

**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: Briefing on the City's State Legislative Program during the 79th Legislative Session

DATE: July 7, 2005

SUMMARY AND RECOMMENDATIONS

This briefing provides the status of items included in the City's State Legislative Program, along with other municipally-related legislation at the conclusion of the 79th Legislative session.

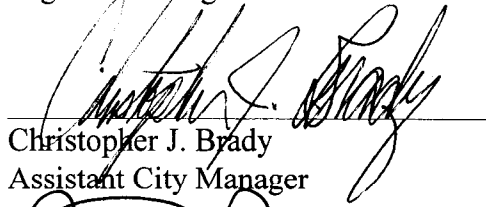
BACKGROUND INFORMATION

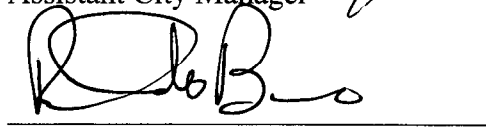
The City's State Legislative Program was adopted by City Council on November 4, 2004, with two addendums approved by Council action on January 6, 2005 and April 7, 2005. The program consists of 22 legislative priorities grouped into two categories: nine initiatives and 13 endorsements. The last update was presented on May 19, 2005. The Legislature adjourned on May 30th and the Governor had until June 19th to sign or veto legislation. Anything not vetoed by the Governor by that date automatically became law.

The Texas Municipal League Legislative Update, dated June 10, 2005, which includes an overall analysis of the legislative session, is attached to this memo. It also lists passed legislation that affects cities in categories that include finance, administration, open government, municipal courts, regulation of development, economic development, personnel, public safety, utilities, transportation and environment. Furthermore, it includes a list of failed legislation that would have adversely affected Texas cities.

COORDINATION

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


Christopher J. Brady
Assistant City Manager


J. Rolando Bono
City Manager



Legislative UPDATE

June 10, 2005

Number 21

*How small, of all that human hearts endure,
That part which laws or kings can cause or cure.*

-Samuel Johnson-

SEVENTY-NINTH LEGISLATURE GRINDS TO A HALT **Cities Dodge the Biggest Bullets, Suffer Only Minor Wounds**

Introduction

The Seventy-Ninth Regular Session of the Texas Legislature may very well be remembered for what it didn't accomplish, not for anything it got done. Even in the face of a court order, lawmakers couldn't agree to a public school finance reform plan before time ran out. Rumors have it that the governor will call a special session if the House and Senate can agree on a plan, but many observers believe the legislature will simply wait for the Texas Supreme Court to rule on the appeal of the court order that struck down the current school-funding scheme.

In reality, the legislature actually accomplished a great deal: a reform of child protective services and adult protective services, an overhaul of the state's workers' compensation system, a complicated state budget, and much more.

For better or worse, lawmakers still had plenty of time to address a multitude of municipal issues. How many? In early April, after nearly all bills had been filed, TML had roughly 1,590 bills in its tracking file and was opposed to 440 of them. In the end, somewhere in excess 105 city-related bills passed. Most of those bills are detailed in the sections that follow.

How Did Cities Fare?

The biggest victory for cities was the defeat of every legislative effort to enact: (1) a reduction or broadening of the cap on annual increases in property tax appraisals, or (2) a property tax revenue cap.

Despite the efforts of Governor Rick Perry and House Speaker Tom Craddick, legislators responded to the call of city and county officials across the state and rejected property tax “caps” of every sort.

In addition, cities successfully opposed legislation that would have imposed new requirements relative to property “takings,” limited (or eliminated) annexation authority, reduced franchise fee revenue, eroded municipal authority to regulate the use of rights-of-way, prohibited the use of cameras to help prosecute red-light violations, limited municipal authority over nuisances, enacted costly property tax exemptions, and much more.

Along with the defeat of hundreds of bad bills came the passage of numerous good bills, including these TML priorities:

Sales Tax Elections - certain sales tax propositions can be combined and taken to the voters as one initiative. Please see **H.B. 3195** in the **Sales Tax** section.

Economic Development- Texas voters will be able to amend the Texas Constitution to ensure that certain economic development expenditures don’t constitute unconstitutional debt. Please see **H.J.R. 80** in the **Economic Development** section.

Civil Service- cities covered by Chapter 143 of the Local Government Code (fire/police civil service) will be able to reappoint civil service commissioners. This law will address the problems created by a 2004 attorney general opinion. Please see **H.B. 150** in the **Personnel** section.

On the negative side of the ledger, city officials will face a requirement that they complete forms indicating any potential conflicts of interest relating to city purchasing or contracting. Please see **H.B. 914** in the **Purchasing** section.

Most of the bad bills that passed relate to municipal authority to regulate the development of property. Two bills amend the “permit vesting” statute in harmful ways. Those bills – and a handful of others – resulted from the continuing effects of builders and developers to gut city ordinance-making authority, efforts that have been ongoing for at least ten years. Please see the **Regulation of Development** section.

A Special Note About Municipal Courts

Regular readers of the *TML Legislative Update* know that the legislature routinely turns to municipal courts for the generation of state revenue. Lawmakers do this by imposing state costs/fees/fines on people who are convicted in a municipal court, thereby forcing cities to collect the revenue and remit it to the state. The temptation to use municipal courts as revenue agents for the state is so great that even before the 2005 legislative session began, a person convicted of a traffic offense in municipal court faced \$70 in state costs/ fees/fines even before the court imposed a municipal fine for the offense.

The 2005 legislature couldn’t resist the municipal court “cookie jar” any more than previous legislatures could. Please see **H.B. 2193**, **H.B. 2470**, **H.B. 1751**, and **S.B. 1704** in the **Municipal Court** section. (There is much more to be said about court costs/fees/fines. Please watch for future editions of the *TML Legislative Update*.)

<u>Year</u>	<u>Total Bills Introduced*</u>	<u>Total Bills Passed</u>	<u>City-Related Bills Introduced</u>	<u>City-Related Bills Passed</u>
1991	4,684	970	840+	180+
1993	4,560	1,089	800+	140+
1995	5,147	1,101	800+	140+
1997	5,741	1,502	1,100+	130+
1999	5,908	1,638	1,230+	130+
2003	5,712	1,621	1,200+	150+
2005	5,369	1,397	1,200+	105+

*Includes bills and proposed Constitutional amendments; regular session only.

Conclusion

Lawmakers filed fewer bills and passed fewer city-related bills than in 2003. (Please see the accompanying chart.) But the relatively low number of city-related bills passed by the 2005 legislature is not a sign that the state/local relationship is improving; it is very likely worsening. Some powerful state leaders seem intent on conducting a grand experiment to determine if cities can survive under the following conditions:

- No state fiscal assistance to cities;
- No protection from unfunded state mandates;
- Reductions in the authority of municipal governments to generate revenue for themselves; and
- Ever-increasing obligations to generate revenue for the state.

No state has ever attempted to impose these conditions on its cities, because state governments have correctly seen them as a recipe for disaster.

Despite the recurring attempts to damage cities, what the League reported two years ago is still correct:

Fortunately, most lawmakers, from the highest ranks to the least-tenured freshmen, know that Texas needs a strong state-local relationship based on trust, respect, and a commitment to the betterment of our great state. The vast majority of city officials know

that, as well, and are committed to working with state leaders in an effective governance partnership. In the end, there are no alternatives.

FINANCE AND ADMINISTRATION

Property Tax

H.B. 182 – Property Taxes: permits an owner of property valued at \$1 million or less to challenge valuation decisions of the appraisal review board through binding arbitration, rather than district court as current law requires. Costs of the arbitration will be assessed according to which party's opinion of the property's value was furthest from the value as ultimately determined by the arbitrator (a "loser pays" system, essentially).

H.B. 809 – Property Tax Exemption: provides that an individual need not render for taxation passenger cars and light trucks that are used both for business and personal purposes.

H.B. 1984 – Property Taxes: makes the following changes regarding property tax notices: (1) requires the chief appraiser to communicate to the city council how the current year's appraised values compare to the values from five years previous; and (2) requires the city to include in its property tax bills the percent increase or decrease, as applicable, in the current tax year's appraisals and levy as compared to five years previous.

H.B. 2491 – Property Taxes: This lengthy bill makes numerous changes to laws governing property tax appraisal and collection. Of specific interest to cities, the bill: (1) provides that a person who turns 65 years of age is automatically entitled to any optional senior homestead tax exemption adopted by the city, provided the appraisal district has records showing the person's age; (2) generally raises the amount a person must pay to redeem tax-foreclosed property; (3) permits attorneys who are also officers or employees of a city to recover attorneys fees, in an amount up to fifteen percent of the delinquent taxes, for executing a property tax warrant; (4) requires that tax bills and collection letters sent by or on behalf of a city give notice of the right of persons over age 65 to apply for a deferral of property taxes; and (5) requires the governing body of a taxing unit to affirmatively authorize the collection of the so-called "early additional penalty" on overdue taxes levied on tangible personal property.

H.B. 3101 – Property Taxes: prohibits the filing of plats or replats of land after September 1 of any year unless accompanied by a statement showing that property taxes for the current year have been paid.

S.B. 18 – Property Taxes: makes the following changes to property tax law:

1. requires a record vote of the city council to adopt a property tax rate that exceeds the effective rate.
2. provides that the motion to adopt a tax rate that exceeds the effective rate must contain certain language.

3. provides that an ordinance adopting a tax rate that will impose maintenance and operations (M&O) taxes greater than in the previous year must contain, in large type, a statement explaining the effect of the proposed tax rate.

4. requires 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. requires two hearings on proposed tax increases, with the second hearing occurring at least three days after the first.

6. requires 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. modifies the published notice requirements of the tax increase hearings.

8. keeps the rollback rate at eight percent, but reduces from ten percent to seven percent the rollback petition requirement for a city with an 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 stay at ten percent. ("Percent" means percent of all registered voters in the taxing unit.)

9. requires that tax bills contain a detailed, five-year history of tax and appraisal information.

S.B. 567 – Property Taxes: requires that the published notice of tax increase hearings contain detailed information comparing the previous tax year with the upcoming tax year with regard to total budgetary expenditures, appraised values, taxable values, and outstanding and unpaid bonded indebtedness.

S.B. 771 – Tax Increment Financing: makes the following changes regarding tax increment financing zones (TIFZ): (1) allows certain open space land in cities over 100,000 population to qualify as a TIFZ; (2) clarifies that certain TIFZ serve a public purpose; (3) provides that the municipal bidding and purchasing laws do not apply to TIFZ expenditures; (4) clarifies that TIFZ, upon approval of the city council, have all the economic development powers of a city under Chapter 380 of the Local Government Code, including grant power; (5) permits the pledge of tax increment to pay the cost of city services within a zone; and (6) permits the city to determine how much tax increment to pledge to zone projects.

S.B. 1351 – Property Taxes: this bill is substantially the same as **H.B. 182**, above.

S.B. 1652 – Property Taxes: does the following: (1) requires an appraisal district to develop every two years a procedure for reappraising property within the district; (2) exempts certain farm and ranching equipment from property taxes; and (3) exempts certain used automobiles from property taxes when they are present at a dealer less than 60 days.

Sales Tax

H.B. 3195 – Sales Taxes: permits a city to reduce or repeal an optional city sales tax and increase or institute a different optional city sales tax with one, combined ballot proposition. The bill also provides

that: (1) the combined proposition must contain substantially the same language as is required for each of the taxes to be raised or lowered; (2) a negative vote has no effect on either tax; and (3) the combined proposition may only be used for elections called by city a council.

S.B. 1440 – Sales Taxes: allows a city to pledge sales tax revenue to the repayment of financial securities that finance projects in certain public improvement zones.

Purchasing

H.B. 664 – Purchasing: authorizes any city with a population of less than 250,000 to give a preference to a local bidder if: (1) the local bid is within five percent of the lowest bid that isn't local, and (2) the city's governing body finds in writing that the local bid offers the best combination of price and economic development factors such as local employment and tax revenues.

H.B. 914 – Purchasing/Conflicts of Interest: requires each member of a municipal governing body to file certain "conflicts disclosure statements." Here are the details:

1. the statement will relate to any person who does business with the city or is being considered by the city for a business relationship;
2. the elected official's statement must identify an employment or other business relationship that the elected official (or any member of the elected official's family) has with any person defined in #1 above, if that relationship results in taxable income for the elected official or a family member;
3. the statement must report whether a person defined in #1 above has given one or more gifts (other than food, lodging, transportation, or entertainment accepted as a guest) with an aggregate value of more than \$250 to the elected official or a family member in the previous 12 months;
4. the statement shall be file with the city's "records administrator;"
5. failure to complete and file a statement shall be a Class C misdemeanor;
6. the Texas Ethics Commission shall develop the disclosure statement form;
7. the municipal governing body may extend these disclosure requirements to some or all city employees;
8. each person who contracts with or begins contract negotiations with a city must also complete a form to be developed by the Texas Ethics Commission;
9. a city shall provide access to disclosure statements on the city's Web site;
10. the Texas Ethics Commission shall develop the disclosure statement forms not later than December 1, 2005; and
11. the requirement related to elected official statements goes into effect on January 1, 2006.

H.B. 2525 – Construction Procurement: consolidates the alternative procurement and delivery methods available to the state and local governments into one chapter in the Government Code. In addition, the bill: (1) authorizes a governing body to delegate its authority to a designated representative, committee, or other person; (2) authorizes a governmental entity to use any alternative procurement and delivery method, except for “design-build,” for a road, bridge, utility, water supply project, water plant, wastewater plant, water and wastewater distribution or conveyance facility, wharf, dock, airport runway or taxiway, drainage project, or related type of project associated with civil engineering construction; (3) provides that a local government corporation created by a city must comply with all state laws related to the design and construction of projects that apply to the creating city; (4) exempts sports and community venue districts, certain joint airport boards, regional mobility authorities, regional transportation authorities, and metropolitan rapid transit authorities from the bill’s provisions.

H.B. 2661 – Construction Procurement: provides that a city may use the competitive sealed proposal process for the construction of roads, utilities, water utility projects, and certain other projects if the cost of the project is \$1.5 million or less.

Elections

H.B. 57 – Election Dates: makes several changes to election dates and procedures, including: (1) eliminates the first Saturday in February and the second Saturday in September as uniform election dates; (2) for an election held on the May uniform election date, provides that the local canvass must occur not later than the eleventh day after election day and not earlier than the later of: (a) the third day after election day; (b) the date on which the early voting ballot board has verified and counted all provisional ballots; or (c) the date on which all timely received ballots cast from addresses outside of the United States are counted; and (3) for an election held on the May uniform election date, provides that the period for early voting by personal appearance begins on the twelfth day before election day and continues through the fourth day before election day.

H.B. 719 – Elections: requires the secretary of state to adopt rules providing for the publication of a notice of voters’ rights. The rules require the notice be posted: (1) by an election officer at a prominent place in each polling place; (2) on the Internet Web site of the secretary of state; (3) through material published by the secretary of state; or (4) in another manner designed to give voters notice of their rights.

H.B. 2309 – Elections: provides that:

1. the authority responsible for having the official ballot prepared shall certify in writing that a candidate is unopposed for election to an office if, were the election held, only the votes cast for that candidate in the election for that office may be counted;
2. the governing body of a city that orders an election is required to deliver notice of the election to the county clerk of each county in which the city is located not later than sixty days before election day;
3. a qualified voter who resides on property located in more than one territory must choose the territory in which the residence is located;

4. a social security number, a Texas driver's license number, or the number on a personal identification card issued by the Texas Department of Public Safety furnished on a provisional ballot affidavit is not public information;

5. the tabulation required during election canvassing must include for each precinct the total number voters who cast a ballot for a candidate or for or against a measure in the election;

6. either the county clerk or the presiding officer of the canvassing authority is required to prepare an electronic report of the precinct results as contained in the election register for certain elections held after January 1, 2006, and deliver it to the secretary of state within 30 days after the election;

7. in an election ordered by a city, early voting by personal appearance at the main early voting polling place shall be conducted for at least twelve hours on: (1) one weekday, if the early voting period consists of less than six weekdays; or (2) two weekdays, if the early voting period consists of six or more weekdays;

8. the early voting ballot envelope must be placed in a separate container if the ballots are to be counted at a central counting station, or if the procedure for counting early voting votes by personal appearance is different from votes cast by mail;

9. if a resident federal postcard applicant submits information after the required deadline, the applicant is entitled to receive a full ballot to vote by mail for the next election that occurs after the 30th day after the date the information is submitted within the same calendar year;

10. a federal postcard application is considered to be submitted at the time it is received by the early voting clerk;

11. a declaration of write-in-candidacy must be filed not later than 5 p.m. on the date an application for a place on the ballot is required to be filed;

12. a write-in candidate may not withdraw from the election after the 57th day before the election; and

13. a petition seeking to call an election must include each signer's residence address to be considered valid.

S.B. 427 – City Boundary Change: requires a city that changes its boundaries or the boundaries of the districts used to elect members of the governing body to do the following not later than the 30th day after the change: (1) notify the county voter registrar of the boundary change; and (2) provide the registrar with a map of the boundary changes in a format that is compatible with the mapping format used by the registrar.

Others

H.B. 256 – Public Funds Investment: permits a city to select a bank located in Texas to invest in certificates of deposit on the city's behalf.

H.B. 352 – Hotel Occupancy Tax: makes the following changes to the law regarding hotel tax audits: (1) clarifies the authority of a city attorney to audit hotels that fail to file tax reports with the city; (2) permits the city to recover the costs of the audit from the hotel's owner; (3) permits the city attorney to estimate the amount of unpaid taxes based on the results of the audit, and (4) states that the new authority granted by the bill is in addition to other audit authority under ordinance or charter.

H.B. 1232 – Certificates of Obligation: permits the proceeds of certificates of obligation to be used to pay for work done by municipal employees in two situations: (1) the employee was hired specifically to work on the project for which the certificates were issued; or (2) the use of the employee's labor necessitates that the city hire replacement workers to cover that employee's usual duties.

H.B. 2039 – Sovereign Immunity: waives a city's sovereign immunity from suit for breach of contract claims. A litigant may not recover consequential or exemplary damages against a city in a suit for breach of contract, nor may attorney's fees be recovered unless there exists a specific written agreement providing for attorney's fees.

H.B. 2988 – Sovereign Immunity: provides that statutory prerequisites to a suit, including the provision of notice, are jurisdictional requirements in all suits against a governmental entity.

S.B. 1 – State Budget: reduces funding available for local parks grants during the 2006-7 biennium as follows: (1) cuts the transfer of sporting goods sales taxes to the local parks program from \$8.14 million per year in 2004-5 to \$5.23 million per year in 2006-7; and (2) cuts general fund revenue to the local parks program from \$4.87 million per year in 2004-5 to \$0.42 million per year in 2006-7.

S.B. 495 – Bonds: raises the fee charged by the attorney general for examining and approving public securities, such as bonds or certificates of obligation, from a maximum of \$1,250 to a maximum of \$9,500.

S.B. 1205 – Library Districts: authorizes multi-jurisdictional (city and county) library districts, authorizes such a district to levy a sales tax with approval of voters, and spells out the details relating to governance and operation of the district.

OPEN GOVERNMENT

H.B. 1285 – Public Information Act: expands the open records exception for audit working papers to include audits required by city ordinance or charter.

H.B. 2381 – Open Meetings Notice: provides that if the Open Meetings Act specifically requires or allows a governmental body to post notice of a meeting on the Internet: (1) the governmental body satisfies the requirement that the notice must be posted in a place readily accessible to the general public at all times by making a good-faith attempt to continuously post the notice on the Internet during the prescribed period; (2) the governmental body must still comply with any duty imposed by the Act to physically post the notice at a particular location; and (3) if the governmental body makes a good-faith attempt to continuously post the notice on the Internet during the prescribed period, the notice physically

posted at the location prescribed by the Act must be readily accessible to the general public during normal business hours.

S.B. 286 – Open Government Training: requires certain public officials to complete open government training. Here are the details:

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 of the open meetings act.

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) 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. 452 – Open Government: transfers the duties of the Building and Procurement Commission under the public information act to the state attorney general.

S.B. 623 – Public Information Act: provides that a new request for public information is considered withdrawn if the requestor fails to make a deposit or bond (for unpaid amounts related to previous requests) within ten days after the deposit or bond due date.

S.B. 690 – Open Meetings Act: provides that: (1) a city that recesses a meeting until the following regular business day is not required to post additional notice if the action is taken in good faith and not to circumvent the Open Meetings Act; and (2) a city that is prevented from convening an open meeting

because of a catastrophe may convene the meeting in a convenient location within 72 hours if the action is taken in good faith and not to circumvent the Act.

S.B. 727 – Public Information Act: provides that:

1. a requestor must complete an examination of public information not later than the tenth business day after it is made available;
2. if the requestor does not complete the examination of the information within that time, and does not file a request for additional time, the request is considered withdrawn;
3. if a governmental body provides a statement that the information is not available in the requested form, a requestor must respond within thirty days, and if the requestor does not provide a timely written response, the request is considered withdrawn;
4. a governmental body (or any other person or entity) that submits written comments to the attorney general shall send a copy of the comments to the person who requested the information from the governmental body; and
5. the copy of the comments provided to the requestor must be redacted if it discloses or contains the substance of the information requested.

S.B. 1133 – Public Notice: requires: (1) a city or an economic development corporation that maintains an Internet Web site to post meeting notices on its Web site; and (2) a city with a population of 48,000 or more, or an economic development corporation in a city with a population of 48,000 or more, to post the agenda on its Web site. The bill also provides that technical problems beyond the control of a city or economic development corporation will not affect the validity of a posted notice or agenda made in good faith.

S.B. 1485 – Social Security Numbers: provides that the social security number of a living person is excepted from the disclosure requirements of the public information act.

MUNICIPAL COURTS

H.B. 703 – Traffic Offenses: this bill allows a judge to require a defendant in a misdemeanor traffic case to pay a fee of \$10 for the city to obtain a copy of the defendant's driving record when the defendant requests a driver safety course dismissal. (Note: this procedure would be in lieu of current law, which requires the defendant to obtain the driving record through his own efforts.) This bill also requires a city that collects the \$10 fee to forward the revenue to the state comptroller.

H.B. 969 – Discovery: provides that, upon motion of a defendant in municipal court, the court shall order that the prosecutor produce most evidence materially related to any matter involved in the action.

H.B. 1116 – Sunset Commission: requires the Sunset Commission, as part of its review of criminal justice agencies for the 2007 legislature, to study the purpose, collection, and use of certain criminal court costs and fees.

H.B. 1575 – Juvenile Delinquency: authorizes a city council to: (1) employ juvenile case managers to assist in administering the municipal court's juvenile docket; and (2) assess a \$5 court fee against minors convicted of fine-only offenses to fund the new case managers' salaries.

H.B. 1751 – Court Fees: provides that, if a court requires a defendant to make restitution through installment payments, the court may require the defendant to pay a one-time restitution fee of \$12, \$6 of which the court shall retain for costs incurred in collecting the installments and \$6 of which the court shall order to be paid to the compensation to victims of crime fund.

H.B. 2193 – Court Fee/Community Supervision: imposes a new \$50 (fifty-dollar) court cost on each conviction in municipal court of an offense under Chapter 49 of the Penal Code (intoxication) or Chapter 481 of the Health and Safety Code (controlled substances), allows the city to keep \$5, and requires the city to remit \$45 to the state comptroller to be used for drug court programs.

H.B. 2470 – Traffic Fines: provides: (1) for the repeal of the expiration date on the \$30 state traffic fine; (2) for the repeal of the expiration date for the funding of trauma care and the state's general revenue fund through the \$30 traffic fine and the Texas Driver Responsibility Program; and (3) that a citation issued for a traffic offense shall include the following statement: "A conviction of an offense under a traffic law of this state or a political subdivision of this state may result in the assessment on your driver's license of a surcharge under the Driver Responsibility Program."

S.B. 737 – Overweight Vehicles: authorizes to municipal court jurisdiction over overweight vehicle violations regardless of the fine amount.

S.B. 1005 – Deferred Disposition: requires an individual under the age of 25 who is convicted of a moving violation and seeks a deferred disposition to: (1) complete a driving safety course during the deferral period of his or her sentence; (2) if the defendant holds a provisional license, pay ten dollars to the Department of Public Safety to take an examination that demonstrates the ability to exercise ordinary and reasonable control in the operation of a motor vehicle of the type that the applicant is licensed to operate. The bill also provides that, if the defendant fails to complete the safety course and examination within the deferral period, the judge in the case shall impose the entire fine assessed against the individual.

S.B. 1704 – Court Fee/Jury Pay: imposes a new \$4 (four-dollar) court cost on each conviction of any offense (other than a pedestrian or vehicle-parking offense) in municipal court, and requires the city to remit the revenue to the state to be used for increased jury pay.

S.B. 1863 – Municipal Court: requires a city with a population of greater than 100,000 to: (1) implement a program to improve collection of court fines and fees; (2) submit an annual report to the Office of Court Administration; and (3) submit to periodic program audits by the state comptroller. The bill also provides that: (1) a city is entitled to retain a collection fee only if the comptroller's office determines that the city's collection program complies with state requirements; and (2) a city that does

not implement a program shall send 100 percent of any \$25 time payment fees collected by the city to the comptroller.

REGULATION OF DEVELOPMENT

H.B. 265 – Building Permits: requires a city to either grant, deny, or provide written notice to an applicant stating the reasons that the city has been unable to act on a building permit within 45 days after an application is submitted. A city that chooses to provide the written notice must either: (1) grant or deny the permit not later than the 30th day after the date the notice is received; or (2) either not collect or refund any fees associated with the permit.

H.B. 1772 – Annexation: authorizes certain Type A general law cities to annex an area that is entirely surrounded by the city without the consent of the owners or residents of the area. The bill also provides that a Type A city may not unilaterally annex land that has an agricultural tax exemption unless: (1) the city offers to make a development agreement with the landowner that would guarantee the continuation of the extraterritorial status of the area; and (2) the landowner declines to enter into such an agreement.

H.B. 1835 – Development Exactions: provides that: (1) if a city requires a developer to bear a portion of certain infrastructure costs as a condition of plat approval, the developer's portion of the cost must be roughly proportionate to the proposed development as approved by a licensed professional engineer who is retained by the city; (2) a developer may appeal the engineer's decision to the governing body and then to a county or district court; (3) a developer (but not a city) who prevails in an appeal is entitled to costs and attorneys fees; and (4) the bill's provisions apply retroactively.

H.B. 3461 – Development Moratoria: requires a city, prior to imposing a moratorium on commercial development, to comply with certain procedures that previously applied only 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 a city council makes written findings that the moratorium is needed to prevent a shortage of public facilities; and (3) a moratorium duration of 90 days, which can be extended to a maximum of 180 days following a second hearing and further written findings. In addition, the bill allows a moratorium on commercial development that is not based on a shortage of public facilities if a city issues written findings based on reasonably available information that applying existing commercial development ordinances or regulations is inadequate to prevent the new development from being detrimental to the public health, safety, or welfare of the residents of the city.

S.B. 574 – Permit Vesting: provides that a city: (1) may not enforce landscaping, tree preservation, open space, or park dedication regulations against the holder of a vested permit; (2) may not enforce zoning regulations that affect property classification against the holder of a vested permit; (3) may place on a project an expiration date that is no earlier than the fifth anniversary of the date the first permit application was filed for the project, if no progress has been made toward completion of the project; (4) may place an expiration date of not less than two years on an individual permit if no progress has been made toward completion of the project; and (5) does not have immunity from suit for an action regarding a vested permit.

S.B. 848 – Permit Vesting: makes several changes to the “permit vesting” statute, including: (1) expands the definition of a permit for which a developer’s rights would “vest” under current regulations to include a contract or other agreement for the construction or provision of a city-owned or city-controlled utility; (2) provides that a permit vests when the original application for a permit is filed for review for any purpose, including review for administrative completeness, or when a plan for development of real property or a plat application is filed; (3) provides that an application or plan is considered filed on the date the applicant delivers the application or plan to the city or deposits the application or plan with the United States Postal Service by certified mail addressed to the city; and (4) authorizes a city to provide that a permit application expires on or after the forty-fifth day after the date the application is filed if the application is incomplete, the city provides notice, and the applicant fails to respond.

S.B. 1458 – Building Codes: provides that: (1) the International Building Code is adopted as the municipal building code in Texas for commercial and multi-family construction; (2) a city may establish procedures to adopt local amendments to the International Building Code and for the administration and enforcement of the code; (3) a city that has adopted a more stringent commercial building code before January 1, 2006, is not required to repeal that code and may adopt future editions of that code; and (4) the National Electrical Code applies to all commercial buildings in a city for which construction begins on or after January 1, 2006, and to any alteration, remodeling, enlargement, or repair of those commercial buildings.

ECONOMIC DEVELOPMENT

H.B. 551 – Economic Development: adds telephone call centers to the list of eligible 4A and 4B economic development corporation projects.

H.B. 918 – Economic Development: permits city economic development grants that benefit areas in a city’s extraterritorial jurisdiction or in areas annexed for limited purposes.

H.B. 2755 – Economic Development: expands the list of permissible projects for 4B economic development corporations in cities with less than \$50,000 in 4B sales tax revenue for each of the prior two years, by including a project that promotes new or expanded business development, if the city council approves the project after two separate readings.

H.B. 2928 – Economic Development: expands the list of permissible projects for 4A and 4B economic development corporations as follows: (1) for 4A and 4B corporations—sewer utilities and infrastructure site improvements; (2) for 4B corporations in cities of less than 20,000 population—projects that promote new or expanded business development (provided that any project in excess of \$10,000 receive prior council approval after two separate readings); (3) for 4B corporations in “landlocked cities” (where landlocked is defined as a city located in a county of two million population or more with less than 100 acres within the city or ETJ eligible for manufacturing development)—projects that promote new or expanded business development; (4) for 4A and 4B corporations within 25 miles of Mexico—airport facilities; and (5) for 4A and 4B corporations within 25 miles of Mexico, with greater than average unemployment, and in a city of less than 50,000 population—any project.

H.J.R. 80 – Chapter 380 Grants: proposes an amendment to the Texas Constitution which, if approved by the voters on November 8, 2005, will clarify that economic development grants made pursuant to Chapter 380 of the Local Government Code do not constitute municipal debt under the Texas Constitution, unless the grants are secured by property taxes or financed by bonds.

S.B. 466 – Economic Development: permits any city to create a municipal development district (MDD). (Under current law, only cities located in more than one county may create an MDD. An MDD may levy a sales tax to be spent on various 4A and 4B projects, as well as convention centers and civic center hotels.) The bill also allows an MDD to encompass portions of the city's ETJ.

S.B. 1199 – Sales Taxes/Tax Increment Financing: permits cities to pledge sales tax increases to fund projects in tax increment finance zones.

S.B. 1730 – Economic Development: permits a city to pledge property taxes to pay for certain venue projects that are also funded by hotel occupancy taxes.

PERSONNEL

H.B. 7 – Worker's Compensation: this is an exhaustive (184-page) rewrite of workers' compensation law in Texas. It has the following major provisions:

1. the Workers' Compensation Commission is abolished; the system will be governed by a workers' compensation commissioner who will head a new division within the Texas Department of Insurance (TDI).

2. a newly created Office of Injured Employee Counsel will serve as an advocate for injured workers.

a. the commissioner shall continue to maintain a list of approved doctors.

b. the cap on weekly benefits will be increased by up to 12 percent.

3. the bill authorizes the establishment of workers' compensation health care networks for treating injured workers. A network may contract with or be established by insurance carriers, employers, or governmental entities that self-insure.

4. employers may obtain workers' compensation health care services for their injured workers through a health care network.

5. the bill establishes rate hearings for workers' compensation rates and allows TDI to determine if rates are excessive and to order a rollback in rates.

6. the bill also establishes a dispute resolution process for indemnity benefits.

H.B. 148 – Civil Service/Probationary Period: provides that in a city (other than Houston) covered by Chapter 143 of the Local Government Code (fire/police civil service), the civil service commission may extend the probationary period by up to six months for a person who: (1) must attend basic training for initial certification as either a peace officer or firefighter, and (2) is not employed in a collective bargaining or meet and confer city.

H.B. 150 – Civil Service Commission: provides that in a city which is under 1.5 million in population and is covered by Chapter 143 of the Local Government code (fire/police civil service), the city's chief executive may appoint a person to consecutive terms on the civil service commission, except that a person may not be appointed to a fourth or subsequent term without a two-thirds majority vote of approval by the governing body.

H.B. 304 – Meet and Confer: authorizes certain cities and police officer associations to meet and confer. Here are the details:

1. The bill applies to a city with a population of 50,000 or more and to a city that has adopted Chapter 143 of the Local Government Code (fire/police civil service), except that it does not apply to a city that has adopted Chapter 174 of the Local Government Code (collective bargaining), nor to Austin, Houston, or Dallas.

2. If a municipal governing body receives from a police officer association a petition signed by a majority of the police officers requesting recognition as the sole bargaining agent for police officers, the governing body shall either:

- a. recognize the association and meet and confer with it, or
- b. order a certification election on the question of whether the association represents a majority of the affected police officers, or
- c. order an election by the city's voters on the question of whether the association and the city may meet and confer.

3. If a certification election (see above) reveals that the association does in fact represent a majority of the police officers, the city shall either:

- a. recognize the association and meet and confer with it, or
- b. order an election by the city's voters on the question of whether the association and the city may meet and confer.

4. If the city council calls for an election of the people: (a) the election must be held at the next regularly scheduled election for municipal officials, and (b) there may not be another election on the same topic for at least two years.

5. The bill also lays out a procedure under which the police officers may change the recognition of an association.

6. The bill prohibits strikes by police officers.

7. Neither a public employer nor a police officer association is required to meet and confer.

8. If a city and a police officer association meet and confer, they may discuss wages, salaries, hours of work, and other terms and conditions of employment.

9. A meet and confer agreement must be in writing and is binding only after both the municipal governing body and the recognized police officer association ratify the agreement.

10. While an agreement is in effect, there may be no popular election to adopt Chapter 143 (civil service) or Chapter 174 (collective bargaining).

11. A proposed meet and confer agreement shall become a public document when it is ready to be ratified by the municipal governing body.

12. The meet and confer agreement may establish a procedure (including binding arbitration) by which the parties will resolve disputes, and a state district court will have jurisdiction to hear and resolve a dispute under the agreement.

13. A municipal governing body that granted itself the authority to meet and confer may withdraw that authority and notify the police association that any written agreement will not be renewed.

14. A municipal governing body that was granted authority to meet and confer through a popular vote may, after two years, call for an election to determine if the governing body may continue to meet and confer.

15. If, before the agreement has been in effect for 60 days, the city receives the appropriate repeal petition signed by a number of voters equal to at least ten percent of the votes cast at the most recent general election, the governing body shall either:

a. repeal the meet and confer agreement, or

b. call for an election on the question of repealing the agreement.

16. A meet and confer agreement preempts contrary state statutes, local ordinances, civil service rules, and the like.

17. For any disciplinary appeal, an officer may be represented by the police officer association or any other person.

H.B. 639 – Complaints Against Public Safety Employees: provides that a fire chief or police chief may not consider a complaint unless the complaint is in writing and signed by the person making the

complaint. The bill also provides that the person who is the subject of the complaint must be given a copy of the complaint. Finally, the bill prohibits a chief from indefinitely suspending or terminating the person who is the subject of a complaint unless the complaint is investigated and the chief finds evidence to prove the allegation of misconduct.

H.B. 1126 – Emergency Medical Services (EMS) Personnel: provides that in a city covered by Chapter 143 of the Local Government Code (fire/police civil service), a fire department employee whose primary duties are to provide EMS is considered to be a firefighter and to be entitled to civil service protection under Chapter 143.

H.B. 1213 – Civil Service/Fitness Pay: provides that in a city covered by Chapter 143 of the Local Government Code (fire/police civil service), the city council may authorize “fitness incentive pay” for police officers and firefighters.

H.B. 1485 – Health Benefit Mandate: provides that most health benefit plans that provide coverage for diagnostic medical procedures must provide to each enrolled woman who is 18 years of age or older coverage for an annual exam for the early detection of cervical cancer.

H.B. 1913 – Civil Service Adoption: provides that a city of 10,000 or more with a paid fire department *or* paid police department may, by a vote of the people, adopt Chapter 143 of the Local Government Code (fire/police civil service). (Note: current law requires a paid fire department *and* a paid police department.)

H.B. 2640 – Civil Service Coverage: provides that in a city covered by Chapter 143 of the Local Government Code (fire/police civil service), a “firefighter” is a fire department employee whose position requires substantial knowledge of firefighting and who has met the requirements to be certified as a firefighter, but doesn’t include “a secretary, clerk, budget analyst, custodial engineer, or other administrative employee”.

H.B. 2892 – Meet and Confer: this bill is virtually identical to **H.B. 304** (above), except that where H.B. 304 relates to police officers, this bill relates to firefighters. Affected cities (there are roughly 100 affected cities) will want to see the description of H.B. 304.

H.B. 3200 – Retirement Benefits: provides that a governmental employer is not permitting an employee to receive retirement benefits from more than one system or program if: (1) the employer participates in the Texas Municipal Retirement System, and (2) sponsors a supplemental plan that was established before January 1, 2005, and is funded by the employer, employee, or both.

H.B. 3409 – Civil Service Adoption: provides that under Chapter 143 of the Local Government Code (fire/police civil service), the determination of whether a city has a population of 10,000 or more is based on the most recent record of: (1) a federal census, or (2) an estimate provided by the state demographer. The bill also provides that if a city that has adopted Chapter 143 loses population and goes under 10,000, the application of Chapter 143 shall not be affected.

S.B. 310 – Disease/Illness Presumption: creates a presumption that certain diseases or illnesses suffered by a firefighter, an emergency medical technician, or a certified and “actively serving”

volunteer firefighter are work-related. A presumption will trigger workers' compensation benefits. Here are the details:

1. The bill applies to a firefighter or EMT who: (a) received a physical exam when first employed or during employment that did not reveal the illness or disease for which presumption benefits are sought, (b) has been employed as a firefighter or EMT for five years or more, and (c) seeks benefits for a disease or illness discovered while employed as a firefighter or EMT.

2. The bill defines "actively serving" as a volunteer firefighter as participating in 40 percent of the drills and 25 percent of the fire/emergency calls.

3. The bill provides that the presumption will not apply if the disease or illness for which benefits are sought is known to be caused by the use of tobacco and the claimant is or has been a user of tobacco, or the claimant's spouse has, during the marriage, been a smoker.

4. The presumption established by the bill will apply to total or partial disability or death resulting from an immunization against smallpox or other disease to which the firefighter or EMT may be exposed during the course and scope of employment.

5. The presumption will also apply to tuberculosis or other respiratory illness that has a positive correlation with service as a firefighter or EMT and results in total or partial disability or death.

6. The presumption will also apply to a cancer that results in total or partial disability or death if the firefighter or EMT: (a) regularly responded to calls involving fires or firefighting; (b) regularly responded to events involving release of radiation or carcinogens; (c) has a cancer known to be associated with firefighting or exposure to heat, smoke, radiation, or a known carcinogen.

7. The presumption will also apply to an acute myocardial infarction or stroke that: (a) results in disability or death, and (b) occurs while the claimant is on duty and engaged in non-routine stressful or strenuous physical activity involving fire suppression, rescue, emergency medical services, and the like.

8. The bill provides that a presumption established by the bill may be rebutted through a showing by a preponderance of the evidence that a cause not associated with a person's service as a firefighter or EMT caused the condition for which benefits are sought.

9. The bill provides that no payment shall be made to the subsequent injury fund for a death resulting from a disease or illness presumed to have been contracted in the course and scope of employment.

S.B. 522 – Texas Emergency Services Retirement System: enacts major changes to the statute that establishes this retirement fund, which is currently actuarially unsound. Among the changes are the following: (1) allows the system's governing board to change the calculation of retirement benefits, except for current retirees; (2) allows the board to change vesting periods; (3) allows the board to request additional funds from participating departments; (4) allows the board to increase minimum, monthly contributions from participating members. (Note: this description is not intended to be

exhaustive. Any city with a department that participates in this retirement system should seek additional information from the system.)

S.B. 716 – Payroll Deductions: requires a city with a population of more than 10,000 to make a payroll deduction for payment of an employee association's monthly dues if requested by a police officer and if the city permits deductions for purposes other than charity, health insurance, taxes, or other purposes required by law. (Note: this bill applies to police officers in the same way that a 2003 bill applies to firefighters. A city may charge a reasonable fee for providing these payroll deduction services.)

S.B. 1050 – Civil Service/Promotions: amends Chapter 143 of the Local Government Code (fire/police civil service) as follows:

1. the civil service commission (except in Houston) may extend the probationary period for up to six months for a person who: (a) must attend basic training for initial certification as either a police officer or firefighter, and (b) is not employed in a collective bargaining or meet and confer city. (Note: in this way, S.B. 1050 duplicates **H.B. 148**, above.)

2. a firefighter cannot be placed on a promotion eligibility list unless he/she scores a passing grade on the written exam, regardless of seniority points.

3. a firefighter must score at least 70 on the written exam to be determined to have passed the exam.

4. a vacancy in a firefighter position occurs on the date the position is vacated by resignation, retirement, death, promotion, or issuance of an indefinite suspension.

5. a person who is bypassed for promotion shall be given a written reason for the bypass and may request a review of the bypass by a third party hearing examiner.

S.B. 1433 – District Firefighters: this bill applies to firefighters employed by: (1) an emergency services district with a population of 30,000 or more, or (2) an entity created under an interlocal agreement between two or more political subdivisions. To those firefighters, the bill extends the following benefits:

1. payroll deductions for employee association dues (Section 141.008 of the Local Government Code);

2. longevity pay (Section 141.032);

3. classification pay (Section 141.033);

4. the right to petition for increased salaries (Section 141.034);

5. the benefits provided by the Chapter 142 sections relating to hours of labor, vacation, compensatory time, hospitalization, liability insurance, salary continuation, and court appearance; and

6. a complicated disciplinary action appeal process that appears to be based on Subchapter D of Chapter 143, relating to discipline, appeals, hearing examiners, and more.

PUBLIC SAFETY

H.B. 616 – Tort Claims Act: the bill: (1) limits a city's civil liability for off-road motorcycling and off-road automobile driving, bicycling and mountain biking, disc golf, on-leash and off-leash walking of dogs, and soap box derby racing on premises operated by a city for that purpose; and (2) requires the city to place a specified warning in a conspicuous location on the premises.

H.B. 825 – Animal Control: makes it an offense to interfere with an animal control officer while the officer is engaged in duties relating to the treatment or regulation of animals.

H.B. 867 – Sex Offenders: this is a lengthy (101-page) bill relating to the registration and supervision of sex offenders. Many sections are of little or no interest to city officials, but it is notable that the bill repeals the requirement that a local law enforcement agency publish notice in a newspaper when a registered sex offender moves into the law enforcement agency's jurisdiction.

H.B. 970 – Municipal Court: prevents a city ordinance that imposes a fine in excess of \$500 from dispensing with the requirement of a culpable mental state in the definition of the offense.

H.B. 1596 – Scooters: specifically authorizes a city to prohibit motor-assisted scooters on a street, highway, or sidewalk if the city finds it is necessary in the interest of safety; and provides authority for a person to operate a scooter on a path set aside for the exclusive operation of bicycles, or on a sidewalk.

H.B. 1690 – Nuisance: elevates the mental state required to convict an alleged violator of the civil nuisance enforcement statute (Chapter 125 of the Texas Civil Practice and Remedies Code) from "knowingly maintains" a place to which persons go to engage in activities that constitute a nuisance such as prostitution and drug offenses, to "knowingly maintains...and...knowingly tolerates the activity and furthermore fails to make reasonable attempts to abate the activity..."

H.B. 3111 – Emergency Declaration: authorizes the mayor of a city to order an evacuation from an area and to control the ingress and egress to and from a disaster area, if the officer considers the action necessary for the preservation of life or other disaster mitigation, response, or recovery.

S.B. 6 – Child and Adult Protective Services: this is a comprehensive bill that reforms the state's child protective services and adult protective services. Most of the legislation is not directly city-related, but with regard to child protective services, the bill: (1) provides that the Department of Family and Protective Services shall consult with law enforcement agencies to develop investigation protocols; (2) allows a law enforcement officer to take possession of a child without a court order if the officer determines that certain dangerous conditions exist; (3) requires an officer to report certain information to the Texas Crime Information Center; and (4) provides that, to the extent possible, the department and the appropriate local law enforcement investigators in any given county shall colocate in the same offices.

S.B. 9 – Homeland Security: provides that: (1) the office of the governor shall, with input from first responders, develop and administer a plan to design and implement a statewide integrated public safety radio communications system that promotes interoperability within and between local, state, and federal entities; (2) if government units contract to furnish or obtain public safety services, the governmental unit that would have been responsible for furnishing the services in the absence of the contract is responsible for any civil liability; and (3) notwithstanding #2, the parties to a contract may assign responsibility for civil liability in any manner agreed to by the parties if such assignment of responsibility is part of the written agreement.

S.B. 245 – Charitable Solicitations: requires a city to permit a city employee to stand in a roadway to solicit charitable contributions if the employee submits to the city: (1) a written application and; (2) proof of liability insurance in an amount of not less than \$1,000,000. In addition, the city may require the employee to: (1) obtain a permit or (2) pay a reasonable fee before engaging in such activity.

S.B. 399 – Fines and Penalties: provides that neither a person who is an employee of a real property owner nor a company that manages the property is personally liable for criminal or civil penalties resulting from a violation of a city ordinance if: (1) the city has issued a certificate of occupancy or a certificate of completion for the property; and (2) the employee or management company provides the owner's name, street address, and phone number to the city official who issues the citation or that official's superior. The bill also provides that if the property owner's address is not in Texas, the employee or management company is considered the owner's agent for accepting service of the citation of violation.

S.B. 480 – Pipelines: prohibits a city from assessing a charge for the placement, construction, maintenance, repair, replacement, operation, use, or removal of a hazardous liquid, carbon dioxide, or gas pipeline facility on, along, or across a public right-of-way. The bill also: (1) authorizes a city to assess a reasonable, annual charge for the use of the public rights-of-way that are maintained by the city for a hazardous liquid, carbon dioxide, or gas pipeline facility; (2) authorizes a city to recover the reasonable cost of repairing damage to the public rights-of-way located within the city and maintained by the city that is caused by the placement of a pipeline facility if the owner or operator of the facility does not repair the damage in accordance with the city's standards; (3) provides that the owner or operator of a pipeline facility may appeal a city's assessment of a charge to the Railroad Commission; (4) requires a city to file suit to collect a charge not later than the fourth anniversary of the date the charge becomes due; and (5) authorizes a city to require the relocation of a pipeline facility for a city project at the owner's expense, unless the pipeline facility is authorized by a property right that has priority over the city's right to use the public way for the city facility.

S.B. 568 – Alarms: this bill addresses both security alarms and personal emergency response systems. With regard to security alarms, the 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 residential location; (3) a city may not terminate law enforcement responses to a permit holder because of excess false alarms, but may revoke or 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 may not adopt a non-response policy unless it attempts to notify permit-holders and conducts a public

hearing; (7) a city that adopts a non-response policy may not impose any fee, fine, or penalty related to alarms; (8) a city that doesn't respond to an alarm is not responsible for damages; (9) 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 (10) a city may not refuse to issue an alarm permit for a residential location solely because it is an apartment. A "personal emergency response system" (PERS) is an alarm system that is installed in a residence, monitored by an alarm company, and designed only to permit a person to signal the occurrence of a medical or personal emergency so that the alarm company may signal and summon appropriate aid. With regard to PERS, this bill provides that a city: (1) may not require a license, permit, fee, tax, or bond to engage in the PERS business; (2) may not charge a fee for the use of the city's public facilities; (3) may charge a reasonable fee to use a central alarm installation in a police office; (4) may charge a reasonable fee to inspect a device that causes at least five false alarms in a 12-month period; and (5) may require discontinuation of service from such a malfunctioning device until it is repaired.

S.B. 734 – Weapons: prohibits a city from applying a regulation relating to the discharge of firearms or other weapons outside its city limits or in an area annexed by the city after September 1, 1981, if the firearm or other weapon is: (1) a shotgun, air rifle or pistol, BB gun, or bow and arrow that is discharged on a tract of land of ten acres or more and more than 150 feet from a residence or occupied building located on another property in a manner not reasonably expected to cause a projectile to cross the boundary of the tract; (2) a center fire or rim fire rifle or pistol of any caliber that is discharged on a tract of land fifty acres or more and more than 300 feet from a residence or occupied building located on another property in a manner not reasonably expected to cause a projectile to cross the boundary of the tract.

S.B. 757 – Pawnbroker Information: this bill: (1) authorizes a chief law enforcement officer to place holds on property in possession of a pawnbroker when the officer has a reasonable suspicion the property has been misappropriated; (2) requires pawnbrokers who generate computerized pawn and purchase tickets to transmit all information to a law enforcement agency in an authorized format; and (3) requires law enforcement agencies to pay fees to access certain electronic pawn information.

S.B. 1195 – Consent Searches: provides that a police officer may not conduct a "consent" search of a vehicle unless the vehicle's operator signs a written consent form or provides oral consent that is evidenced by an appropriate video or audio recording.

S.B. 1224 – Tort Claims Act: limits the liability of a city for damages arising from: (1) bicycling and mountain biking; (2) disc golf; and (3) on-leash and off-leash walking of dogs if such an activity takes place on premises owned or maintained by the city.

S.B. 1473 – Police Training: requires that both police chiefs and police officers receive training on de-escalation and crisis intervention techniques to facilitate interaction with persons with mental impairments.

UTILITIES, TRANSPORTATION, AND ENVIRONMENT

H.B. 951 – Pipelines: the city-related provisions of this bill are essentially identical to **S.B. 480**, above.)

H.B. 2650 – Turnpike Projects: authorizes a city to enter into an agreement with the Texas Department of Transportation (TxDOT), a private entity, or a regional mobility authority to assist in financing the construction, maintenance, and operation of a turnpike project located in the city's jurisdiction, in return for a percentage of the revenue from the project when the agreement is approved by TxDOT and the revenue is used for transportation purposes.

H.B. 2653 – Tax Increment Financing: permits the expenditure of tax increment to acquire land for certain transportation projects located outside a tax increment reinvestment zone.

H.B. 2702 – Transportation: this is the session's omnibus transportation bill governing regional mobility authorities and the Trans-Texas Corridor. Among many other things, the bill:

1. provides that the Texas Department of Transportation (TxDOT) and a public utility shall share equally the cost of the relocation of a utility facility that is made after September 1, 2005, and before September 1, 2007, and that is: (a) required by the improvement of a nontolled highway to add one or more tolled lanes; (b) required by the improvement of a nontolled highway that has been converted to a turnpike project or toll project; or (c) required for the construction on a new location of a turnpike project or toll project or the expansion of such a turnpike project or toll project.

2. grants local voters 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.

3. prohibits the operation of a "pocket bike" (mini-motorbike) on a public highway, road, or street or a bicycle path.

4. prohibits a judge from granting deferred adjudication to a commercial driver's license holder for a moving violation.

5. authorizes TxDOT and a public or private entity to contract with an agency of this state or a local government for the services of peace officers employed by the entity to enforce laws related to the regulation and control of vehicular traffic on a state highway and the payment of the proper toll on a toll project.

6. authorizes a regional tollway authority or regional mobility authority to transfer any of its projects to one or more local governmental entities under certain circumstances.

7. transfers state regulatory authority over railroads from the Texas Railroad Commission to TxDOT.

8. authorizes a political subdivision to consent to the use of its property for state highway purposes without the necessity of bidding or other procedures.

9. authorizes TxDOT to enter into an agreement with a public entity to permit the entity to design, develop, finance, construct, maintain, repair, or operate a toll project.

H.B. 2876 – Certificates of Convenience and Necessity (CCN): amends several provisions relating to the issuance, amendment, and repeal of a certificate of public convenience and necessity (CCN) for water service. Of particular interest to cities, the bill:

1. prohibits the Texas Commission on Environmental Quality (TCEQ) from granting a CCN to a retail public utility for a service area within the boundaries or extraterritorial jurisdiction (ETJ) of a city with a population of 500,000 or more without the consent of the city.

2. provides that: (a) a city described in number (1) may not unreasonably withhold consent, and (b) as a condition of the consent, the city may require that all water and sewer facilities be designed and constructed in accordance with the city's standards for facilities.

3. requires TCEQ to grant a CCN application if a city has not consented before the 180th day after the city receives notice of the application, but only if TCEQ finds that the city: (a) does not have the ability to provide service; or (b) has failed to make a legally binding commitment with landowners of sufficient available funds to provide service on reasonable terms and conditions.

4. provides that, if a city extends its ETJ to include an area certificated to a retail public utility, the retail public utility may continue and extend service in its certificated area under the rights granted by its certificate.

5. prohibits TCEQ from extending a city's CCN beyond its ETJ without the written consent of the landowners who own the property in which the certificate is to be extended.

6. provides that any portion of any city's CCN that extends beyond the ETJ without the consent of the landowner is void.

7. provides that, for an area that is within the boundaries of a city, any retail public utility certified or entitled to certification may continue and 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.

In addition, the bill:

1. adds landowners in the area of a CCN to the definition of "affected persons," which would entitle them to participate in certain Texas Commission on Environmental Quality (TCEQ) proceedings.

2. requires TCEQ to give notice to each owner of a tract of land that is at least 50 acres and is wholly or partially included in an area proposed to be included in a CCN.

3 . requires a CCN applicant to possess the financial, managerial, and technical capability to provide continuous and adequate service.

4 . provides that, in order to obtain a CCN or an amendment to a CCN: (a) a public utility or water supply or sewer service corporation shall submit to the TCEQ a map separately illustrating its facilities for production, transmission, and distribution of its services; and (b) each certificated retail public utility shall file a map showing any facilities, customers, or area currently being served outside its certificated areas.

5 . requires a CCN application to contain: (a) a statutorily-mandated description of the proposed service area; (b) a description of any requests for service in the proposed service area; (c) a capital improvements plan, including a budget and estimated timeline for construction of all facilities necessary to provide full service to the entire proposed service area; (d) a description of the sources of funding for all facilities; (e) to the extent known, a description of current and projected land uses, including densities; (f) a current financial statement of the applicant; (g) according to the tax roll of the central appraisal district for each county in which the proposed service area is located, a list of the owners of each tract of land that is at least 50 acres; and (h) any other item required by TCEQ.

6 . authorizes a landowner who owns a tract of land that is at least 25 acres and that is wholly or partially located within a proposed service area to elect to exclude some or all of his property from the proposed service area.

7 . authorizes TCEQ on its own motion or on receipt of a petition from the owner of a tract of land that is at least 50 acres and is not in a platted subdivision actually receiving water or sewer service to revoke or amend any CCN if the certificate holder has never provided, is no longer providing, or is incapable of providing service.

8 . requires TCEQ to adopt rules to ensure that a decertified retail public utility receives adequate compensation for its facilities.

H.B. 2949 – Emergency Plans: authorizes the Texas Commission on Environmental Quality to issue an emergency order authorizing immediate action for the repair or replacement of certain roads, bridges, or other infrastructure improvements made necessary by a catastrophe.

S.B. 408 – Public Utility Commission: this is the Public Utility Commission (PUC) sunset bill. The bill will do the following: (1) continue the PUC until September 1, 2011; (2) provide that the PUC shall develop and implement a policy to encourage the use of negotiated rulemaking procedures and alternative dispute resolution procedures; (3) raise the allowable administrative penalty against a regulated entity from \$5,000 to \$25,000; (4) provide that an independent systems operator (ISO) is directly responsible and accountable to the PUC; (5) add a representative from a municipally-owned utility to an ISO's governing body; (6) require that ISO meetings must be open to the public; and (7) provide for recusal of ISO board members who have a conflict of interest.

THE CUTTING ROOM FLOOR

Hundreds of harmful initiatives that would have done serious damage to Texas cities were defeated through the efforts of the League and individual cities. Among them were the following:

- numerous bills that would have: (1) reduced the current cap on annual increases in residential appraisals from ten percent to some lesser amount, and (2) applied the cap to all real property.
- legislation that would have given the Public Utility Commission (PUC) authority to regulate activities in municipal rights-of-way.
- legislation that would have: (1) eliminated the authority of cities to grant franchises to cable companies, and (2) given PUC the authority to grant a statewide franchise.
- repeated efforts to repeal the authority under which cities may use cameras to help prosecuted re-light violations.
- legislation that would have included municipal actions in the regulatory takings statute.
- a variety of bills that would have decimated or eliminated annexation authority.
- legislation that would have substantially reduced the authority of cities to regulate nuisances.

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