

# TML LEGISLATIVE UPDATE



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Number 20

## **Down to the Wire: 10 Days to Go**

With only 10 days left in the 88<sup>th</sup> Legislative Session, a few critical measures continue to make their way through the process. We ask that you continue to communicate with your legislative delegations on these critical issues. There are only a few more days before legislative deadlines give a clearer indication of what will finally pass and what will have to wait until the next legislative session.

The list below in no way represents every city-related bill that still has the ability to pass this session. It also doesn't account for the ability of certain concepts in bills that are no longer viable to be added to other bills still moving through the process, as amendments, if germane. The following list represents bills we commonly receive questions about from city officials. For all of these bills, we strongly encourage interested city officials to continue the dialogue with their elected senators and representatives about the impact of the legislation on their communities.

### **Preemption**

- **[H.B. 2266 \(Leach/Middleton\)](#)** – H.B. 2266 would allow a state license holder to bring legal action against a city if city regulation results in adverse economic impact on the

license holder. The bill significantly expands city exposure to lawsuits regarding the impact of local regulations. H.B. 2266 passed the House and will be considered in the Senate Committee on Business and Commerce on Friday, May 19. TML prepared this [letter](#) in advance of the Senate committee hearing.

### **Land Use**

- **[S.B. 1412 \(Hughes\)](#)** – S.B. 1412 would authorize a property owner to build, sell, or rent an accessory dwelling unit (ADU) in any residential zoning district or un-zoned lot in a city. Further, the bill would prohibit a city from imposing regulations on ADUs, including certain regulations on size, parking, or external feature requirements. This would effectively preempt local regulation of ADUs in city neighborhoods. The committee substitute protects deed restrictions and homeowner association rules that limit or prohibit ADUs. TML provided the Senate Committee on Local Government this [letter](#) in opposition to the bill. S.B. 1412 passed the Senate and has been voted out of the House Land & Resource Management Committee.
- **[S.B. 1787 \(Bettencourt\)](#)** – S.B. 1787 would prohibit a city from adopting or enforcing an ordinance that requires a residential lot to be larger than 1,400 square feet, wider than 20 feet, or deeper than 60 feet, or if regulating the density of dwelling units on a residential lot, a ratio of less than 31.1 homes per acre. It also prohibits the application of numerous land use regulations on “small lots,” which are defined in the bill as lots that are 4,000 square feet or less. Applies to all cities in counties with a county population of 300,00 or more. TML provided this [letter](#) to the Senate Committee on Local Government. S.B. 1787 passed the Senate and has been voted out of House Land & Resource Management Committee.
- **[S.B. 2037 \(Bettencourt/Oliverson\)](#)** – S.B. 2037, as it passed the Senate, would prohibit a city from “directly or indirectly” regulating use and density of buildings in the ETJ, including a new prohibition on regulating minimum lot sizes in the ETJ. S.B. 2037 passed the Senate and has been voted out of House Land & Resource Management Committee.

### **Other**

- **[H.B. 471 \(Patterson/Schwertner\)](#)** – H.B. 471 would require cities to provide paid illness and injury leave for first responders for up to one year. The bill passed the House and has been voted out of the Senate Committee on Business and Commerce.
- **[S.B. 767 \(Parker\)](#)** – S.B. 767 requires a fee schedule of new and increased fees to be on the city’s budget’s cover page and for cities over 30,000 in population to establish and maintain an email notification service regarding new or increase fees. S.B. 767 passed the Senate and voted out of House Urban Affairs Committee.

## **Bills on the Move**

## **Significant Floor Action**

**H.B. 2127 (Burrows/Creighton)**, seeking to prevent cities and counties from adopting or enforcing local ordinances or orders related to any activity contained in several state codes. Passed the Senate.

**H.B. 9 (Ashby/Huffman)**, creating the Broadband, Equity, Access, and Deployment (BEAD) program and the Broadband Infrastructure Fund. Passed the Senate.

**H.B. 1132 (Spiller)**, increasing the threshold at which competitive bidding is required for city purchases from \$50,000 to \$100,000. Passed the House.

**H.B. 1191 (Cain)**, prohibiting a city from allowing six or fewer chickens in the boundaries of a city. Passed the House.

**H.B. 1750 (Burns/Perry)**, limiting city regulation of agricultural operations within city limits and ETJ. Passed the Senate.

**H.B. 1819 (Cook/Hughes)**, repealing city juvenile curfew ordinances except for purposes of emergency management. Passed the Senate.

**H.B. 3053 (Dean/Paxton)**, requiring election to be held November 7, 2023, on the question of disannexation of any area that was annexed by a city between March 3, 2015, and December 1, 2017. Applies to cities over 500,000 in population. Passed the Senate.

**H.B. 3613 (Cain)**, requiring a city that is divided into districts, wards, or other areas to elect all councilmembers following each apportionment on the first uniform election date. Passed the House.

**H.B. 4878 (Rogers)**, allowing an ESD to have exclusive authority to determine whether another person may provide services within the district that the ESD is authorized to provide, including when the ESD's territory overlaps with the territory of another political subdivision authorized to provide emergency services. Passed the House.

**S.B. 3 (Bettencourt/Meyer)**, increasing the homestead exemption by a school district. The House committee substitute increases the homestead exemption from \$70,000 to \$100,000 and imposes a five percent appraisal cap. Passed to third reading.

**S.B. 224 (Alvarado/Leach)**, increasing penalties and punishments for theft of a catalytic converter. Passed the House.

**S.J.R. 3 (Bettencourt)**, increasing the homestead exemption by a school district. The House committee substitute increases the homestead exemption from \$70,000 to \$100,000 and imposes a five percent appraisal cap. Passed to third reading.

## **Significant Committee Action**

**H.B. 5** (Hunter/Schwertner), creating a new economic development program for tax abatement agreements between the owner of a new investment project and a school district. Left pending after hearing in Senate Business and Commerce.

**H.B. 471** (Patterson/Schwertner), requiring cities to provide paid illness and injury leave for first responders for up to one year. Committee substitute voted from Senate Business & Commerce.

**H.B. 2239** (Troclair/Flores), providing a city may not prohibit the removal of Ashe Juniper trees located on residential property. Left pending after hearing in Senate Local Government.

**H.B. 3492** (Stucky/Springer), prohibits cities from using the cost of constructing or improving public infrastructure as a factor in determining certain value-based fees related to engineering, inspection, and subdivision. Voted from in Senate Local Government.

**H.B. 3699** (Terry Wilson/Bettencourt), making numerous changes to the approval process for plats and plans, including limiting city authority regarding completeness checks for applications. Committee substitute, which would also prohibit a city from “directly or indirectly” regulating use and density of buildings in the ETJ, including a new prohibition on regulating minimum lot sizes in the ETJ, was voted from Senate Local Government.

**S.B. 369** (Campbell/Craddick), as filed, would provide that any area not receiving full municipal services is automatically disannexed as of December 31, 2023, unless the city is not required to provide full municipal services under an annexation service plan or has entered a written agreement. Senate floor amendments eliminated the automatic disannexation provision and set up a complaint process for a property owner to be disannexed. Left pending after hearing in House Land & Resource Management.

**S.B. 560** (Springer), eliminating the ability of a city and building permit applicant from agreeing to a deadline for granting or denying a permit for residential construction beyond the 45-day building permit shot clock. Voted from House Land & Resource Management.

**S.B. 1015** (King), relating to periodic rate adjustments by electric utilities. Committee substitute voted from House State Affairs. Placed on House Calendar for Saturday, May 20.

**S.B. 1117** (Hancock), defining video services to not include streaming for franchise fee purposes. Left pending after hearing in House State Affairs.

**S.B. 1252** (Bettencourt), requiring certain language indicating a tax increase on ballot propositions. Committee substitute voted from House Ways & Means. Placed on House Calendar for Saturday, May 20.

**S.B. 1787** (Bettencourt), prohibiting a city from adopting or enforcing an ordinance that requires a residential lot to be larger than 1,400 square feet, wider than 20 feet, or deeper than 60 feet, or if regulating the density of dwelling units on a residential lot, a ratio of less than 31.1 homes per acre.

Applies to cities in counties with a population of 300,000 or more. Voted from House Land & Resource Management Committee.

**S.B. 1999** (Bettencourt), defining “foregone revenue amount” as the voter-approval tax rate minus the actual tax rate multiplied by the preceding year’s total value, and redefines “unused increment rate” as the sum of the preceding three years’ foregone revenue amount divided by current value. Voted from House Ways & Means.

**S.B. 2018** (Flores), requiring a city to create a public camping complaint system and investigate every complaint. Left pending after hearing in House State Affairs.

**S.B. 2035** (Bettencourt), prohibiting a city council from authorizing an anticipation note or certificate of obligation to pay a contractual obligation under certain circumstances, including if a bond proposition on the same project failed to be approved during the preceding five years. Voted from House Pensions, Investments and Financial Services.

**S.B. 2037** (Bettencourt), prohibits cities from applying subdivision regulations and certain road and groundwater regulations in the ETJ. Voted from House Land & Resource Management.

**S.B. 2350** (Bettencourt), defining “voter-approval tax rate” for the purpose of the unused increment rate calculation as a taxing unit’s voter-approval tax rate in the applicable preceding tax year, as adopted by the taxing unit during the applicable preceding tax year, less the unused increment rate for that preceding tax year. Voted from House Ways & Means.

## **BDO Surveys for City and Resident Broadband Capabilities**

The Texas Broadband Development Office (BDO) is in the process of developing the Texas Digital Opportunity Plan for achieving reliable and affordable broadband, device access, digital skills training, and cybersecurity awareness to expand digital opportunities for all Texans.

The BDO wants to hear from cities and their residents. To help facilitate such communication, the BDO has created two surveys: the [Digital Resources Mapping Tool Survey](#) (DRMT) and the [Digital Opportunity Public Survey](#) (DOPS).

The DRMT seeks information from cities about local broadband programs and services. The DRMT will take about 10 minutes to complete.

The DOPS seeks information from individual households about their experience with broadband internet accessibility, affordability, and adoption. The survey includes an optional speed test and is available in English, Spanish, Chinese, and Vietnamese. It is also audio-enabled to ensure that people with limited literacy, limited English proficiency, or visual impairments can hear the survey questions and answers. The DOPS will take about 10 minutes to complete. Participants can email their surveys to: [plan4broadband@cpa.texas.gov](mailto:plan4broadband@cpa.texas.gov). Participants may also [download](#) the survey and mail them to the BDO at:

Texas Comptroller's Broadband Development Office  
P.O. Box 13528  
Austin, TX 78711-3528

The BDO has also created the [Texas Digital Opportunity Public Survey Partner Toolkit](#) to help cities engage their residents and disseminate the DOPS. The toolkit includes the survey and provides public outreach suggestions and draft communication templates.

Interested city officials can find more information about the BDO and the state's broadband efforts [here](#).

## **Federal Infrastructure Bill Update**

*In November 2021, the federal Infrastructure Investment and Jobs Act (IIJA) was signed into law. The IIJA is altogether a \$1.2 trillion bill that will invest in the nation's core infrastructure priorities including roads, bridges, rail, transit, airports, ports, energy transmission, water systems, and broadband.*

*The League will monitor state and federal agencies and work with the National League of Cities (NLC) to access the latest information relating to the IIJA. We will provide periodic updates in the Legislative Update on resources for Texas cities on how to access IIJA funding for local infrastructure projects.*

### **U.S. Department of Agriculture (USDA)**

On April 19, the USDA began accepting applications for \$20 million in broadband technical assistance funding to support developing broadband cooperatives in rural communities. The [Broadband Technical Assistance](#) (BTA) program seeks to provide funding for rural communities through cooperative agreements with the USDA's Rural Utilities Service (RUS). The BTA defines rural communities as "any area not located in a city, town, or incorporated area with a population greater than 20,000 or an urbanized area next to a city, town, or incorporated area with a population greater than 50,000 people."

Eligible applicants include state and local governments. Eligible projects include:

- Identifying and planning for delivering broadband service to eligible rural areas.
- Identifying resources to finance rural broadband facilities.
- Preparing feasibility studies, financial forecasts, market surveys, environmental studies, and technical design information to support broadband services.
- Analyzing and improving broadband facilities operations.

Applications must be submitted by **10:59 PM CST on June 20, 2023**. More information about the BTA program can be found [here](#).

### **Reminder for Upcoming Deadlines**

Applications for the Department of Transportation (DOT) Charging and Fueling Infrastructure Discretionary Grant Program (CFI) for electric vehicle (EV) charging and alternative-fueling infrastructure projects are due by **May 30, 2023**. The CFI program will provide funding over five years to cities and other governmental entities to strategically deploy EV charging and other alternative vehicle-fueling infrastructure projects in publicly accessible locations in urban and rural communities across the county.

More information about the CFI program can be found [here](#).

### **City Officials Testify**

When the legislature is in session, nothing compares to the effectiveness of city officials testifying at the Capitol. City officials who take the time to travel to Austin to speak out on important city issues should be applauded by us all. The League extends its thanks to all those who have vigilantly represented cities during this session. If we missed your testimony let us know by an email to [alyssa@tml.org](mailto:alyssa@tml.org), and we'll recognize you in next week's edition.

- Lance Arnold, Assistant City Manager, City of Weatherford
- Maj. General Juan Ayala, Director of Military & Veteran Affairs, City of San Antonio
- Sally Bakko, Director of Policy and Governmental Relations, City of Galveston
- Rick Carmona, Mayor, City of Terrell
- Don Doering, City Administrator, City of Magnolia
- Harry Hardman, Councilmember, City of Conroe
- Stephanie Fisher, Councilmember, City of Johnson City
- Trey Fletcher, City Administrator, City of West Lake Hills
- Ron Nirenberg, Mayor, City of San Antonio
- Christopher Sparks, Chief Sanitarian, City of Houston

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