

**CITY OF SAN ANTONIO
EXTERNAL RELATIONS DEPARTMENT
CITY COUNCIL AGENDA MEMORANDUM**

TO: Sheryl Sculley, City Manager
FROM: Erik J. Walsh, Assistant City Manager
SUBJECT: Legislative Update – 3rd Called Special Session of the 79th State Legislature
DATE: May 11, 2006

SUMMARY AND RECOMMENDATIONS

This is a legislative update providing information related to the issues being debated in the 3rd Called Special Session of the 79th State Legislative Session.

BACKGROUND INFORMATION

Governor Rick Perry called for the Third Special Session of the 79th Texas Legislature to begin on Monday, April 17th to significantly reduce property taxes and make substantial reforms to the franchise tax so that it is fairer and broader, and to ensure that schools have a reliable, constitutional stream of revenue. Each special session called by the Governor lasts approximately 30 calendar days. This update will cover approximately half of the 30 days of this special session. Currently, there have been nearly 700 bills introduced in this special session.

The Texas Supreme Court ruled late last year that local school boards have lost discretion in the tax rates they set because they are forced to tax at the \$1.50 cap to meet state and federal demands. It gave lawmakers until June 1, 2006 to restore that discretion or it would cut off state funding for schools. Last year, Former Comptroller John Sharp was tapped by Gov. Rick Perry to head the 24 member Texas Tax Reform Commission to address the Supreme Court's ruling.

On Monday, April 10th, the Texas Tax Reform Commission laid out its proposed school finance plan, which is comprised of two separate bills, before the House Ways and Means Committee. However, the Committee took no official action on those bills.

On Monday, April 17th, the start of the 3rd Special Session, five bills were introduced in the House that comprised Governor Perry's school finance reform proposal. The legislation included:

- HB 1 by Representative Chisum, relating to public school finance and property tax rate compression
- HB 2 by Representative Pitts, relating to the allocation of certain revenue from franchise taxes, motor vehicle sales and use taxes, and taxes on cigarettes and other tobacco products to provide property tax relief

- HB 3 by Representative Keffer, relating to the franchise tax
- HB 4 by Representative Swinford, relating to motor vehicle sales and use taxes
- HB 5 by Representative Hamric, relating to increases in the taxes on cigarettes and other tobacco products

Currently, HB 2 and HB 3 have been approved by the House and Senate and are on the Governor's desk awaiting signature. HB 1, HB 4 and HB 5 have passed both chambers in some form, but are awaiting concurrence from the other chamber.

Notwithstanding these unresolved issues, the general tone and mood of the Capitol is cautious optimism that the Senate will pass HB 1 within the next few days, and will be able to work out its differences with the House to send a bill to the Governor's desk. Some version of HB 1 must pass in order to address the Supreme Court's June 1 deadline. HB 3 simply raises money through the new business margins tax. HB 2 dedicates that money plus other new revenue from HB 4 and HB 5 to property tax relief. HB 1 is the bill that must appropriate that money to reducing property tax rates, and if agreement is reached it would also be the bill that includes any new money for public education. HB 5, which raises the tax on tobacco products, has run into difficulty in the Senate. If the Senate is unable to pass this bill, the legislature would lose about \$70 million of the money anticipated for property tax relief and complicate matters. A loss of HB 5, while significant, would not completely sink the entire process.

If an agreement is reached, the Governor could open the call to include changes in appraisal caps, revenue cap, tuition revenue bonds, homeland security related issues, or anything else the Governor chooses.

POLICY ANALYSIS

On Monday, April 24th, the City provided written testimony to the Senate Finance Committee regarding its concerns related to "local option" appraisal caps. The testimony was submitted by Peter Zanoni, Management and Budget Director and was coordinated with the City Manager's Office, our state lobby team and the Texas Municipal League. Testimony that was provided focused on the impact appraisal caps would have on the City of San Antonio, if adopted by the State Legislature.

While not part of the call for the Special Session, the City received an invitation to provide oral testimony on Thursday, April 27th from the House Regulated Industries Committee and the Senate Committee on Business & Commerce to discuss the interim legislative charge related to the implementation of SB 5. SB 5, relating to furthering competition in the communications industry, was adopted during the 2nd called Special Session of the 79th State Legislature. SB 5 was a major legislative endeavor enacted to bring competition to cable and video services for the citizens of Texas.

Providing oral testimony on behalf of the City was Councilman Chip Haass. Ben Gorzell, Acting Finance Director, Diane Galvan, Director of Communications and Public Affairs and staff joined Councilman Chip Haass in appearing before each committee and provided expert

testimony related the implementation of SB 5 in San Antonio. Both the Senate and House hearings went well. Members of each committee were engaged with the City team and were supportive of the City's position on the 1 percent payment language contained in SB 5. The value of the 1 percent payment is approximately \$1.8 million annually.

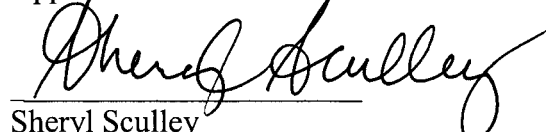
The City is currently addressing several issues that arose with the implementation of SB 5. Specifically, the issue related to Time Warner Cable (TWC) and the payment of the 1 percent fee for public access channel operations. This issue was not only discussed in the House and Senate, but was also addressed by the Texas Public Utilities Commission (PUC) on Friday, April 28th. The PUC concurred with the House and Senate that the legislative intent of SB 5 was for payment of the 1 percent for public access channel operations. On May 1, 2006, the PUC received a letter from TWC indicating its commitment to pay the 1 percent fee on or before May 15, 2006. A copy of the letter is attached.

COORDINATION

This item has been coordinated with the Finance, Management and Budget, Communications and Public Affairs Departments and the City Attorney's Office.


Erik J. Walsh
Assistant City Manager

Approved for Council Consideration:


Sheryl Sculley
City Manager

(210) 207-8544

Mr. Chairman
Commissioners
Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, Texas 78701

Charles E. Smith
Vice President, Regulatory & Government Relations



May 1, 2006

Chairman Paul Hudson
Commissioner Julie Parsley
Commissioner Barry Smitherman
Public Utility Commission of Texas
1701 N. Congress Avenue
Austin, TX 78701

Re: 32229 - Plan for Implementing SB 5

Dear Commissioners:


On behalf of Time Warner Cable, I would like to follow-up on the concerns raised about our applications for a State-Issued Certificate of Franchising Authority ("SICFA") and to confirm our commitment to make certain payments in the future.

As we expressed in our letter of April 28, 2006, we apologize for any confusion that has occurred as a result of our inclusion of a "reservation of rights" clause in our SICFA applications and affidavits. As we emphasized at the Commission meeting, we have, at all times, been committed to complying with the law. Our reservation of rights language was not intended to alter that commitment in any way. We remain ready and willing to work with the Commission Staff and other franchisees to find an acceptable means by which applicants can ensure that their future applications are not construed as a waiver of any rights the applicant may have under applicable law.

Finally, this will confirm my commitment made at the Commission meeting on April 28, 2006 that Time Warner Cable will remit, on or before May 15, 2006, the one per-cent (1%) fee imposed by PURA §66.006(b) in those communities where we are operating under a SICFA. In light of pending litigation, this payment will be made under protest.

I trust that this letter will be responsive to your request that we provide a written commitment of our intention to remit the 1% fee. Please be assured that we value a positive and constructive working with the Commission and its Staff.

Very truly yours,

A handwritten signature in black ink, appearing to be "G. Matz", written over a horizontal line.

Gary R. Matz

RSA/jva

cc: Chairman Troy Fraser and Members of the Senate Business & Commerce
Committee
Wayne Knighton - Time Warner Cable
Robin Casey, Esq.