

**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 26, 2005

SUMMARY AND RECOMMENDATIONS

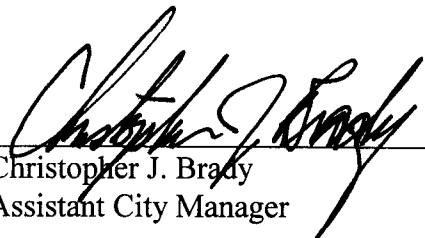
For the remainder of the 79th Legislative Session, staff will be providing updates on the City's approved State Legislative Program every week. Each update will include the status of all initiatives and endorsements included in the City's program.

BACKGROUND INFORMATION

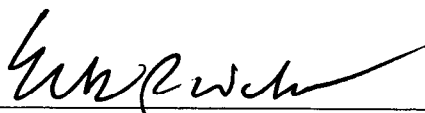
The City's State Legislative Program was adopted by City Council on November 4, 2004, with two addendums approved by Council action on January 6, 2005 and April 7, 2005. The current program consists of 22 legislative priorities grouped into two categories: nine initiatives and 13 endorsements. The last update was presented on May 19, 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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Interim City Manager



Legislative UPDATE

May 20, 2005
Number 20

NOTICE

This is the final *TML Legislative Update* of the Seventy-Ninth Regular Session. A final legislative wrap-up will be published and sent to you as soon as possible following adjournment on May 30. In addition, future issues of the *TML Legislative Update* will include any necessary addenda. Updated information is always available from Texas Legislature Online at www.capitol.state.tx.us.

THE END IS NEAR: WHERE DO WE STAND ON CAPS?

Throughout this legislative session, the League has opposed two types of property tax "caps." First, there were numerous attempts to reduce from 10 percent (to three percent or five percent) the current cap on annual increases in the appraised value of a residence homestead. These bills were known as "appraisal caps."

Second, several bills would have placed caps on the annual percentage increase in property tax revenue generated by a city without approval of the voters in a mandatory election. These bills were known as "revenue caps."

Where do we stand on these fronts?

Appraisal Caps

The action began and ended in the House, where the leadership selected H.J.R. 35 as the vehicle to enact a reduced appraisal cap. H.J.R. 35 proposed a constitutional amendment that, if approved by the voters, would have reduced the current appraisal cap from ten percent to five percent and applied the cap to all real property. That legislation died on the House floor on April 12, and it is unlikely that there will be any more attempts during this legislative session.

Revenue Caps

No legislation designed to enact a property tax revenue cap has survived, because no bill with an automatic voter approval of property tax revenue increases is still alive.

The House passed a bill (H.B. 1006) that would, among other things, reduce the rollback rate from eight percent to some other level (the bill provides a choice) and would make a rollback petition easier to obtain in some cases. That bill went to the Senate on April 28; as this issue of the update goes to press, H.B. 1006 is scheduled for a hearing in the Senate Finance Committee. It would be odd if the Senate were to advance H.B. 1006, since it has already passed S.B. 18 by Sen. Tommy Williams. That bill would do the following:

1. Require a record vote of the city council to adopt a property tax rate that exceeds the effective rate.
2. Provide that the motion to adopt a tax rate that exceeds the effective rate must contain certain language.
3. Provide that an ordinance adopting a tax rate that will impose maintenance and operations taxes greater than in the previous year must contain, in large type, a statement explaining the effect of the proposed tax rate.
4. Require that the home page of a city's Internet Web site contain a notice of an intended property tax increase, as well as a notice of required tax increase hearings.
5. Require two hearings on proposed tax increases, with the second hearing occurring at least three days after the first.
6. Require that tax increase hearings be held whenever the proposed tax rate will exceed the effective rate by any amount, as opposed to three percent, as current law provides.
7. Modify the published notice requirements of the tax increase hearings.
8. Keep the rollback rate at eight percent, but reduce from ten percent to seven percent the rollback petition requirement for a city with a maintenance and operations (M&O) tax levy of \$5 million or more. For a city with an M & O levy of less than \$5 million, the petition requirement would remain at ten percent.
9. Require that tax bills contain a detailed, five-year history of tax and appraisal information.

Senate Bill 18 has been sent to the House Ways and Means Committee.

SIGNIFICANT COMMITTEE ACTIONS

H.B. 57 (Denny), relating to elections. Reported from the Senate State Affairs Committee. As reported, H.B. 57 would provide for only two general election dates: (1) the second Saturday in May, and (2) the first Tuesday after the First Monday in November.

H.B. 150 (Reyna), relating to the reappointment of civil service commissioners in civil service (Chapter 143) cities. Reported from the Senate Intergovernmental Relations Committee. (This is a **TML bill**.)

H.B. 182 (Mowery), relating to the appeal of an appraisal review board determination through binding arbitration. Reported from the Senate Finance Committee.

H.B. 265 (W. Smith), relating to the amount of time for processing a municipal building permit. Reported from the Senate Intergovernmental Relations Committee.

H.B. 639 (Bailey), relating to complaints against peace officers and firefighters. Reported from the Senate Intergovernmental Relations Committee.

H.B. 970 (Keel), providing that a municipal ordinance may not dispense with the requirement of a culpable mental state if the offense is punishable by a fine exceeding \$500. Voted from the Senate Criminal Justice Committee.

H.B. 1835 (Talton), relating to the apportionment of infrastructure costs between a city and a developer. Reported from the Senate Intergovernmental Relations Committee.

H.B. 2039 (Nixon), providing that a local government entity waives sovereign immunity for the purpose of adjudicating a claim arising under a contract. Reported from the Senate State Affairs Committee.

S.B. 222 (Zaffarini), creating two, three-day sales tax holidays each year for books purchased by college students. Reported from the Senate Finance Committee.

S.B. 408 (Nelson), relating to the Public Utility Commission (PUC). Reported from the House Regulated Industries Committee. When this bill was passed by the Senate on May 3, it was a relatively straightforward sunset bill that continued the existence of the PUC. As reported by the House committee, however, it is a place where dead ideas go to be reincarnated. The bill now contains the following provisions, among many others.

1. The PUC would be expanded from three to five members.
2. The PUC would be required to develop and implement policies to encourage the use of negotiated rulemaking and alternative dispute resolution.
3. Most of the provisions of H.B. 3179, a bill that died on May 12, 2005, would be enacted in this sunset bill. The May 2 edition of the *TML Legislative Update* included a thorough description of H.B. 3179. Here are some of the H.B. 3179 provisions that have been tacked on to S.B. 408:
 - a. **Authorizes the Public Utility Commission (PUC) to: (1) issue a franchise to any person seeking to provide cable or video services in the state, and: (2) grant the authority to use and occupy public rights-of-way.**
 - b. **Allows a cable service provider to terminate any existing municipal franchise beginning on September 1, 2005.**

- c. Requires a provider of cable or video service operating under a state franchise to pay each city in which it operates a fee equal to five percent of gross revenues.
- d. Requires a provider to offer public, educational, and government access (PEG) channels.
- e. Requires a provider operating under a municipal franchise to continue to provide certain services (cable service to schools, for example) until the earlier of the franchise expiration or 2015.
- f. Prohibits cities from giving preferential treatment to any provider.
- g. Authorizes cities to enforce police power-based regulations, but grants to the PUC the authority to "enforce and determine the lawfulness of" any such ordinance.
- h. Defines the process by which a city proposes public improvement projects that require providers to relocate their facilities.
- i. Requires a provider to pay for relocating facilities for the widening or straightening of roads; requires cities to pay the cost of relocations for other public projects.
- j. Requires the PUC to conduct a study regarding compensation paid by providers to cities.

If S.B. 408 were to pass the House as anything more than a simple sunset bill, it is almost a certainty that the Senate will ask for a conference committee.

S.B. 427 (Vande Putte), requiring a political subdivision to notify the county voter registrar of changes in boundaries. Reported from the House Elections Committee.

S.B. 447 (Janek), relating to the sale of tax receivables by a local government. Reported from the House Local Government Ways and Means Committee.

S.B. 1133 (Hinojosa), requiring certain cities to post notice and the agenda of public meetings on a Web site. Reported from the House State Affairs Committee.

S.B. 1195 (Hinojosa), providing that a police officer may not conduct a "consent" search of a vehicle unless the vehicle's operator signs a written consent form. Reported from the House Law Enforcement Committee.

S.B. 1318 (Staples), relating to development corporations. Reported from the House Local Government Ways and Means Committee. As reported, this bill would allow certain development corporations to engage in projects that are needed for the "promotion of new or expanded business development."

S.B. 1351 (Williams), relating to the appeal of an appraisal review board determination through binding arbitration. Reported from the Senate Finance Committee.

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. Reported from the House Local Government Ways and Means Committee.

S.B. 1652 (Staples), requiring each central appraisal district to develop a reappraisal plan every two years. Reported from the Senate Finance Committee.

S.B. 1730 (Janek), relating to venue projects. Reported from the Senate Business and Commerce Committee. As reported, this bill would allow certain cities that impose a hotel occupancy tax for a venue project to also spend property tax revenue on the project if voters approve.

SIGNIFICANT FLOOR ACTIONS

H.B. 7 (Solomons), relating to workers' compensation. Passed the Senate. As passed, H.B. 7 now looks like **S.B. 5**, the workers' compensation bill passed earlier by the Senate. (Please see the lead-off article in the May 13 edition of the *TML Legislative Update*.)

H.B. 615 (Puente), relating to trials in municipal court. Passed the House. As passed, this bill would repeal the requirement that a defendant be present at his/her own municipal court trial, provided the defendant's lawyer stipulates to the identity of the defendant.

H.B. 1913 (Olivio), 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. Passed the Senate.

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

H.B. 2144 (Berman), relating to veteran's employment preferences. Passed the House. As passed, this bill applies to cities and grants a hiring preference to a veteran who meets the minimal qualifications for the position. The bill would also require each city to submit to the state comptroller a quarterly report describing: (1) measures taken by the city to inform veterans of the hiring preference, and (2) the appeals process available to veterans. Finally, the city must establish a complaint procedure to be used by a veteran to appeal a hiring decision.

H.B. 2193 (Madden), relating to community supervision. Passed the House. As passed, 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. Passed the House. As passed, this bill would, in Section 28 of the bill: (1) prohibit a city from imposing a stormwater utility fee on any private college of 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. 2309 (Denny), relating to election processes and procedures. Passed the House. (Note: city secretaries may want to review this bill as passed and notify TML of any problems.)

H.B. 2640 (D. Jones), relating to the definition of "firefighter" in a Chapter 143 (fire/police civil service) city. Passed the House.

H.B. 2702 (Krussee), relating to transportation facilities. Passed the House. 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 at an election paid for by the affected local government. The bill also prohibits photographic traffic law enforcement.

H.B. 2876 (Callegari), relating to certificates of convenience and necessity (CCN's) for water and sewer services. Passed the House. As passed, 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 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; (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. 3071 (Goodman), relating to property taxes. Passed the House. **As passed, this bill includes a potentially harmful provision relating to a residence homestead owned by a person 65 years of age or older. Under current law, a person who is 65 years of age or older may request a deferral of property tax collection on the person's residence homestead. A floor amendment to H.B. 3071 turns that provision on its head by automatically granting such a deferral. In other words, this bill would allow each person who is 65 or older to stop paying property taxes on a residence homestead with no repercussions, *but the person may file to waive the deferral.***

H.B. 3409 (Rose), relating to the manner in which a city's population is determined for the purpose of adopting Chapter 143 of the Local Government Code (fire/police civil service). Passed the House.

S.B. 5 (Staples), relating to workers' compensation. Passed the House. As passed, S.B. 5 now looks like **H.B. 7**, the workers' compensation bill passed earlier by the House. (Please see the lead-off article in the May 13 edition of the *TML Legislative Update*.)

S.B. 12 (Zaffarini), relating to purchasing. Passed the Senate. As filed, this bill was of little interest to cities. **But a Senate floor amendment provides that cities (and other entities) must generally give a purchasing preference to a vendor that provides health benefits coverage to all full-time employees and their dependents if: (1) the vendor's goods or services meet specifications; and (2) the cost is not greater than the cost quoted by a vendor who does not provide health benefits.**

S.B. 18 (Williams), relating to the adoption of a property tax rate. Passed the Senate. Please see the lead-off article in this update.

S.B. 310 (Deuell), relating to diseases/illnesses suffered by firefighters or EMTs. Passed the House. As passed, S.B. 310 would create a presumption that certain diseases or illnesses suffered

by a firefighter, an emergency medical technician, or certified volunteer firefighters are work-related. A presumption would trigger workers' compensation benefits. (Please see the April 29 edition of the *TML Legislative Update* for a thorough description.)

S.B. 368 (Duncan), relating to the compensation of state judges. Passed the House. As passed, this bill would impose a new \$4 fee on convictions (other than pedestrian or parking offenses) in municipal court. Sixty cents of the four dollars would be retained by the city, and the remainder would be remitted to the state to help pay the salaries of state district judges. Finally, the bill exempts this new fee from the requirement that a new court fee may take effect only on January 1 of any given year; thus, the fee would take effect on September 1, 2005.

S.B. 495 (Williams), increasing the fee charged by the Texas attorney general for examining public security documents. Passed the House.

S.B. 522 (Armbrister), rewriting the statute governing the Texas Statewide Emergency Services Pension System. Passed the House. Any city whose volunteer EMT's or volunteer firefighters are covered by this pension system should read this bill thoroughly.

S.B. 724 (Lucio), relating to the property tax appraisal of certain property used to provide low-income or moderate-income housing. Passed the Senate.

S.B. 757 (Armbrister), relating to property in the custody of a pawnbroker. Passed the Senate. As passed, 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 examiner.

S.B. 1375 (Staples), relating to billboards. Passed the Senate. 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. 1382 (Shapiro), changing the name of the Texas Railroad Commission to the Texas Energy Commission and transferring duties relating to railroads to the Texas Department of Transportation. Passed the Senate.

S.B. 1458 (Wentworth), relating to building codes. Passed the Senate. As passed, this bill would adopt the International Building Code as the statewide commercial building code, but

would prohibit a city from adopting an amendment that is less stringent than the code as it existed on May 1, 2000.

S.B. 1704 (Ellis), relating to payment for jury service. Passed the Senate. As passed, this bill would impose a \$4 court fee on all convictions (other than a conviction relating to a pedestrian or parking), with the revenue being used to increase juror pay.

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:

Holly McPherson, City Councilmember, Roanoke
Jeff Moore, City Attorney, Roanoke
Mike Shands, City Manager, Castle Hill
Jim Stathatos, City Manager, Roanoke

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