a vendor or drafting a construction contractor

Next Steps: Review contract template.

H.B. 2965 (Vasut/Creighton) – Construction Liability Waiver

H.B. 2965:

- Have to allow a right to repair for City road and other infrastructure projects

***Next Steps:* Review construction contracts and bidding documents to ensure that a right to repair is allowed.**

H.B. 4087 (Kuempel/Zaffirini) – Temporary Sewage Disposal Permits

H.B. 4087:

- Allows a city in certain circumstances to use a temporary on-site sewage system with pump and haul
- Only for 6 months

Next Steps: Review whether this is a temporary solution for any project or affects any current projects or agreements.

H.B. 4385 (Guillen/Alvarado) – Sewer Service

H.B. 4385:

- Allows a city to provide retail sewer service without a CCN
- PUC has to provide rules related to this option

Next Steps: Review whether how this affects our sewer service.

S.B. 1289 (Perry/T. King) – Reclaimed Wastewater

S.B. 1289:

- Provides for disposal of reclaimed wastewater treated for reuse to be disposed of without a permit with an alternative means of disposal

Next Steps: Review how this affects our sewer service.

S.B. 1397 (Schwertner/K. Bell) – Texas Commission on Environmental Quality

S.B. 1397:

- Permitting for temporary concrete batch plants created by TCEQ if contiguous to a public works project
- Continues local government assistance including offering assistance before enforcement
- Keeps public comment period for certain permits for 36 hours after public meeting

***Next Steps:* Review how this affects our sewer service.**

H.B. 1565 (Canales/Perry) – Texas Water Development Board

H.B. 1565:

- Texas Water Development Board Sunset Bill
- New criteria for plans and specifications for sewage systems

Next Steps: Review whether how this affects our current sewage system design.

H.B. 1845 (Metcalf/Perry) – Public Water Systems

H.B. 1845:

- Class D water and wastewater operators can obtain a provisional certification program even if the person does not have a high school diploma or equivalent
- TCEQ will provide regulations that include certification classes and testing

Next Steps: Review our job descriptions for utility operators to allow for a larger pool of applicants.

H.B. 1778 (Alvarado/Rogers) – Water and Sewer Service

H.B. 1778:

- Utilities can start, transfer, or terminate a customer's account through email or through a website request
- Added options where previously water service had to be initiated or changed by U.S. Mail

***Next Steps:* Ensure utility billing procedures include options including security verification measures to allow for account management.**

Additional Bills

Personnel

H.B. 567 (Bowers/Miles) – Hair Discrimination

H.B. 915 (Craddick/Parker) – Workplace Violence Hotline

H.B. 567 (Crown Act):

- Makes it an unlawful employment practice to discriminate based on hair that is commonly or historically associated with race

H.B. 915:

- Requires posting of information related to the Workplace Violence Hotline as prescribed by the Texas Workforce Commission

Next Steps: Review personnel policy related to grooming and dress. Provide notice to staff of Workplace Violence Hotline as required.

TMRS – H.B. 2464 (Price/Hughes)

H.B. 2464 –Texas Municipal Retirement System

- City can adopt annual annuities for certain retirees for 2024, 2025, and 2026

Next Steps: Determine whether to adopt annual annuity increase for retirees based on fiscal impact to budget.

Emergency Management

H.B. 3222 (Guillen/Kolkhorst) – Disaster Recovery Loans

H.B. 3125 (Gamez/Zaffirini) – Emergency Vehicle Lights

H.B. 3222:

- Increases time to provide budget to State for eligibility for Disaster Recovery Loans to 30 days

H.B. 3125:

- Allows the usage of flashing white lights on emergency vehicles

Next Steps: Staff familiarize themselves with the Loan Program. Determine if adding lights to the Emergency Management Vehicle would increase visibility.

Emergency Management

S.B. 29 (Birdwell/Lozano) – COVID-19 Preventative Measures

S.B. 29:

- **Cities, Counties, and Schools cannot mandate certain safety measures for the spread of COVID-19 including:**
 - **Face Coverings**
 - **Vaccination**
 - **Business or School Closures**

S.B. 271 (Johnson/Shaheen) – Local Government Security Incidents

S.B. 271:

- Regulates security breaches of government online documents
- Requires compliance with the Identity Theft Enforcement and Protection Act
- Within 48 hours of incident notify the Department of Information Resources

Next Steps: Continue with current practices. The City maintains liability coverage for security breaches. Update personnel manual with best practices related to cybersecurity.

S.B. 621 (Parker/Capriglione) – Cybersecurity

H.B. 4553 (Longoria/Johnson) – DIR

S.B. 621:

- Provides additional resources to cities when it comes to cybersecurity issues.

H.B. 4553:

- Cities may be able share network security devices, services, and items with the Department of Information Resources

Next Steps: City provides cybersecurity training to staff. The City maintains liability coverage for security breaches. Review additional standards when issued by Department of Information Resources.

S.B. 1893 (Birdwell/Anderson) – TikTok Ban

S.B. 1893:

- Bans TikTok on City Devices which includes phones and computers.



Next Steps: Immediately. Staff has been informed to remove TikTok from any city device if downloaded. Then update personnel policies.

S.B. 12 (Hughes/Shaheen) – Sexually Oriented Performances

S.B. 12:

- Bans sexually oriented performances at City and County facilities
- Defines sexually oriented performances

Next Steps: Update policies related to use of City Facilities to ensure that no performances violate this statute. Add paragraph to Event Center contract related to this statute.

Questions?