

**CITY OF SAN ANTONIO
CITY MANAGER'S OFFICE
CITY COUNCIL AGENDA MEMORANDUM**

TO: Mayor and City Council

FROM: Christopher J. Brady, Assistant City Manager

SUBJECT: State Legislative Program Update

DATE: May 19, 2005

SUMMARY AND RECOMMENDATIONS

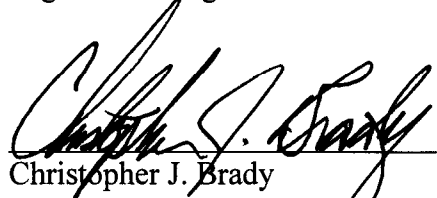
For the remainder of the 79th Legislative Session, staff will be providing updates on the City's approved State Legislative Program every week. Each update will include the status of all initiatives and endorsements included in the City's program.

BACKGROUND INFORMATION


The City's State Legislative Program was adopted by City Council on November 4, 2004, with two addendums approved by Council action on January 6, 2005 and April 7, 2005. The current program consists of 22 legislative priorities grouped into two categories: nine initiatives and 13 endorsements. The last update was presented on May 12, 2005. The latest Texas Municipal League Legislative Update, which includes summaries of significant floor and committee actions is attached to this memo. The most recent information on City related legislation will be provided during the staff briefing.

COORDINATION

This item has been coordinated with all departments that have items included in the State Legislative Program.



Christopher J. Brady
Assistant City Manager



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Legislative UPDATE

May 13, 2005
Number 19

WORKERS' COMPENSATION REFORM: DUELING BILLS

Both the House and the Senate are interested in changing various features of the state's workers' compensation system. The Senate acted first by passing **S.B. 5** on March 15. The House wasn't far beyond; it passed a workers' compensation bill, **H.B. 7**, on March 31.

Senate Bill 5 went to the House on March 16. Almost two weeks later (March 29), it was referred to a House committee. That committee waited 37 days to hold a hearing on S.B. 5, and finally approved the bill on May 9. Before the committee approved the bill, however, it took all the S.B. 5 language out and replaced it with the H.B. 7 language.

What happened in the Senate was similar. House Bill 7 was received in the Senate on April 6. But the bill wasn't approved by a Senate committee until one month later. You can guess the rest: before the Senate committee approved H.B. 7, it replaced its language with the S.B. 5 language.

Now, the house bill is actually the Senate version, and *vice versa*. It is likely that one or both bills will pass, and that differences will be ironed out in a conference committee.

SCHOOL FINANCE BILL PASSES SENATE

The school finance bill dealing with taxes, **H.B. 3** by **J. Keffer**, passed the Senate on May 11. The primary purpose of the bill is to enact a "tax swap": lowered school property taxes to be replaced by other tax increases. A key difference between the House and Senate versions of the bill was whether to replace school district property taxes with a state property tax. While the Senate had favored a state property tax, a last-minute amendment on the Senate floor eliminated this provision.

As passed by the Senate, the key feature of H.B. 3 would be a gradual reduction of school district property tax rates from \$1.50 to \$1.15 per \$100, and a variety of tax increases, new taxes, and other reforms to replace the lost revenue.

Of specific concern to cities, H.B. 3 as it passed the Senate would do the following:

1. By reducing school district taxes, and thus reducing the school district contribution to appraisal district funding, the bill would have the net effect of increasing city and county contributions to appraisal district operations. The amount of a city's increased contribution would vary across the state, but would likely be in the range of a 20 to 25 percent increase.
2. With regard to the sales tax, the bill would:
 - a. create a new sales tax holiday on the first weekend in December; and
 - b. add "school supplies" to the list of exempt items during the existing August holiday and the new December holiday.

Because the bill that passed the Senate differs substantially from the House version, a conference committee to resolve the differences will likely be appointed. TML will monitor the process closely for any city-related proposals.

SIGNIFICANT COMMITTEE ACTIONS

H.B. 7 (Solomons), relating to workers' compensation. Reported from the Senate State Affairs Committee. As reported, H.B. 7 now looks like **S.B. 5**, the workers' compensation bill passed by the Senate and sent to the House. (See also **S.B. 5**, below.)

H.B. 259 (Elkins), repealing the provision in current law that allows a city to operate a photographic traffic law enforcement system. Reported from the Senate Intergovernmental Relations Committee.

H.B. 280 (Hope), relating to impounding motor vehicle license plates for the driver's failure to show proof of financial responsibility. Reported from the House Insurance Committee. **As reported, this bill would require a police officer to remove the license plates, or require the driver to remove the plates, or have the vehicle removed to a location where the plates can be removed. The bill would also require the peace officer to issue a temporary license plate and much, much more.**

H.B. 352 (Goodman), increasing the authority of cities to collect overdue municipal hotel occupancy taxes. Reported from the Senate Intergovernmental Relations Committee.

H.B. 368 (Farabee), adding anorexia and bulimia to the list of "serious mental illnesses" that must be covered by health benefit plans. Reported from the House Insurance Committee.

H.B. 757 (Farabee), authorizing counties to enact ordinances to protect the public health, safety, and welfare in unincorporated areas. Reported from the House County Affairs Committee.

H.B. 1581 (Driver), prohibiting fees on a prepaid wireless telecommunication connection. Reported from the House Regulated Industries Committee.

H.B. 1913 (Olivo), extending the eligibility for adoption of Chapter 143 of the Local Government Code (fire/police civil service) to cities having *either* a paid fire department or paid police department, as opposed to *both*, as current law requires. Reported from the Senate Intergovernmental Relations Committee.

H.B. 2023 (Hegar), relating to allocation of state grants for continuing education of peace officers, *if funding is available*. Reported from the House Law Enforcement Committee.

H.B. 2144 (Berman), establishing a veteran's employment preference. Reported from the House Committee on Defense Affairs and State-Federal Relations. **As reported, this bill would: (1)**

require a city to give a preference in hiring to a veteran who meets minimum qualifications; (2) require each city to file a quarterly report with the state comptroller; (3) provide that the quarterly report describe the city's efforts to inform individuals of the preference and the city's appeal process relative to the hiring process; and more.

H.B. 2193 (Madden), relating to community supervision. Reported from the House Corrections Committee. As reported, this bill would require a municipal court to: (1) impose a court cost of \$50 on any person convicted of an intoxication or drug offense; (2) keep five dollars as a collection fee; and (3) remit \$45 to the state comptroller for "drug court programs."

H.B. 2233 (Keffer), relating to fiscal matters. Reported from the House Ways and Means Committee. As reported, this bill would, in Section 28 of the bill: (1) prohibit a city from imposing a stormwater utility fee on any private college or university (current law prohibits such a fee on a public college or university); and (2) eliminate the prohibition in any city with a population of less than 25,000.

H.B. 2244 (R. Cook), relating to municipal charges and costs relative to electric companies. Reported from the House Local Government Ways and Means Committee. As reported, this bill would allow a city to change its right-of-way fee to \$.0045 per kilowatt hour. In exchange, however, the electric company would be required to reimburse the city for only 50 percent of the costs incurred by the city in a ratemaking proceeding.

H.B. 2264 (Baxter), relating to the charge for repeated requests for public information. Reported from the House State Affairs Committee.

H.B. 2702 (Krusee), relating to transportation facilities. Reported from the House Transportation Committee. Among many other things, this bill would provide that local voters would have an opportunity to vote on the conversion of a state highway to a toll road.

H.B. 2876 (Callegari), relating to certificates of convenience and necessity (CCNs) for water and sewer services. Reported from the House Natural Resources Committee. As reported, this bill, among other things, would: (1) provide that if a city extends its extraterritorial jurisdiction (ETJ) to include an area certificated to a retail public utility, the retail public utility may continue and may extend service in its certificated area under the rights granted by its certificate; (2) prohibit the Texas Commission on Environmental Quality from extending a city's CCN beyond its ETJ without the written consent of the landowners who own the property to which the certificate is to be extended; (3) provide that any portion of any city's CCN that extends beyond the ETJ without the consent of the landowner is void; and (4) provide that, for an area that is within the boundaries of a city, any retail public utility certified or entitled to certification may continue and may extend service in its service area pursuant to the rights granted by its certificate, unless the city exercises its power of eminent domain to acquire the property of the retail public utility.

H.B. 2892 (Luna), relating to the authority of a city to meet and confer with a firefighter association. Reported from the Senate Intergovernmental Relations Committee. As reported, this bill is virtually identical to **H.B. 304** which relates to peace officers. Please see the description in the March 18 edition of the *TML Legislative Update*. (Companion bill is **S.B. 1417** by **Gallegos**.)

H.B. 3131 (Martinez Fischer), authorizing a municipal court judge to allow a defendant charged with more than one traffic offense to: (1) pay court costs in installments, or (2) discharge all or part of those costs by performing community service. Reported from the House Criminal Jurisprudence Committee.

H.B. 3278 (Isett), relating to personal information and government records. Reported from the House State Affairs Committee. As reported, this bill would prohibit a city, in most cases, from: (1) intentionally communicating or making available to the general public a person's social security number; (2) requiring an individual to transmit a social security number over the Internet on an unsecure connection; (3) requiring an individual to use a social security number to access an Internet website; (4) printing an individual's social security number on any card required for access to products or services unless required by state or federal law; (5) printing a person's social security number on any materials mailed out to the individual unless required by state or federal law; or (6) denying services or products to a person who makes a written request to discontinue use of the person's social security number.

S.B. 5 (Staples), relating to workers compensation. Reported from the House Business and Industry Committee. As reported, S.B. 5 now looks like **H.B. 7**, the workers' compensation bill passed by the House and sent to the Senate. (See **H.B. 7**, above.)

S.B. 70 (Shapleigh), requiring a city procuring goods or services to give a preference (all other things being equal) to a vendor who provides health benefits coverage to employees. Reported from the Senate State Affairs Committee.

S.B. 286 (Wentworth), relating to open government training. Reported from the House State Affairs Committee. This bill is identical to the version that passed the Senate. (Please see the April 22 edition of the *TML Legislative Update* for a complete description.)

S.B. 399 (Madla), relating to the liability of certain employees of a landlord for penalties imposed by a city. Reported from the House Business and Industry Committee.

S.B. 716 (Gallegos), relating to payroll deductions for peace officer associations. Reported from the House Urban Affairs Committee.

S.B. 757 (Armbrister), relating to property in the custody of a pawnbroker. Reported from the Senate Business and Commerce Committee. As reported, this bill addresses the authority of a law enforcement agency to place a hold order on goods in the custody of a pawnbroker; the transmittal of computerized, reportable data from a pawnbroker to a law enforcement agency; the duties of a business engaged in maintaining a repository of pawnbroker transaction data; a provider's charge for use of the repository; and the state's approval and oversight relative to repositories.

S.B. 1050 (Van de Putte), relating to Chapter 143 of the Local Government Code (fire/police civil service). Reported from the House Urban Affairs Committee. As reported, this bill would enact several changes to Chapter 143, **including the right of a person who is bypassed for promotion to appeal that bypass to an independent, third-party hearing examiner.** (Companion bill is **H.B. 2173** by **Bailey**.)

S.B. 1375 (Staples), relating to billboards. Reported from the Senate Transportation and Homeland Security Committee. **As reported, this bill would:**

1. **provide that if a billboard within a city or its extraterritorial jurisdiction (ETJ) cannot be continued because of highway widening or construction, the owner of the billboard is entitled to relocate the use, structure, or permit to another location within the city or its ETJ, even if the city must enact a special exception to an existing ordinance; and**
2. **provide that if the city prohibits the relocation, it must pay just compensation, just as if it had condemned the billboard.**

S.B. 1706 (Staples), relating to transportation facilities. Reported from the Senate Transportation and Homeland Security Committee. As reported, this bill (like **H.B. 2702**, above) would provide that local voters will have an opportunity to vote on the conversion of a state highway to a tollway.

SIGNIFICANT FLOOR ACTIONS

H.B. 3 (J. Keffer), relating to school finance and taxes. Passed the Senate. Please see the second article in this update for a description of the bill.

H.B. 87 (Reyna), authorizing a city to alter speed limits in an urban district, except on a highway that has four or more lanes. Passed the Senate.

H.B. 304 (Talton), relating to the authority of a city to meet and confer with a peace officer association. Passed the Senate. As passed, this bill is virtually identical to the version that passed the House of Representatives on March 3. Please see the description in the March 18 edition of the *TML Legislative Update*.

H.B. 918 (Krusee), authorizing a city to engage in Chapter 380 economic development programs in an area that has been annexed for limited purposes or in the city's extraterritorial jurisdiction. Passed the House.

H.B. 949 (Eiland), providing that most health benefit plans may not exclude coverage for injuries incurred while the insured is intoxicated or under the influence of a narcotic. Passed the House.

H.B. 1023 (Denny), restricting the length of a ballot proposition to no more than 75 words. Passed the House.

H.B. 1209 (Gattis), requiring that county election precincts be used for any election held on the November uniform election date. Passed the House.

H.B. 1777 (P. King), relating to the regulation of the electric power market. Passed the House. As passed, this bill includes a requirement that costs incurred by a city during a ratemaking proceeding must be "necessary" in addition to "reasonable" for the city to recover these costs.

H.B. 1952 (Goodman), prohibiting the release of a person's social security number under the Public Information Act. Passed the House.

H.B. 1984 (Bohac), requiring that appraisal notices include information regarding changes (over the preceding five years) in appraised value and taxable value, and that tax bills include information regarding changes in value, tax rates, and total taxes imposed by the taxing unit. Passed the House.

H.B. 2304 (Driver), relating to alarms. Passed the House. As passed, this bill provides that: (1) revenue from alarm permits must be used for administration of alarm responses; (2) a permit fee may not exceed \$50 for a residential location or \$100 for a commercial location; (3) a city that imposes alarm fees may not terminate law enforcement responses to a permit holder because of excess false alarms, but may refuse to renew a permit for an alarm system that has had eight or more false alarms in the previous year; (4) a city may impose a fine of \$50 for 4-5 false alarms in one year, \$75 for 6-7 false alarms, and \$100 for eight or more false alarms; (5) a city may require an alarm system monitor to attempt to contact the occupant of an alarm system location twice before the city responds; (6) a city that doesn't impose alarm fees may not adopt a non-response policy unless it attempts to notify permit-holders and conducts a public hearing; (7) a city that doesn't respond to an alarm is not

responsible for damages; (8) an alarm system company must provide customers with information relating to local ordinances and alarm system operation, and must inform the city of alarm system installations; and (9) a city may not refuse to issue an alarm permit for a residential location solely because it is an apartment.

H.B. 2381 (Hegar), relating to posting notice of a meeting on the Internet. Passed the House.

H.B. 2751 (Harnett), requiring that a notice of election on a proposed home rule charter amendment include an estimate of the fiscal impact of the proposed amendments(s). Passed the House.

H.B. 2755 (McReynolds), relating to development corporations. Passed the House. As passed, this bill would allow a 4B corporation to engage in a project that is needed for the "development, retention, or expansion of business enterprises" if the corporation has not, for each of the previous two years, received more than \$50,000 in sales tax revenue.

H.B. 2833 (R. Cook), relating to regulatory takings of private property. Passed the House. As passed, this bill would: (1) broaden the definition of a "taking" to include an action that limits impervious cover on any real property to less than 45 percent of the surface area; (2) provide that the following actions, if they don't affect building size, lot size, or impervious cover, are not affected by the bill: (a) an action taken to fulfill a federal or state mandate, (b) an action taken to prevent a nuisance, (c) an action taken to prevent a grave and immediate threat, (d) regulation of construction in a flood plain, (e) an action taken to respond to a threat to the public health and safety, (f) an action taken to regulate sexually oriented businesses, fireworks, discharge of firearms, weedy lots, junked automobiles, noise, alcohol, smoking, construction codes, manufactured housing, multifamily housing, historical buildings; and (3) provide that zoning is not affected unless the zoning is an "impervious cover" taking or is done without the owner's consent within the three-year period following the filing of a development application.

H.B. 2842 (Chisum), relating to penalties for providing false information to an accountant or accounting firm. Passed the House.

H.B. 2864 (Luna), providing that sales tax revenue may be used to back bonds for public improvements in reinvestment zones, enterprise zones, and other areas. Passed the House.

H.B. 3057 (Howard), allowing certain part-time firefighters to work more than 500 hours annually. Passed the House. **This is a TML bill.**

H.B. 3135 (T. Smith), allowing a combined ballot proposition in which one dedicated or special purpose sales tax is reduced or repealed and the other is increased or adopted. Passed the House. **(This is a TML bill.)**

H.B. 3461 (Baxter), relating to a development moratorium. Passed the House. As passed, this bill would require a city, prior to imposing a moratorium on commercial development, to comply with certain procedures that are currently applicable to a moratorium on residential development, including: (1) notice and hearing prior to the adoption of the moratorium; (2) a requirement that a moratorium may be imposed only if there is a need to prevent a shortage of public facilities; and much more. (Companion bill is **S.B. 1406** by **Armbrister**.)

H.J.R. 80 (Krusee), amending the Texas Constitution to provide that economic development grants are not unconstitutional debt. Passed the House.

S.B. 286 (Wentworth), relating to open government training. **Passed the House.** As passed, S.B. 286 would provide that:

1. Each elected or appointed member of a governmental body shall complete an open meetings training course of not less than one nor more than two hours.
2. The training must be completed not later than 90 days after the member takes the oath of office or assumes the responsibilities of the office.
3. The attorney general shall ensure the availability of a training videotape at no cost and may approve training by other entities.
4. The entity providing training shall provide a certificate of course completion, and each governmental body shall maintain the certificates of its members.
5. Failure to complete the training does not affect the validity of an action taken by the governmental body.
6. Course completion may not later be used as *prima facie* evidence of a "knowing" violation.
7. Each member of a governmental body and each public information officer must complete an open records training course of not less than one nor more than two hours.
8. With regard to open records training, numbers 2, 3, 4, and 6 (above) each apply.
9. A public official (for example, a member of a municipal government body) may designate a public information coordinator to satisfy the open records training requirement.
10. The bill becomes effective on January 1, 2006, and any person who is required to take a training course and is in office on January 1, 2006, must complete the required training by January 1, 2007.

S.B. 727 (Wentworth), relating to the public information statute. Passed the Senate. As passed, this bill transfers the public information duties of the General Services Commission to the attorney general and makes other minor changes in the statute.

S.B. 978 (Barrientos), relating to court costs, fees, and fines. Passed the Senate. As reported, this bill would apply to cities over 100,000 in population and would:

1. Require each city, unless granted a waiver by the Office of Court Administration (OCA), to develop a "program" designed to improve the collection of court costs, fees, and fines.
2. Provide that not later than June 1 of each year, the OCA shall identify cities that haven't implemented a "program" but could implement one by April 1 of the following year.
3. Require the state comptroller to develop a methodology for determining the collection rate in cities identified by the OCA (see #2, above).
4. Require the OCA to assist cities in implementing a "program."
5. Require each city to annually submit a "program" status report to the OCA.

6. Require the state comptroller to audit municipal courts.

7. Impose a fine on a city that is not in compliance with the provisions of this bill.

(Note: this bill is based on the premise that the development of a “program” will produce additional net revenue for a city. Thus, the bill’s fiscal note has a positive fiscal note for cities.)

S.B. 1005 (Carona), requiring that any person under the age of 25 who is convicted of a moving violation must attend a driving safety course. Passed the House.

S.B. 1433 (Madla), relating to certain firefighters. Passed the Senate. **As passed, this bill would: (1) apply only to firefighters employed by an emergency services district or an entity created by an interlocal agreement; and (2) provide that those firefighters are covered by state laws relating to payroll deductions, longevity pay, classification pay, work hours, compensation time, and much more.**

S.B. 1440 (Hinojosa), providing that sales tax revenue may be used to back bonds for public improvements in reinvestment zones, enterprise zones, and other areas. Passed the Senate.

CITY OFFICIALS TESTIFY

When the legislature is in session, nothing compares to the effectiveness of city officials testifying at the Capitol. City officials who take their time to travel to Austin to speak out on important city issues should be applauded by us all.

The following city officials testified recently in front of legislative committees:

Roy Harmon, Fire Chief, Belton
Jim Olk, Building Official, Farmer’s Branch
Todd Parton, City Manager, Cibolo
Charles Rupert, Mayor, Cibolo
Joe Vining, Planning Director, Round Rock

While TML monitors most hearings, we won’t catch the testimony of every city official. If we missed your testimony or the testimony of another official in your city, please contact us at the following e-mail address and we will include your name in the next edition of the *TML Legislative Update*: testify@tml.org.

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