TXAPA/TML AFFILIATE LEGISLATIVE COMMITTEE
Planning Legislation Update as of July 8, 2015

Legislative Committee
Texas Chapter/American Planning Association as an affiliate of the Texas Municipal League

- Monday, November 20, 2014 - Pre-filing of legislation for the 84th Legislature begins;
- Tuesday, January 13, 2015 (1st day) - 84th Legislature convenes at noon;
- Friday, March 13, 2015 (60th day) - Deadline for filing bills and joint resolutions other than local bills, emergency appropriations, and bills that have been declared an emergency by the governor;
- Monday, June 1, 2015 (140th day) - Last day of 84th Regular Session; corrections only in house and senate
- Session Ends
- **Sunday, June 21, 2015** (20th day following final adjournment) - Last day governor can sign or veto bills passed during the regular legislative session
- Monday, August 31, 2015 (91st day following final adjournment) - Date that bills without specific effective dates (that could not be effective immediately) become law

The following is the status of the Planning Related Bills and other issues as listed on the TML Legislative Report and/or sent to TXAPA

In the final three days before the March 13 bill-filing deadline, Texas lawmakers went into their usual bill-filing frenzy. The numbers were similar to the 2013 session. This time, they introduced roughly 2,800 bills and joint resolutions in the final three days (compared to about 2,300 in the same period in 2013). That brings the 60-day total to an unofficial 6,411 (around 300 more than the 2013 numbers). There will be more; legislators can still file bills if they can persuade their colleagues to suspend the rules on a bill-by-bill basis.

This document is for informational purposes on the status of legislation affecting the planning, development and growth of cities and comes mainly from Texas Municipal League information with periodic checks by TXAPA members on bill status.

**Red** Highlighted wording are new bills added since the last report. **Bold red heading is a bill that has been determined by TXAPA or TML to be detrimental to cities in their regulation of development, has potential to make it out of committee and should be watched closely. Green heading is generally of benefit to cities and should be looked at to support. Other bills listed are still important to cities and should also be reviewed and monitored.**

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AFFORDABLE HOUSING

H.B. 738 (Larson) – Rental Housing (Referred to Urban Affairs as of 2/26/15): would prohibit a city or county from adopting or enforcing an ordinance or regulation that prohibits an owner, lessee, sublessee, assignee, managing agent, or other person who has the right to lease, sublease, or rent a housing accommodation from refusing to lease or rent the housing accommodation to a person because of the person’s lawful source of income to pay rent, including a federal housing choice voucher. (Companion bill is S.B. 267 by Perry.)

H.B. 3993 (Rose) – Affordable Housing (Referred to Urban Affairs as of 03/23/15): would: (1) for purposes of the Texas Urban Renewal Law, define “affordable housing” as housing affordable to those earning 70 percent or less of the median family income, define “urban renewal activities” to include the transfer of property to an affordable housing nonprofit or foundation, and allow a city to transfer real property for less than fair market value to certain public or private nonprofit corporations or foundations; (2) allow “Chapter 380” loans and grants of real property and affordable housing; and (3) allow a home rule city with a population of more than 100,000 to create a Chapter 380 program for the grant of real property to certain nonprofits to provide affordable housing. (Companion bill is S.B. 1895 by West.)

S.B. 267 (Perry) – Rental Housing (Effective 9/1/15): would provide that neither a city nor a county may not adopt or enforce an ordinance or regulation that prohibits an owner, lessee, sublessee, assignee, managing agent, or other person having the right to lease, sublease, or rent a housing accommodation from refusing to lease or rent the housing accommodation to a person because of the person’s lawful source of income to pay rent, including a federal housing choice voucher. (Companion bill is H.B. 738 by Larson)

S.B. 1895 (West) – Affordable Housing: this bill is identical to H.B. 3993, above.

AGENDA 21, RELATED “ANTI-PLANNING LEGISLATION”

H.B. 1654 (M. White) – United Nations Agenda 21 (Referred to International Trade & Intergovernmental Affairs as of 3/9/15): would prohibit governmental entities, including cities, from entering into agreements or contracts with, accepting money from, or granting money or financial aid to a nongovernmental or intergovernmental organization accredited by the United Nations to implement a policy that originated in the Agenda 21 plan adopted by members of the United Nations. (Companion bill is S.B. 445 by Hall.) (Editor note – Not sure what the impact of this is)

S.B. 445 (Hall) – United Nations Agenda 21 (Referred to State Affairs as of 2/9/15): would prohibit governmental entities, including cities, from entering into agreements or contracts with, accepting money from, or granting money or financial aid to a nongovernmental or intergovernmental organization accredited by the United Nations to implement a policy that originated in the Agenda 21 plan adopted by members of the United Nations. (Editor note – Not sure what the impact of this is)

S.B. 710 (Burton) – Liberty Cities (Referred to Intergovernmental Relations as of 3/02/15): would, among other things: (1) create a new type of city called a “Liberty City,” which would be in addition to the current types of A, B, and C general law and home rule cities; (2) allow incorporation as or conversion to a Liberty City; (3) provide that a Liberty City is bound by a “bill of rights” as stated in the bill; (4) provide that a Liberty City may not: (a) annex unless the annexation is voter approved; (b) impose a property tax; (c) issue debt in most circumstances; (d) enact zoning or prepare a comprehensive plan; and (5) mandate that the budget for a Liberty City be a zero-based budget.
ALCOHOLIC BEVERAGES

H.B. 2035 (Raymond) – Alcohol-Related Businesses (Effective 9/1) would authorize a city to regulate, in a manner otherwise provided by law, the location of an establishment that derives 50 percent or more of its gross revenue from the on-premise sale of alcohol and is located in a city not more than 50 miles from an international border.

H.B. 1917 (Dutton) – Sale of Alcohol (Referred to Licensing & Administrative Procedures 3/11/15): would: (1) allow the Texas Alcoholic Beverage Commission, on the request of a city mayor, to extend the hours alcohol may be sold and consumed in a licensed hotel in the city during a special event that is being held in or near the city; and (2) limit the extended sale hours to a period not to exceed 72 consecutive hours.

H.B. 2047 (Ashby) – Alcohol-Related Businesses (Referred to Licensing & Administrative Procedures 3/17/15): would authorize a public school district to petition the city council in which the district is located to adopt a 1,000-foot zone around a school in which alcohol may not be sold (current law only authorizes a district in a city with a population of 900,000 or more to petition the city council).

H.B. 2296 (Smith) – Alcohol in Central Business District (Effective 9/1/15) would: (1) authorize a city to prohibit, by charter or ordinance, the possession of an open container or the public consumption of alcoholic beverages in the central business district of the city upon a finding that such activity poses a health and safety risk; (2) require a city adopting the prohibition described in (1), above, to adopt a map, plat, or diagram showing the central business district that is covered by the prohibition; and (3) prohibit a city charter or ordinance from forbidding the possession of an open container or the consumption of alcoholic beverages in motor vehicles, a building not owned or controlled by the city, residential structures, or a licensed premises located in the area of prohibition described in (2), above.

H.B. 2533 (Goldman) – Alcohol-Related Businesses (Effective 9/1/15) would repeal a state law that prohibits the holder of an alcoholic beverage license or permit to, on premises under his control, maintain or permit a radio, television, amplifier, piano, phonograph, music machine, orchestra, band, singer, speaker, entertainer, or other device or person that produces, amplifies, or projects music or other sound that is loud, vociferous, vulgar, indecent, lewd, or otherwise offensive to persons on or near the licensed premises.

H.B. 2735 (Capriglione) – Wet/Dry Status (Signed by the Governor 6/15/15, effective immediately) would provide that, in a city that has held certain local option elections after January 1, 1985, the governing body of the city may adopt an ordinance authorizing the sale of beer and wine for off-premise consumption in an area annexed by the city in certain circumstances.

S.B. 700 (Eltife) – Alcoholic Beverage Commission (Signed by the Governor 5/19/15, effective 9/1) would: (1) require the Texas Alcoholic Beverage Commission (TABC) to expedite the processing of applications for licenses, permits and certificates by using electronic means, and authorize TABC to charge a reasonable fee to applicants choosing to apply for licenses, permits, and certificates electronically; and (2) provide that electronic signatures on TABC records, documents, and applications have the same force and effect as a manual signature.

S.B. 802 (Eltife) – Public Entertainment Facility (Business & Commerce; Committee report printed and distributed 4/9/15): would provide that the independent concessionaire for a public entertainment facility, including a stadium, arena, amphitheater, or other venue, may allow a patron who possesses an alcoholic beverage to enter or leave a licensed or permitted premises within the facility under certain circumstances.

S.B. 1320 (Menendez) – Alcohol Permits (Referred to Business & Commerce as of 3/18/15): would create a new “public consumption” alcoholic beverage permit to be administered by the Texas Alcoholic Beverage Commission and authorize various regulations for an establishment holding such a permit. (Companion bill is H.B. 148 by Menendez.)
ANNEXATION, DEVELOPMENT & STRATEGIC PARTNERSHIP AGREEMENTS

The House Committee on Land and Resource Management issued its interim report in January. Their annexation recommendation isn’t entirely clear, but appears to require a vote prior to annexation, and to erode municipal authority in the extraterritorial jurisdiction (ETJ). Specifically, “a majority vote from the citizens of an ETJ area must take place to decide annexation between the ETJ and city. The area must be as wide as it is away from the current city limits, unless it is an ETJ within city limits. Prior to annexing outside the existing city limits, cities must annex areas within city limits that may not be already a part of the city.” In addition, “ETJ’s need to be reduced to ½ mile for all cities. Currently larger cities have a massive advantage over smaller cities that are having their growth stifled. This measure would only apply if a vote of the citizens of the “to be” annexed area is not required. Obviously this would be detrimental to cities.

H.B. 359 (Springer) – Disannexation (Left pending in Land & Resource Management as of 3/9/15); would provide that if a city fails or refuses to disannex an area pursuant to a petition alleging failure to provide services, a district court shall enter an order disannexing the area if the court finds that a valid petition was filed with the city and that the city failed to perform its obligations in accordance with the service plan or the state law governing provision of services. (Note: This bill would overturn a Supreme Court of Texas decision in favor of the City of Bryan.)

H.B. 555 (Springer) – Annexation (Left pending in Land & Resource Management as of 3/9/15); would provide that a city may not annex an area if the width of the area at the widest point exceeds the length of the area at the longest point, unless the boundaries of the city are contiguous to the area on at least two sides or the area abuts or is contiguous to another jurisdictional boundary. (Editor note – have no clue what this means and what the purpose is)

H.B. 665 (K. King) – Annexation (Referred to Land & Resource Management as of 3/4/15): would provide that a general law city may not annex an area in which 50 percent or more of the property in the area to be annexed is primarily used for a commercial or industrial purpose unless the city: (1) is otherwise authorized to annex the area; and (2) obtains the written consent of the owners of a majority of the property in the area to be annexed.

H.B. 1277 (Ashby) – Annexation: (Signed by the Governor 6/17/15, effective immediately) would provide that a general law city may not annex an area in which 50 percent or more of the property in the area to be annexed is primarily used for a commercial or industrial purpose unless the city: (1) is otherwise authorized to annex the area; and (2) obtains the written consent of the owners of a majority of the property in the area to be annexed. (Companion bill is H.B. 665 by K. King.)

H.B. 1418 (Bell) – Annexation (Land & Resource Management; Passed the house 4/27): would authorize a general law city to annex an area in its extraterritorial jurisdiction if: (1) the owner of a noncontiguous area petitions the city to be annexed; (2) a public highway or road exists that would make the area contiguous to the city; and (3) the city also annexes the highway or road as authorized by the bill to make the area contiguous.

H.B. 1609 (Kuempel) – Annexation (Left Pending in Land & Resource Management 3/23/15): Authority of certain General Law Cities to annex unincorporated enclaves. This applies only to a municipality with a population of 550 to 750 located in a county adjacent to a county that has a population of more than 1.5 million, and contains a municipality in which at least 75 percent of the county’s population resides. A general law municipality that surrounds an unincorporated enclave may annex the enclave without the consent of the residents of or owners of land in the enclave.

H.B. 1610 (Kuempel) – Annexation (Left Pending in Land & Resource Management 3/23/15): A general law municipality may annex adjacent territory without the consent of any of the residents or voters of the area and without the consent of any of the owners of land in the area if: (1) the municipality has a population of 1,762-1,770, part of whose boundary is part of the shoreline of a lake whose normal surface area is 75,000 acres or greater and which is located completely within the State of Texas; or (2) has a population of 550-750 and is located in
a county adjacent to a county that has a population of more than 1.5 million; and contains a municipality in which at least 75 percent of the county’s population resides.

H.B. 1791 (Lozano) — Annexation (Referred to Land & Resource Management as of 3/12/15): would provide that a city that proposes to annex any portion of a county road or territory that abuts a county road must also annex the entire width of the county road and the adjacent right-of-way on both sides of the county road.

H.B. 1949 (Springer) – Annexation (Signed by the Governor 6/19/15, effective 9/1/15): would provide that a city that proposes to annex any portion of a county road or territory that abuts a county road must also annex the entire width of the county road and the adjacent right-of-way on both sides of the county road.

H.B. 2221 (Huberty) — Annexation (Hold-up in House on procedural issue on 5/14 — House & Resource Management Reported favorably as substituted on 4/16/15): TML update: On 5/14, the late session assault on municipal annexation authority moved into overdrive. H.B. 2221 by Representative Dan Huberty (R — Kingwood) was considered on the House floor late that night. The bill would have done many things, but the most harmful provisions in the bill would have required strict voter approval of an annexation of an area with more than 200 residents. In addition, the bill would have eliminated limited purpose annexation through a strategic partnership agreement. League staff, along with several city officials, testified against the bill in the House Land and Resource Management Committee on March 22. In spite of that testimony, it was voted out of committee and placed on the House calendar by Representative Huberty for 5/14. Fortunately, after a long and spirited debate and a number of late night amendments, the bill was killed by a procedural issue.

The Senate companion, S.B. 1639 by Senator Donna Campbell (R — New Braunfels), may pass the Senate early next week. But it will face a difficult road in the House for a number of reasons. Make no mistake, annexation reform will return next session (as it has every session in recent memory). The efforts of city officials were key in stopping these bills.

would completely rewrite the Municipal Annexation Act to severely curtail the ability of cities to annex property. Specifically, the bill would provide — among many other things — that:

1. A city may annex an area with a population of less than 200 only if the city obtains consent to annex the area through a petition signed by: (a) more than 50 percent of the registered voters of the area; and (b) if the registered voters of the area do not own more than 50 percent of the land in the area, more than 50 percent of the owners of land in the area.

2. In no case may a city annex an area with a population of less than 200 without approval of a majority of the voters voting at an election called and held for that purpose if a petition protesting the annexation is signed by a number of registered voters of the municipality equal to at least 50 percent of the number of voters who voted in the most recent municipal election and is received by the secretary of the city.

3. A city may annex an area with a population of 200 or more only if the following conditions are met, as applicable: (a) the city holds an election in the area proposed to be annexed at which the qualified voters of the area may vote on the question of the annexation, and a majority of the votes received at the election approve the annexation; and (b) if the registered voters of the area do not own more than 50 percent of the land in the area, the city obtains consent to annex the area through a petition signed by more than 50 percent of the owners of land in the area.

4. A city may annex an area if each owner of land in the area requests the annexation if: (a) the governing body of the city first negotiates and enters into a written agreement for the provision of services in the area with the owners of land in the area (the city is not required to provide a service that is not included in the agreement); and (b) the governing body of the city conducts at least two public hearings (the hearings must be conducted not less than 10 business days apart, and during the final public hearing, the governing body may adopt an ordinance annexing the area).

5. Beginning September 1, 15, a city may not annex an area for the limited purposes of applying its planning, zoning, health, and safety ordinances in the area, regardless of any authority granted by a home rule charter.

6. The procedures for the annexation of a special district are modified, including providing that, beginning September 1, 15, a strategic partnership agreement may not provide for limited purpose annexation.
H.B. 2669 (Galindo)—Annexation/Incorporation (Urban Affairs; Scheduled for public hearing on 4/21/15): would provide that a city must allow an area in the city’s extraterritorial jurisdiction and targeted for annexation to instead incorporate as a general law city if certain procedures are met. (Companion bill is S.B. 615 by Burton.)

H.B. 3299 (D. Miller) — Limited Purpose Annexation (Committee report sent to Calendars 5/11/15): would provide that a city may not enforce an ordinance or rule that limits the number of people who may assemble on property located in an area annexed for limited purposes if the ordinance or rule would restrict the number of people authorized to assemble on the property to less than what the fire prevention authority with jurisdiction over the property has authorized by permit.

S.B. 615 (Burton) —Annexation/Incorporation (Referred to Intergovernmental Relations on 2/23/15): would provide that a city must allow an area in the city’s extraterritorial jurisdiction and targeted for annexation to instead incorporate as a general law city if certain procedures are met.

S.B. 616 (Burton) —Annexation (Referred to Intergovernmental Relations on 2/23/15): would provide that, beginning September 1, 2015, a city may not annex an area (including through the use of a strategic partnership) for the limited purposes of applying its planning, zoning, health, and safety ordinances in the area.

S.B. 1639 (Campbell) —Annexation (Passed the Senate on 5/25, referred to Land and Resource Management, probably dead): would completely rewrite the Municipal Annexation Act to severely curtail the ability of cities to annex property. Specifically, the bill would provide — among many other things — that:
1. A city may annex an area with a population of less than 200 only if the city obtains consent to annex the area through a petition signed by: (a) more than 50 percent of the registered voters of the area; and (b) if the registered voters of the area do not own more than 50 percent of the land in the area, more than 50 percent of the owners of land in the area.
2. In no case may a city annex an area with a population of less than 200 without approval of a majority of the voters voting at an election called and held for that purpose if a petition protesting the annexation is signed by a number of registered voters of the municipality equal to at least 50 percent of the number of voters who voted in the most recent municipal election and is received by the secretary of the city.
3. A city may annex an area with a population of 200 or more only if the following conditions are met, as applicable: (a) the city holds an election in the area proposed to be annexed at which the qualified voters of the area may vote on the question of the annexation, and a majority of the votes received at the election approve the annexation; and (b) if the registered voters of the area do not own more than 50 percent of the land in the area, the city obtains consent to annex the area through a petition signed by more than 50 percent of the owners of land in the area.
4. A city may annex an area if each owner of land in the area requests the annexation if: (a) the governing body of the city first negotiates and enters into a written agreement for the provision of services in the area with the owners of land in the area (the city is not required to provide a service that is not included in the agreement); and (b) the governing body of the city conducts at least two public hearings (the hearings must be conducted not less than 10 business days apart, and during the final public hearing, the governing body may adopt an ordinance annexing the area).

5. Beginning September 1, 2015, a city may not annex an area for the limited purposes of applying its planning, zoning, health, and safety ordinances in the area, regardless of any authority granted by a home rule charter.
6. The procedures for the annexation of a special district are modified, including providing that, beginning September 1, 2015, a strategic partnership agreement may not provide for limited purpose annexation.
BUILDING INSPECTION AND CODES

The House Committee on Land and Resource Management issued its interim report in January. One of the recommendations was “If a city gives a permit then chooses to revoke it at a later date, the city should be responsible for any costs experienced by the permit holder in undoing past work and complying with the new requirements.” Legislation to limit municipal authority in this area is a certainty and would be detrimental to cities.

H.B. 91 (Flynn) — Raw Milk (Passed the House, referred to Intergovernmental Relations 5/21, Public Hearing 5/25, left pending 5/25): would: (1) authorize the sale of raw milk by a raw milk permit holder at their business, a consumer's residence, or a farmers’ market under certain circumstances; and (2) prohibit a local health authority from mandating a specific method for complying with temperature requirements for milk.

H.B. 342 (Dutton) — Building Permit Fees (Left pending in Urban Affairs on 4/14/15): would abolish a building permit fee on the tenth anniversary after the date the fee is adopted (or reauthorized) unless the city council holds a public hearing on the reauthorization of the fee and reauthorizes the fee by a majority vote of the city council.

H.B. 1192 (Isaac) — Graywater (Referred to Natural Resources on 3/3/15): would require the graywater standards adopted by the Texas Commission on Environmental Quality to permit the use of graywater for toilet and urinal-flushing.

H.B. 1488 (Sheets) — Roofing Contractors (Referred to Insurance on 3/9/15): would provide: (1) that a person may voluntarily (editor note - ??????) register with the Department of Insurance as a roofing contractor; and (2) a roofing contractor shall comply with local ordinances and regulations relating to roofing services.

H.B. 1736 (Villalba) — Energy Codes (Signed by the Governor on 6/16/15, effective immediately): TML has negotiated on this for hundreds of hours and has come to an agreement with BOAT and the Builders. There will be a committee substitute that TML supports. Change bill sponsor and number to green and add this language in red. would provide that: (1) the State Energy Conservation Office shall establish the Building Energy Efficiency Advisory Committee composed of 13 members who have an interest in the adoption of energy codes, including two building code officials; (2) the committee may submit to the Texas A&M Energy Systems Laboratory and the office: (a) comments on energy codes under consideration for adoption; and (b) recommended energy rating indexes for each climate zone in this state that may be used to measure compliance in a voluntary compliance path recognized by the International Residential Code energy efficiency provisions or the International Energy Conservation Code; (3) the office may amend or establish an energy rating index that is used to measure compliance in a voluntary compliance path of an energy code edition before adopting the edition; (4) the office may adopt an energy rating index for each climate zone in this state; (5) a local amendment may not conflict with the compliance paths established by the office; (6) the office may adopt and substitute the latest published edition of the International Residential Code energy efficiency provisions or the latest published edition of the International Energy Conservation Code, based on written findings from the Texas A&M Energy Systems Laboratory on the stringency of the editions and comments and recommendations from the Building Energy Efficiency Advisory Committee; and (7) the office may not adopt an edition more often than once every six years and shall establish by rule an effective date for an adopted edition that is not earlier than nine months after the date of adoption.

H.B. 1902 (Howard) — Graywater ((Signed by the Governor on 6/16/15, effective immediately) would allow the Texas Commission on Environmental Quality to adopt and implement minimum standards for additional domestic uses and reuses of graywater.

H.B. 2465 (Smith) — Plumbers (House vote on 5/07, second vote postponed on 5/12) would, among other things: (1) add harvesting of rainwater or reclaiming of water to supply a plumbing fixture or appliance, and installation of a multipurpose residential fire protection system, to the definition of “plumbing” under state law; (2) provide that a person is not required to be a licensed plumber to perform plumbing work if he is employed by a political subdivision to engage in plumbing only within the geographic boundaries of the political subdivision; (3) mandate that the Texas Board of Plumbing Examiners adopt the NFPA 13D Standard for the Installation of
Sprinkler Systems in One- and Two-family Dwellings and Manufactured Homes, as published by the National Fire Protection Association, on January 1, 2015; (4) provide that a licensed engineer may design a multipurpose residential fire protection sprinkler system for installation (as opposed to only certain master plumbers in current law); (5) provide that a certified fire inspector may inspect or review plans only for the sprinkler portion of a multipurpose residential fire sprinkler installation, repair, or replacement if the certified fire inspector: (a) meets or exceeds the NFPA 1031 Standard for Professional Qualifications for Fire Inspector and Plan Examiner; and (b) is employed or appointed by a political subdivision or this state; and (6) mandate that a city with more than 5,000 inhabitants regulate by ordinance or bylaw the material, construction, alteration, and inspection of any pipe, faucet, tank, valve, water heater, or other fixture by or through which a supply of water, gas, medical gas, medical vacuum, or sewage is used or carried.

H.B. 2734 (Capriglione) – Roofing Contractors (Left pending in Licensing & Administrative Procedures on 4/13/15): would provide for the voluntary?????? certification of roofing contractors by the Texas Department of Licensing and Regulation.

H.B. 3148 (E. Rodriguez) – Construction Contractors (Referred to Business & Industry on 3/23/15): would require: (1) a construction contractor to register with the Texas Department of Licensing and Regulation; and (2) the department to prepare a publicly available list of registered contractors.

H.B. 3089 (Galindo) – Sprinkler Systems (Effective 9/1/15): would (1) require a residential high-rise building located in a county with a population of more than 1.5 million in which more than 75 percent of the population resides in a single municipality, to be equipped with a complete fire protection sprinkler system; (2) require a city to adopt a standard for the installation of the system described in (1), above, that complies with the National Fire Protection Association 13 Standard for the Installation of Sprinkler Systems (NFPA Standard); (3) provide that until the city adopts a standard as required in (2), above, the standard is the NFPA Standard; (3) require the owner of a residential high-rise building built before September 1, 2015, to: (a) provide notice to the city of the owner’s intent to comply; and (b) comply with the requirement in (2), above, in phases; and (4) provide for enforcement of the requirement in (2), above, by injunction and criminal penalty.

H.B. 4011 (Martinez-Fischer) – Apartment Sprinklers (Passed the house 5/05, referred to Business and Commerce on 5/11): would require a city fire department to report to the fire marshal: (1) the number of high-rise apartments in the city that do not have a fire protection sprinkler system; (2) what high-rise residential buildings have partial fire-sprinkler systems and where the sprinkler systems are located; (3) the address, owner, and occupants of the buildings; (4) whether the buildings have seniors, disabled, or mobility impaired; (5) previous safety violations; and (6) any other information requested by the fire marshal.

H.B. 4051 (Fletcher) – Residential Fire Sprinklers (Referred to Urban Affairs as of 03/23/15): would provide that: (1) a certified fire inspector for a political subdivision or state may inspect or review plans for the sprinkler portion only of a multipurpose residential fire protection sprinkler installation, repair or replacement; and (2) remove the current law provision thatgrandfathers municipal ordinances adopted prior to January 1, 2009, that require fire sprinkler systems in residential dwellings.

S.B. 929 (Fraser) – Energy Codes (Referred to Natural Resources & Economic Development as of 3/09/15): would provide that: (1) the State Energy Conservation Office shall establish the Building Energy Efficiency Advisory Committee composed of 13 members who have an interest in the adoption of energy codes, including two building code officials; (2) the committee may submit to the Texas A&M Energy Systems Laboratory and the office: (a) comments on energy codes under consideration for adoption; and (b) recommended energy rating indexes for each climate zone in this state that may be used to measure compliance in a voluntary compliance path recognized by the International Residential Code energy efficiency provisions or the International Energy Conservation Code; (3) the office may amend or establish an energy rating index that is used to measure compliance in a voluntary compliance path of an energy code edition before adopting the edition; (4) the office may adopt an energy rating index for each climate zone in this state; (5) a local amendment may not conflict with the compliance paths established by the office; (6) the office may adopt and substitute the latest published edition of the International Residential Code energy efficiency provisions or the latest published edition of the International
Energy Conservation Code, based on written findings from the Texas A&M Energy Systems Laboratory on the stringency of the editions and comments and recommendations from the Building Energy Efficiency Advisory Committee; and (7) the office may not adopt an edition more often than once every six years and shall establish by rule an effective date for an adopted edition that is not earlier than nine months after the date of adoption. 
(Companion bill is H.B. 1736 by Villalba.)

S.B. 1419 (Kolkhorst) — Rainwater Harvesting (Referred to Business & Commerce as of 3/18/15): would provide that a person is not required to have a plumbing license to install, service, or repair of plumbing used for rainwater harvesting, if the plumbing is not connected to a public water supply.

S.B. 582 (Kolkhorst/Harless) - Food Handlers (Effective immediately): requires a local health jurisdiction to accept training from the American National Standards Institute as sufficient to meet any training, testing, or permitting requirements.

S.B. 1105 (Eltife/Cook) - State Buildings (Effective immediately): preempts a city’s fire safety authority over any state-owned or state-leased building.

S.B. 1679 (Huffines) — Building Codes (Passed the Senate 5/07, referred to Urban Affairs 5/14): would provide that, when a city adopts procedures to adopt amendments to the International Building Code or any other building code, those procedures must include: (1) the preparation of a cost-benefit analysis of each amendment; and (2) two public hearings on each amendment. The bill would also provide that (1) and (2) must be completed prior to any building code or building code amendment being adopted.

CODE ENFORCEMENT
H.B. 91 (Flynn) — Raw Milk Sales (Passed the House, left in Senate Intergovernmental Relations on 5/25): a person who holds a permit that authorizes the person to sell raw milk or raw milk products at retail may make retail sales of raw milk or raw milk products directly to a consumer in this state at: (1) the permit holder’s place of business; (2) the consumer’s residence; or (3) a farmers’ market as defined.

H.B. 273 (Miles) — Illegal Dumping (Left pending in Criminal Jurisprudence on 3/25/15): would provide minimum terms of confinement for the offense of illegal dumping committed inside a city’s boundaries.

H.B. 274 (Miles) — Illegal Dumping (Signed by the Governor on 6/17/15, effective 9/1/15) would increase the maximum fine for violation of an illegal dumping ordinance from $2,000 to $4,000.

H.B. 1792 (Springer) — Short-Term Rental Units (Left pending in Urban Affairs as of 4/14/15): would: (1) require a residential short-term rental unit to provide a safe and ample water supply; be equipped with an approved system of sewage disposal; be kept sanitary; have any gas stove properly installed, maintained, and vented; maintain sanitary appliances; keep any food served in a sanitary condition; and be thoroughly cleaned between rental to different occupants; (2) declare a residential short-term rental unit that does not comply with certain health and safety standards to be a public health nuisance; (3) impose certain fire escape requirements on a residential short-term rental unit that has a lot area greater than 5,000 square feet; (4) define a residential short-term rental unit as a "hotel" for the purposes of certain smoke detector requirements; (5) require the owner or keeper of a residential short-term rental unit to post the daily room rate; (6) require cities in certain counties (with some exceptions) to: (a) characterize and treat a residential short-term rental unit in the same manner as a hotel for purposes of consumer protection, public health and human safety, taxation, licensing, and zoning and other land use regulations; or (b) adopt an ordinance to specifically regulate residential short-term rental units; (7) provide that before listing a residential short-term rental unit on its website or mobile application, a listing service must obtain an affidavit signed by the owner or tenant of the unit: (a) stating compliance with all applicable state and local laws, deed restrictions, land use covenants, or leases; (b) providing the hotel taxpayer identification number applicable to the unit; and (c) including any documents relevant to demonstrating compliance with a local city ordinance; (8) require a residential short-term rental listing service to cooperate with a governmental entity that chooses to audit or attempts to identify the owner of a unit listed on the service’s website or mobile application; and (9) create a criminal offense if a person violates certain requirements regarding a residential short-term rental.
H.B. 2556 (White)—Outdoor Burning *(Referred to County Affairs as of 4/16/15)*: would reduce the penalty for outdoor burning of tires, insulation on electrical wire or cable, treated lumber, plastics, non-wood construction or demolition materials, furniture, carpet, or items containing natural or synthetic rubber.

H.B. 3060 (Anchia) – Building and Standards Commissions *(Sent to the Governor 5/26/2015, vetoed by the Governor)*: would provide that, in addition to the authority in current law, a panel of a building and standards commission may order action to be taken as necessary to remedy, alleviate, remove, or abate, violations of ordinances relating to animal care and control or water conservation measures, including water restrictions. (Companion bill is S.B. 1552 by West.)

H.B. 3263 (Guillen) – State Licenses *(Urban Affairs; Scheduled for public hearing on 4/21/15)*: would provide that: (1) notwithstanding any other state law, and unless expressly authorized by state law, the governing body of a city may not adopt or enforce any ordinance, rule, or regulation that establishes requirements for, imposes restrictions on, or otherwise regulates the business activities of a state licensee within the city or the city’s extraterritorial jurisdiction; and (2) a city ordinance, rule, or regulation that violates the bill is void and unenforceable.

H.B. 3764 (Metcalf) – Regulation of Honey *(Agriculture & Livestock reported favorably as of 4/20/15)*: would prohibit a local health department or city from regulating honey production by a small honey production operation. (Companion bill is S.B. 1766 by Creighton.)

H.B. 3795 (Raymond) – Scrap Tires *(Referred to Environmental Regulation as of 03/23/15)*: would: (1) require a retail seller to contract for the transportation of scrap tires only with a licensed scrap tire transporter; (2) require an individual who stores scrap tires to store them in a fully enclosed area or container that must be made secure by locking; (3) provide a civil penalty for a retail seller who fails to properly dispose of scrap tires; and (4) create a criminal offense for a person that recklessly fails to properly dispose of scrap tires. (Companion bill is S.B. 1242 by Rodriguez.)

S.B. 366 (Garcia) – Automotive Wrecking and Salvage Yards *(Referred to Transportation as of 2/2/15)*: would increase the maximum civil penalty for a person who operates an automotive wrecking and salvage yard in violation of state law from $1,000 to $5,000.

S.B. 427 (Ellis) – Concrete Crushing Facilities *(Referred to Natural Resources & Economic Development as of 2/4/15)*: would require the Texas Commission on Environmental Quality by rule to prohibit the operation of a concrete crushing facility within 440 yards of certain buildings or facilities, including a place of business where employees of the business perform outdoor work near the facility or a park or other outdoor recreational facility, including a playing field.

S.B. 1019 (Creighton) – Public Nuisance *(Referred to Intergovernmental Relations as of 03/11/15)*: would provide that a city’s prohibition against keeping property free from a condition constituting a public nuisance would not apply to undeveloped land for which: (1) a condition on that land has not been found to cause a public nuisance for at least one year; and (2) a finding of public nuisance could not have been applied to that condition when the condition first occurred. (Companion bill is H.B. 1643 by Riddle.)

S.B. 1242 (Rodriguez) – Scrap Tires *(Passed the Senate, referred to House Environmental Regulation who reported favorably on 5/20)*: would: (1) require a retail seller to contract for the transportation of scrap tires only with a licensed scrap tire transporter; (2) require an individual who stores scrap tires to store the scrap tires in a fully enclosed area or container that must be made secure by locking; (3) provide a civil penalty for a retail seller who fails to properly dispose of scrap tires; and (4) create a criminal offense for a person that recklessly fails to properly dispose of scrap tires. (Companion bill is H.B. 3795 by Raymond.)

S.B. 1552 (West) – Building and Standards Commissions *(Signed by the Governor on 5/23, effective immediately)* this bill is identical to H.B. 3060, above.
S.B. 1608 (Huffines) — Code Enforcement Certification (Referred to Business & Commerce as of 3/23/15): would, among other things, repeal the state certification process and training for code enforcement officers.

S.B. 1635 (Lucio) — Safe Home Program (Referred to Business & Commerce as of 3/23/15): would provide that the sales tax imposed on a manufactured house be deposited into a subaccount of the housing trust fund (along with certain other funds) to be used for establishing a Texas Department of Housing and Community Affairs grant and loan program for the demolition and replacement of substandard owner-occupied single-family homes.

S.B. 1766 (Creighton) — Regulation of Honey: (Signed by the Governor on 5/29, effective 9/1 companion bill is H.B. 3764 by Metcalf, above.

COMPREHENSIVE PLANS

H.B. 3701 (Guillen) — Comprehensive Development (Public Hearing on 5/5/15 and left pending in Urban Affairs): would provide that: (1) the governing body of a city shall adopt by resolution or ordinance a comprehensive plan that details current and future land uses and serves as a basis for making planning or zoning decisions of the city; (2) the governing body shall review its comprehensive plan from time to time; (3) the governing body shall appoint an advisory committee to make recommendations regarding the adoption, amendment, and review of its comprehensive plan; (4) the advisory committee is composed of at least five members appointed by a majority vote of the governing body, and at least 40 percent of the membership of the advisory committee must be representatives of the real estate, development, or building industries who are not employees or officials of a political subdivision or governmental entity; (5) the advisory committee shall issue a written report to the governing body detailing its findings and recommendations regarding the comprehensive plan; (6) the governing body may not adopt or amend the comprehensive plan until it conducts at least one public hearing on the recommendations made by the advisory committee; and may not amend or adopt the comprehensive plan before the 30th day after the date the governing body receives the advisory committee's report, unless each of the landowners affected by the plan or amendment consents to the plan or amendment; (7) at the public hearing, a landowner may object to any land use applied to the landowner's tract by the comprehensive plan; (8) if a landowner's tract has not been sold or developed in conformity with a comprehensive plan for land use within five years after adoption or amendment of the plan, a landowner may petition the governing body of the city to designate the landowner's tract on the comprehensive plan for land use for a less intense use or uses chosen by the landowner; (9) if the governing body fails or refuses to amend the comprehensive plan for land use in accordance with a landowner's petition, the landowner may file suit in the district court in the county where the tract is located to enforce by mandamus or declaratory judgment the landowner's rights under the bill; and (10) the bill's provisions are retroactive. (TML Note: this bill is sought by a particular developer each session to punish one particular city. However, it would apply to every city in the state.)

COUNTY/RURAL AUTHORITY/COLONIAS

ECONOMIC DEVELOPMENT/REDEVELOPMENT

H.B. 292 (Stephenson) — Economic Development Corporations (Left Pending in Economic & Small Business Development as of 4/30/15): would authorize a Type A or Type B economic development corporation (EDC) to use corporate revenues on primary job training facilities at a public technical college or high school located in the city limits of an EDC’s authorizing city, or at a public junior college with a service area that includes any portion of the city limits of an EDC’s authorizing city if: (1) the city council of the EDC’s authorizing city adopts a resolution authorizing the EDC to finance the project; or (2) the city council of the EDC’s authorizing city orders an election on the issue after receiving a petition signed by at least 10 percent of the number of voters that participated in the last general election held in the city.
H.B. 1249 (Schaefer) — Economic Development Corporations (Referred to Economic & Small Business Development as of 3/03/15); would authorize, and if petitioned by at least 10 percent of the number of voters participating in the last general election in the city, require, a Type A or Type B economic development corporation to hold an election to make expenditures for general infrastructure improvements, including: (1) streets and roads; (2) water supply facilities; and (3) sewage facilities.

H.B. 1626 (Johnson) – Banking Development Districts (Signed by the Governor on 6/19/15, effective 9/1/15) would: (1) allow a local government, in conjunction with a financial institution, to submit an application to the finance commission for the designation of a banking development district; (2) authorize the finance commission to approve an application establishing a banking development district; (3) authorize the governing body of a local government in which a banking development district has been designated to adopt a resolution designating a financial institution located in the district as a banking district depository, and authorize the local government to deposit funds with a banking district depository; and (4) authorize the governing body of a local government to enter into a tax abatement agreement with a financial institution that owns property within a banking development district.

H.B. 1675 (Bohac) — Freeport Property Tax Exemption (Referred to Ways & Means as of 3/09/15); would extend from 175 to 365 the number of days by which Freeport goods must be transported outside the state in order to be exempt from property taxation. (Note: Cities that have enacted the Freeport incentive should carefully consider if this extension would be beneficial or harmful to their economic development efforts and tax revenues.) (See H.J.R. 20, below.)

H.B. 1754 (Pickett) — Economic Development (Economic & Small Business; Passed House, sent to Senate Business and Commerce on 5/25); would authorize a city that has entered into an economic development agreement with an entity under Local Government Code Chapter 380 to transfer to the entity real property or an interest in real property, if the entity agrees to use the property in a manner that primarily promotes a public purpose of the city relating to economic development. (Companion bill is S.B. 583 by Rodriguez.)

H.B. 1991 (Blanco) — Public-Private Partnerships (Economic & Small Business Development; Scheduled for public hearing on 4/23/15); would amend the current public/private partnership statute to define a “qualifying project” to include any improvements necessary or desirable to real property owned by a governmental entity or to real property owned by another person, including a contracting person, that is made available or is to be made available for public use. (Companion bill is S.B. 598 by Rodriguez.)

H.B. 1995 (Deshotel) — Property Tax Abatement (Ways & Means, Passed House 5/12, Senate referred to Finance Committee on 5/14); would authorize the parties to a property tax abatement agreement to modify the agreement to extend the abatement period for a period not to exceed ten years from the date the modified agreement is executed if: (1) the area in which the property is located is declared to be a disaster area by the governor; (2) the property owner sustains a casualty loss to the property as a result of the disaster; and (3) the casualty loss prevents the owner of the property from complying with the original tax abatement agreement.

H.B. 2518 (Coleman) — Closed Meetings (County Affairs; No action taken in committee as of 4/6/15); would authorize a closed meeting to discuss or deliberate commercial or financial information that a governmental body has received from another governmental entity relating to a business that seeks to locate, stay, or expand in or near the territory and with which the governmental body providing the financial information is conducting economic development negotiations.

H.B. 2678 (Lozano) — Economic Development (Referred to Economic & Small Business Development as of 3/16/15); would require the office of the governor to: (1) develop and maintain a website that: (1) provides a single location for a business entity to receive information about state and local economic development incentives; and (2) allows, when feasible, the business entity to fill out and submit one application for all state and local government monetary and tax incentives for which the person may be eligible.
H.B. 2772 (Martinez) – Economic Development Corporation (Signed by the Governor on 6/17/15, effective immediately) would provide that an authorized project for a Type A or Type B economic development corporation includes the promotion of new or expanded business enterprises through transportation facilities including airports, hangars, railports, rail switching facilities, maintenance and repair facilities, cargo facilities, marine ports, inland ports, mass commuting facilities, parking facilities, and related infrastructure located on or adjacent to an airport or railport facility.

H.B. 2834 (King) – Economic Development (Referred to State Affairs as of 03/16/15): would: (1) require a business that is a recipient of economic development funds to repay all of the value of any subsidy or incentive if the business has a federal immigration conviction for unlawful employment of undocumented workers unless the business reasonably relied on an E-Verify program; and (2) prohibit a governmental entity, including a city, from awarding an economic development incentive to a business that has been convicted and had to repay an incentive for two years after any repayment is made. (Companion bill is S.B. 484 by Kolkhorst.)

H.B. 3040 (Martinez) – Economic Development Corporations (Referred to Economic & Small Business Development as of 3/23/15): would: (1) authorize municipal development districts located in certain border cities to fund projects the board finds suitable for the development or promotion of new or expanded business enterprises through various types of transportation facilities; and (2) authorize Type A and Type B economic development corporations to fund projects the board finds suitable for the development or promotion of new or expanded business enterprises through various types of transportation facilities.

H.B. 3808 (Rodriguez) – Military Preparedness Commission Grants (Defense & Veterans' Affairs; Reported favorably as substituted 4/15/15): would provide that the Texas Military Preparedness Commission: (1) may provide a loan or financial assistance to a defense community for an economic development project that minimizes the negative effects of a base realignment process that occurred during the year 1995 or later; and (2) the assistance may not be less than $50,000 or more than $5 million. (Companion Bill is SB 503 by E. Rodriguez)

H.B. 3838 (Smithee) – Economic Development Corporations (Referred to Economic & Small Business Development as of 3/23/15): would provide that a Type A economic development corporation may not make an expenditure in the amount of $50,000 or more unless: (1) the corporation first publishes notice of the expenditure on the publicly accessible website of the authorizing city or in a newspaper of general circulation in the authorizing city; and (2) the authorizing city approves the expenditure, not earlier than the seventh day after the date notice is published.

H.B. 4052 (J. White) – Economic Development Agreements (Referred to Economic & Small Business Development as of 3/24/15): would require a political subdivision that maintains a website to post on the website each economic development agreement that the political subdivision enters into continuously from the date the agreement is executed until the date the agreement expires.

H.J.R. 20 (Bohac) – Freeport Property Tax Exemption (Referred to Ways & Means as of 3/12/15): would amend the Texas Constitution to extend from 175 to 365 the number of days by which Freeport goods must be transported outside the state in order to be exempt from property taxation. (See H.B. 1675, above.)

S.B. 100 (Hinojosa) – State Enterprise Zones (Signed by the Governor on 6/16/15, effective 9/1/15): would, among other things, provide that a county may create an enterprise zone within a city provided the county first enters into an interlocal agreement with the city specifying which entity has jurisdiction over the zone.

S.B. 434 (Burton) – Closed Meeting (Referred to Business & Commerce as of 2/9/15): would repeal the statutory authorization in the Open Meetings Act for a governing body to conduct a closed meeting for deliberations regarding economic development negotiations.

S.B. 484 (Kolkhorst) – Economic Development (Referred to Business & Commerce as of 2/10/15): would: (1) require a business who is a recipient of economic development funds to repay all of the value of any subsidy or incentive if the business has a federal immigration conviction for unlawful employment of...
undocumented workers unless the business reasonably relied on an E-Verify program; and (2) prohibit a governmental entity, including a city, from awarding an economic development incentive to a business that has been convicted and had to repay an incentive for two years after any repayment is made.

S.B. 503 (Rodriguez) – Military Preparedness Commission Grants (Signed by the Governor on 5/22, effective immediately) would provide that the Texas Military Preparedness Commission: (1) may provide a loan or financial assistance to a defense community for an economic development project that minimizes the negative effects of a base realignment process that occurred during the year 1995 or later; and (2) the assistance may not be less than $50,000 or more than $5 million. (Companion Bill is HB 3808 by E. Rodriguez)

S.B. 558 (Burton) – Public Information Act (Referred to Business & Commerce as of 2/18/15) would repeal the provision of the Public Information Act that provides that certain information pertaining to economic development negotiations is confidential.

S.B. 583 (Rodriguez) – Economic Development (Referred to Natural Resources & Economic Development as of 2/23/15): would authorize a city that has entered into an economic development agreement with an entity under Local Government Code Chapter 380 to transfer to the entity real property or an interest in real property, if the entity agrees to use the property in a manner that primarily promotes a public purpose of the city relating to economic development.

S.B. 1254 (Birdwell) – Economic Development Negotiations (Referred to Business & Commerce as of 3/17/15): would repeal: (1) the provision of the Public Information Act that makes certain information related to economic development negotiations between a governmental body and a business prospect confidential; and (2) the provision of the Open Meetings Act allowing certain economic development negotiations to be discussed in a closed meeting.

S.B. 1694 (Bettencourt) – Freeport Property Tax Exemption (Referred to Finance as of 3/23/15): would, among other things, extend from 175 to 365 the number of days by which freeport goods must be transported outside the state in order to be exempt from property taxation. (Note: Cities that have enacted the Freeport incentive should carefully consider if this extension would be beneficial or harmful to their economic development efforts and tax revenues.) (See S.J.R. 57, below.)

S.J.R. 57 (Bettencourt) – Freeport Property Tax Exemption (Referred to Finance as of 3/25/15): would amend the Texas Constitution to, among other things, extend from 175 to 365 the number of days by which freeport goods must be transported outside the state in order to be exempt from property taxation. (See S.B. 1694, above.)

EMERGENCY MANAGEMENT/DISASTER RECOVERY

S.B. 1376 (Lucio) – Natural Disaster Housing Recovery (Passed Senate, House Land & Resource Management reported favorably, placed on calendar 5/25): would: (1) require the governor to designate a state agency to receive and administer federal and state funds appropriated for long-term natural disaster recovery; (2) authorize a local government, including a city, to develop and adopt a local housing recovery plan to provide for the rapid and efficient construction of permanent replacement housing following a natural disaster; (3) provide that a local plan may be submitted to the Hazard Reduction and Recovery Center at Texas A&M University for certification; (4) require the center to submit a certified local plan to the agency and, if accepted, require the agency to submit the local plan to the governor; and (5) allow a plan that is approved by the governor to be implemented over a four-year period without further approval should a natural disaster occur.

EMINENT DOMAIN

H.B. 1562 (Schofield) – Eminent Domain (Referred to Business & Industry as of 3/09/15): would, in relation tolling a property owner’s right of repurchase: (1) eliminate the following as elements establishing “actual progress” on a project: (a) the acquisition of a tract or parcel of real property adjacent to the property for the same
public use project for which the owner’s property was acquired; or (b) for a governmental entity, the adoption by a majority of the entity’s governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one tolling action before the tenth anniversary of the date of acquisition of the property; and (2) require three of five remaining elements to be met to establish actual progress. (Companion bill is S.B. 479 by Schweertner.)

H.B. 2457 (Schubert) — Eminent Domain (Referred to Business & Industry as of 3/13/15): would, in relation tolling a property owner’s right of repurchase, provide that: (1) three of the elements in current law must be met to establish “actual progress” on a project (instead of two under current law); or (2) for a governmental entity, the adoption by a majority of the entity’s governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than two tolling actions before the tenth anniversary of the date of acquisition of the property tolls the right to repurchase.

H.B. 3065 (Fallon) — Eminent Domain (Referred to Land & Resource Management as of 3/23/15): would provide that, if the amount of damages awarded by the special commissioners is at least 10 percent greater than the amount the condemnor offered to pay before the proceedings began or if the commissioners’ award is appealed and a court awards damages in an amount that is at least 10 percent greater than the amount the condemnor offered to pay before the proceedings began, the condemnor shall pay: (1) all costs; and (2) any reasonable attorney’s fees and other professional fees incurred by the property owner in connection with the eminent domain proceeding.

H.B. 3339 (Burkett) — Eminent Domain (Referred to Land & Resource Management as of 3/17/15): would provide that, if the amount of damages awarded by the special commissioners is at least 10 percent greater than the amount the condemnor offered to pay before the proceedings began or if the commissioners’ award is appealed and a court awards damages in an amount that is at least 10 percent greater than the amount the condemnor offered to pay before the proceedings began, the condemnor shall pay: (1) all costs; and (2) any reasonable attorney’s fees and other professional fees incurred by the property owner in connection with the eminent domain proceeding. (Companion bill is S.B. 474 by Kolkhorst.)

H.B. 3988 (Geren) — Eminent Domain (Left pending in Land & Resource Management as of 4/13/15): would provide that: (1) the state comptroller shall create and make accessible on the Internet a detailed eminent domain database with information regarding public and private entities authorized by the state to exercise the power of eminent domain; (2) the comptroller may consult with the appropriate officer of, or other person representing, each entity to obtain the information necessary to operate and update the eminent domain database; (3) the comptroller shall update information in the eminent domain database regarding eminent domain authority by each entity at least annually; and (4) an entity shall transmit records and other information specified by the bill to the comptroller at least annually for purposes of providing the comptroller with information to operate and update the eminent domain database. (Companion bill is S.B. 1812 by Kolkhorst.)

S.B. 178 (Nichols) — Eminent Domain (Left pending in State Affairs on 3/23/15): would: (1) prohibit a state agency, political subdivision, or a corporation created by a governmental entity from taking private property through the use of eminent domain if the taking is for a recreational purpose, including a parks and recreation system or a specific park, greenbelt, or trail; and (2) provide that the determination by the entity proposing to take the property that the taking does not involve an act or circumstance prohibited by the bill does not create a presumption with respect to whether the taking involves that act or circumstance.

S.B. 474 (Kolkhorst) — Eminent Domain (Bill passed the Senate 4/9/15, left pending in Land & Resource Management): would provide that, if the amount of damages awarded by the special commissioners is at least 20 percent greater than the amount the condemnor offered to pay before the proceedings began or if the commissioners’ award is appealed and a court awards damages in an amount that is at least 20 percent greater than the amount the condemnor offered to pay before the proceedings began, the condemnor shall pay: (1) all costs; and (2) any reasonable attorney’s fees and other professional fees incurred by the property owner in connection with the eminent domain proceeding.
S.B. 479 (Schwertner) – Eminent Domain (Bill passed the Senate 4/21/15, left pending in Business and Industry): would, in relation to tolling a property owner’s right of repurchase: (1) eliminate the following as elements establishing “actual progress” on a project: (a) the acquisition of a tract or parcel of real property adjacent to the property for the same public use project for which the owner’s property was acquired; or (b) for a governmental entity, the adoption by a majority of the entity’s governing body at a public hearing of a development plan for a public use project that indicates that the entity will not complete more than one tolling action before the tenth anniversary of the date of acquisition of the property; and (2) require three of five remaining elements to be met to establish actual progress.

S.B. 1812 (Kolkhorst) – Eminent Domain (Signed by the Governor on 6/19/15, effective immediately with the posting of the database mandated for January 1, 2016): would provide that: (1) the state comptroller shall create and make accessible on the Internet a detailed eminent domain database with information regarding public and private entities authorized by the state to exercise the power of eminent domain; (2) the comptroller may consult with the appropriate officer of, or other person representing, each entity to obtain the information necessary to operate and update the eminent domain database; (3) the comptroller shall update information in the eminent domain database regarding eminent domain authority by each entity at least annually; and (4) an entity shall transmit records and other information specified by the bill to the comptroller at least annually for purposes of providing the comptroller with information to operate and update the eminent domain database. (Companion bill is H.B. 3988 Geren)

EXTRATERRITORIAL JURISDICTION

H.B. 2238 (Paddie) – Wind Turbines (Left pending in Energy Resources as of 4/13/15): would authorize a city to make ordinances regarding the authorization for and development of wind turbines applicable in the extraterritorial jurisdiction. (Companion bill is S.B. 882 by Hinojosa.)

H.B. 2249 (D. Miller) – Emergency Response Districts (Special Purpose Districts; Scheduled for public hearing on 4/22/15): would allow for the creation of emergency response districts by a county vote to: (1) provide services related to fire prevention and suppression, emergency medical services, and other emergency services; and (2) impose property taxes to pay for those services. (See H.J.R. 104, below.)

H.B. 2977 (Coleman) – Incorporation (Passed House, Intergovernmental Relations reported favorably 5/26): would, among other things: (1) require that before a community may incorporate as a city, a comprehensive inventory of police, fire, and emergency medical services must be prepared and filed with the county clerk before the 60th day before the date of the incorporation election; and (2) provide special county and city subdivision regulations in: (a) a county that includes territory located within 50 miles of an international border; or (b) a city located in that county if the county doesn’t exercise subdivision authority in the county’s extraterritorial jurisdiction (ETJ) and the county authorizes the city to exercise subdivision authority in the city’s ETJ.

H.B. 3620 (Isaac) – Real Property (Left pending in Land & Resource Management as of 4/13/15): would provide that a city authorized by other law to acquire, by purchase or exercising the power of eminent domain, real property located outside the corporate boundaries and extraterritorial jurisdiction may not do so unless: (1) if the property is located within the corporate boundaries or extraterritorial jurisdiction of another city, the purchasing city obtains written consent for the acquisition from city in which the property is located; waives its right to exempt the property from ad valorem taxes; or agrees to make a payment in lieu of taxes in accordance with the bill; or (2) if the property is located in the unincorporated area of the county and not in the extraterritorial jurisdiction of a city, the purchasing city, the purchasing city obtains written consent for the acquisition from county; waives its right to exempt the property from ad valorem taxes; or agrees to make a payment in lieu of taxes in accordance with the bill. Update: Rep. Isaac managed to suspend rules, allowing them to do a hearing on April 13 with Land & Resource Management Committee on short notice. This is likely being done intentionally to suppress testimony.
This bill is very bad news in the world of water resources planning & acquisition. It directly affects any city acquiring water resources that require acquisition of easements/right-of-way through other jurisdictions. Cities negatively impacted include Austin, San Antonio and Buda at a minimum. It is also a classic city vs. city bill, resulting in a situation where cities end up pitted against one another. Last session the legislature created funding sources for major regional water planning implementation, and now they are seeking to hamstring our ability to do so.

S.B. 456 (Burton)—Extraterritorial Jurisdiction (Referred to Intergovernmental Relations as of 2/09/15): would limit the extraterritorial jurisdiction for all cities to an area that is contiguous to and within one-half mile of the city’s corporate boundaries.

S.B. 882 (Hinojosa)—Wind Turbines (Referred to Natural Resources & Economic Development as of 03/04/15): this bill is identical to H.B. 2238, above.

S.B. 1109 (Lucio)—Emergency Response Districts (Referred to Intergovernmental Relations as of 3/16/15): would: (1) authorize a county to create an emergency response district if it receives a petition and calls for an election to do so; (2) provide that a district can provide fire protection, emergency medical services, and related services; and (3) grant to a district the authority to levy a property tax and issue bonds.

S.B. 1593 (Lucio) – Fireworks (Signed by the Governor on 6/19/15, effective 9/1/15): would eliminate the authority of a home rule city to prohibit fireworks in the area that extends 5,000 feet beyond the city limits. (Companion bill is H.B. 2529)

S.B. 1785 (Campbell)—Property Rights (Referred to State Affairs as of 3/16/15): would amend the Texas Private Real Property Rights Preservation Act, which applies only to a city regulation in the extraterritorial jurisdiction (ETJ) that is not uniformly applicable throughout the ETJ, to provide that a real property owner has a vested right in property uses that is protected under the Texas Constitution.

GAMBLING

H.B. 1385 (Raymond)—Eight Liners (Licensing & Administrative Procedures; Scheduled for public hearing on 4/20/15): would: (1) authorize a commissioners court to order, on proper petition, a local option election to legalize or prohibit the operation of eight-liners in the county, a city, or a justice precinct; and (2) authorize the imposition of a fee on eight-liner owners and provide for the allocation of the fee revenue as follows: (a) 30 percent to the state’s general revenue fund; and (b) 70 percent to a city in which the eight-liner is located. (See H.J.R. 92, below.)

H.B. 1830 (Kuempel)—Eight Liners (Passed house on 5/7, Business and Commerce reportedly favorably, 5/20, not placed again on intent calendar) would provide: (1) that the current law authorizing one county to regulate “amusement redemption machines” is expanded to authorize any county to do so; and (2) for additional county regulatory authority over such machines. (Note: It is unclear whether the bill applies within a city’s limits and/or would preempt municipal regulations.)

H.B. 2329 (Gutierrez)—Gambling (Referred to Licensing & Administrative Procedures as of 3/16/15): would authorize certain forms of casino gambling if approved by a local option election in the county. (See H.J.R. 105, below.)

H.B. 2642 (Thompson)—Eight Liners (Licensing & Administrative Procedures; Reported favorably as substituted 4/15/15): would expand a current law that is bracketed to one county to apply to any county and provide that the commissioners court of any county may regulate the operation of game rooms and may: (1) restrict the location of game rooms to specified areas of the county, including the unincorporated area of the county; (2) prohibit a game room location within a certain distance, prescribed by the commissioners court, of a school, regular place of religious worship, or residential neighborhood; or (3) restrict the number of game rooms that may operate in a specified area of the county.
H.B. 3839 (Deshotel) — Gambling (Licensing & Administrative Procedures; Scheduled for public hearing on 4/20/15): would authorize certain forms of gambling and provide that a portion of a gaming tax on casinos be used to fund the Texas Windstorm Insurance Association. (See H.J.R. 142, below.)

H.J.R. 40 (Alvarado) — Gambling (Referred to State Affairs as of 3/03/15): would amend the Texas Constitution to provide that the legislature shall establish a state gaming commission and may authorize and provide for regulation of the conduct of one or more types of gaming, including casino gaming, at—among other locations—cities with a population of at least 675,000.

H.J.R. 92 (Raymond) — Eight Liners (Referred to Licensing & Administrative Procedures as of 3/12/15): would amend the Texas Constitution to give the legislature the authority to: (1) allow a local option election by a city, county, or justice precinct on whether to allow eight liners; (2) impose a fee on eight liners; and (3) allow a city or other political subdivision to impose a fee on eight liners. (See H.B. 1385, above.)

H.J.R. 105 (Gutierrez) — Gambling (Referred to Licensing & Administrative Procedures as of 3/17/15): would amend the Texas Constitution to authorize certain forms of casino gambling if approved by a local option election in the county. (See H.B. 2329, above.)

H.J.R. 142 (Deshotel) — Gambling (Referred to Licensing & Administrative Procedures as of 3/23/15): would amend the Texas Constitution to authorize certain forms of gambling and provide that a portion of a gaming tax on casinos be used to fund the Texas Windstorm Insurance Association. (See H.B. 3839, above.)

S.J.R. 31 (Ellis) — Gambling (Referred to State Affairs as of 2/18/15): would amend the Texas Constitution to authorize certain forms of gambling and provide that a city would be entitled to a small portion of a gaming tax on casinos located within the city.

GRANTS, FUNDING AGENCIES

S.B. 1408 (Lucio) — Community Development Grant Program (Sent to the Governor 5/29/2015, vetoed by the Governor) would: (1) require the Texas Department of Agriculture to, subject to the availability of funds, create a community development matching grant to assist in financing various activities including trade-related initiatives, renewable energy projects, water or wastewater infrastructure projects, and economic development projects; and (2) provide that a city would be eligible for a matching grant described in (1), above, if the city is in a non-entitlement area as defined under the federal community development block grant non-entitlement program and in good standing with the department and HUD.

GROUP HOMES/HALFWAY HOUSES

H.B. 907 (Phillips) — Halfway Houses (Left pending in County Affairs as of 4/06/15): would, among other things: (1) authorize a city to adopt an ordinance regulating a halfway house independently operated by a private entity, including regulations that: (a) restrict a halfway house to a particular area or prohibit a halfway house from locating within a certain distance of a school, place of worship, residential neighborhood, or other specified land use that is inconsistent with the operation of a halfway house; (b) restrict the density of halfway houses; and (c) require the owner or operator to obtain or renew a license or permit on a periodic basis and pay a related fee; (2) provide that a district court has jurisdiction of a suit that arises from the denial, suspension, or revocation of a license or permit issued by a city under (1)(c), above; (3) require an applicant for a license or permit under (1)(c), above, for a location not previously licensed or permitted to, not later than the 60th day before the date the application is filed: (a) publish in a newspaper of general circulation in the city a notice of the applicant’s intent to establish a halfway house in the city, the name and business address of the applicant, and the proposed location of the halfway house; and (b) prominently post an outdoor sign at the location stating that a halfway house is intended to be located on the premises and providing the name and business address of the applicant; (4) authorize a city to inspect a halfway house for compliance with regulations adopted under (1), above, and sue in the district court for an injunction to prohibit a violation of such regulations; and (5) provide that a person commits a class A misdemeanor for violating regulations adopted under (1), above.
H.B. 2283 (Guillen)—Boarding Homes (Left pending in Human Services as of 3/30/15): would: (1) except an alcohol- and drug-free recovery home from certain board home facility regulations; and (2) authorize the executive commissioner of the Health and Human Services Commission to adopt rules establishing what constitutes an alcohol- and drug-free recovery home.

HISTORIC

HOME RULE AUTHORITY

S.B. 343 (Huffines) — CONFORMITY WITH STATE LAW (Referred to State Affairs as of 2/02/15): (a) Where the state has passed a general statute or rule regulating a subject, a local government shall restrict its jurisdiction and the passage of its ordinances, rules, and regulations to and in conformity with the state statute or rule on the same subject, unless the local government is otherwise expressly authorized by statute. (b) Unless expressly authorized by state statute, a local government shall not implement an ordinance, rule, or regulation that conflicts with or is more stringent than a state statute or rule regardless of when the state statute or rule takes effect. (Editor note — would force repeal of most subdivision ordinances and tree ordinances, for example)

S.B. 1673 (Huffines)—Preemption (Referred to State Affairs as of 3/23/15): would: (1) prohibit a city from: (a) contradicting or undermining a state law, rule, regulation, permit, or license; (b) adopting or enforcing a local ordinance, rule, or regulation if state law preempts regulation of the subject; (c) adopting or enforcing a local ordinance, rule, or regulation that conflicts with, is more stringent than, or is inconsistent with a state law, rule, regulation, permit, or license; and (d) regulating an activity performed under a license issued by a state agency in such a manner that the activity effectively cannot reasonably be performed in the city or its extraterritorial jurisdiction; (2) authorize a person adversely affected by a violation of (1), above, to file suit against a city; (3) authorize the attorney general to file a suit against a city to enforce the prohibitions in (1), above; (4) provide that a court may award in a civil action brought in relation to (1), above, declaratory relief, injunctive relief, actual damages, attorney’s fees, court costs, and other reasonable expenses; and (5) make (1)–(4), above, applicable to an ordinance, rule, or regulation adopted before, on, or after the effective date of the bill.

S.B. 1806 (Estes)—Preemption (Referred to State Affairs as of 3/25/15): would: (1) provide that any city charter provision, ordinance, rule, or regulation that conflicts with any provision of state law is null and void; (2) provide that a city charter provision, ordinance, rule, or regulation conflicts with state law if: (a) it is an ordinance that is expressly preempted by state law; (b) it regulates an area in which state law is pervasive and occupies the field; (c) it frustrates the purpose of state law; (d) there is no reasonable construction of the ordinance, rule, or regulation under which it and the state law in question can be given full effect; or (d) it regulates an activity performed under a license issued by the state and either actually or effectively prohibits a person from performing the licensed activity; (3) provide that the list in (2), above, is not intended to be an exhaustive list of the ways a city charter provision, ordinance, rule, or regulation may conflict with state law; (4) authorize the attorney general to bring an action in the name of the state to enforce (1)–(3), above; and (5) provide that a city charter provision, ordinance, rule, or regulation may not ban the provision or sale of a single-use or carry-out paper or plastic bag or require the payment of a fee for a single-use or carry-out paper or plastic bag.

HOMEOWNER ASSOCIATIONS (See Property Owner Associations)

HOUSING

IMPACT FEES

H.B. 3984 (Romero)—Required Municipal Transportation Impact Fee (Urban Affairs Reported Favorably as substituted on 4/28) would: (1) require a city to assess and collect an impact fee for new development in the city in an amount per service unit that is not less than the total of: (a) 20 percent of the
maximum fee per service unit under current law, and (b) five percent of the per service unit cost of any
projected roadway facility capital improvements that are the responsibility of the Texas Department of
Transportation (TxDOT); (2) require that a city remit monthly to TxDOT the amount collected under (1),
above, which shall be held in a special account by TxDOT and used only for the improvements identified
in the capital improvement plan; (3) provide that the use and refunding of fees by a city apply to TxDOT
for funds received under (2), above; and (4) require a city to adopt a capital improvement plan by January 1, 2016. Any fees so collected must be transmitted to the Texas Department of Transportation on a
monthly basis, and the State must encumber or escrow the funds for use on the identified CIP and TxDOT
road projects. Additionally, all municipalities must have adopted a CIP by the first of next year in order
to implement such impact fees.

MANUFACTURED HOUSING/INDUSTRIALIZED BUILDINGS/ RV PARKS

H.B. 1990 (Kuempel) — Industrialized Housing/Buildings (Licensing & Administrative; Committee
report sent to Local & Consent Calendar 4/10/15): would provide that: (1) industrialized housing does not
include a residential structure that exceeds four stories or 60 feet in height; and (2) an industrialized building
includes a permanent commercial structure and a commercial structure designed to be transported from one
commercial site to another commercial site but does not include a commercial structure that exceeds four stories or
60 feet in height (companion bill is SB 1264 by Eltife)

H.B. 3266 (Guillen) — RV Parks (Culture, Recreation & Tourism; Reported favorably as substituted as
of 5/5/15): would provide that: (1) the Legislature adopts by reference NFPA 1194, Standard for Recreational
Vehicle Parks and Campgrounds, 2014 Edition in full, except for sections 1.1.1 and 1.2; (2) a regulation, charter, or
ordinance promulgated by a governmental entity of this state may not impose stricter standards on the construction
of recreational vehicle parks and campgrounds or on the expansion of existing parks; (3) it is the intent of the
legislature that this bill shall exclusively govern the safety standards imposed on the construction or expansion of
recreational vehicle parks and campgrounds of this state and shall preempt all contrary local ordinances, executive
orders, legislation, rules, or regulations adopted by the state or any other governmental entity of this State; and (4)
any contrary local ordinances, executive orders, legislation, rules, or regulations adopted by the state or any other
governmental entity of this State are void. (TML Note: it appears that the bill would preempt local zoning
and similar land use controls over campgrounds and recreational vehicle parks.)

S.B. 1264 (Eltife) — Industrialized Housing/Buildings (Signed by the Governor on 5/19, effective 9/1)
would provide that: (1) industrialized housing does not include a residential structure that exceeds four stories or 60
feet in height; and (2) an industrialized building includes a permanent commercial structure and a commercial
structure designed to be transported from one commercial site to another commercial site but does not include a
commercial structure that exceeds four stories or 60 feet in height. (Note: Prior law limited the definition to
structures of three stories or 49 feet in height.) (Companion bill is H.B. 1990 by Kuempel.)

MINERAL RIGHTS

MUNICIPAL UTILITY DISTRICTS

OIL, GAS AND PIPELINES, GAS WELLS

TML Summary - H.B. 40 and H.B. 2855, both by Rep. Drew Darby (R – San Angelo), and S.B. 1165 by Troy
Fraser (R – Horseshoe Bay), would expressly preempt most regulation of oil and gas operations by cities and all
other political subdivisions. If these bills pass, a city could have drilling operations right next to homes, day care
centers, churches, or hospitals. Industry groups have claimed that these bills don’t restrict city authority over siting;
they are wrong.
Many Texas cities have adopted setback requirements to create a buffer zone between drilling rigs and homes, schools, parks, and hospitals. The League surveyed city ordinances in the Barnett Shale area in North Texas last year and found that 67 cities required buffer zones ranging from 300 feet to 1,500 feet between a well and residences. If city setback ordinances are nullified, homeowners can be robbed of their property values overnight without any compensation or recourse, amounting to a state government sanctioned taking of their property rights. The proposed bills would not only reverse the results of a city election and interfere with pending litigation in the City of Denton, they would also preempt local ordinances in numerous cities across the state. They would make it more difficult for homeowners and local citizens to voice their concerns by requiring that local land use decisions be handled in Austin.

**H.B. 40 (Drew Darby, Chair of the House Committee on Energy Resources) Oil and Gas Preemption** *(Energy Resources; (Signed by the Governor on 5/18, effective immediately)*

would completely eliminate city authority to regulate oil and gas development by providing that: (1) an oil and gas operation is subject to the exclusive jurisdiction of the state; (2) the authority of a city or other political subdivision to regulate an oil and gas operation is expressly preempted, except that a city is authorized to enact, amend, or enforce an ordinance or other measure that regulates only surface activity that is incident to an oil and gas operation, is commercially reasonable, does not effectively prohibit an oil and gas operation, and is not otherwise preempted by state or federal law; and (3) except as to the authority recognized in (2), above, a city or other political subdivision may not enact or enforce an ordinance or other measure, or an amendment or revision of an existing ordinance or other measure, that bans, limits, or otherwise regulates an oil and gas operation within its boundaries or extraterritorial jurisdiction. (TML Note: make no mistake, and contrary to industry claims, the provisions of this bill would give an oil and gas developer carte blanche to engage in exploration and drilling essentially anywhere in a city. Among other consequences could be the invalidation of city distance, or setback, requirements relative to homes, schools, churches, and daycares. TML says Chairman Darby has expressed an interest to work with the League on compromise language, but the as filed version of the bills would be disastrous.)

*(The Senate companion to H.B. 40 is S.B. 1165 by Sen. Troy Fraser, the Chair of the Senate Natural Resources and Economic Development Committee.)*

**TML Update - Oil and Gas Preemption Bill Improved by House Committee**

A much improved committee substitute to the House version of the oil and gas drilling bill, H.B. 40 by Rep. Drew Darby, was agreed to by both the League and the oil and gas industry. The substitute bill differs from the original bill in three significant ways. The substitute version:

1. explicitly names areas that cities have the authority to regulate, including fire and emergency response, traffic, lights, noise, notice, and reasonable setbacks. The inclusion of setbacks is a key component because the original version of the bill likely prevented them.
2. permits cities to regulate aboveground activity that is “related” to oil and gas operations, as opposed to activities that are “incident” to operations, as in the original version of the bill. The “incident” to language was likely prohibitively restrictive.
3. includes a much better definition of “commercially reasonable,” one of the tests an ordinance must meet to be valid under the bill. The substitute provides that commercially reasonable is based on an objective standard instead of the subjective assessment of a particular oil and gas operator.
4. creates a “prima facie” presumption of commercial reasonableness for certain ordinances that have allowed activity for at least five years. This “safe harbor” is a rolling five-year time period that would permit recent or future ordinances to qualify so long as they haven’t prevented operations for a five-year period.

While the League believes the bill is unnecessary – cities are not obstacles to responsible urban drilling across the state – the substitute is better than the original version and preferable to its Senate companion, S.B. 1165 by Sen. Troy Fraser, which was voted from the Senate Natural Resources and Economic Development Committee last week without any beneficial amendments (Senator Fraser has said he’s open to Senate floor amendments to his bill).

The condition of the agreement by all parties was that no amendments or alterations would be permitted by Chairman Darby unless all parties concur. This stipulation protects the agreement from any negative backsliding towards the originally-filed version, or worse. Many city attorneys and city officials were active in the negotiation process. In the end, however, both cities and industry were given a short timeline to sign on to the substitute as
written, with no amendments or alterations made in favor of either party. The League’s legislative and legal teams decided that supporting Chairman Darby’s improved bill, which was based on extensive city input during the committee hearing process, was the prudent course.

The League is now officially neutral on the substitute to H.B. 40, provided the bill receives no harmful amendments as it works its way through the process. TML does say that “Cities should contact their House members now with the following message: while we prefer that no bill pass, we stand by Chairman Darby’s commitment that if a bill must pass it will be the substitute version of H.B. 40 with no amendments. City officials who know Chairman Darby personally should contact him to thank him for committing to a middle ground that protects most city authority.”

H.B. 497 (Wu) – Saltwater Pipelines (Signed by the Governor on 6/10/15, effective immediately): would add to the definition of a “saltwater pipeline facility” in current law a pipeline that contains salt and other substances and is intended to be used in drilling or operating a well-used in the exploration for or production of oil or gas, including an injection well used for enhanced recovery operations. The result of the expanded definition would be to grant such pipeline operators the right to run their pipelines on or across city rights-of-way, subject to certain city restrictions and payment of right-of-way rental fees.

H.B. 539 (P. King) – Regulation of Oil or Natural Gas (Left pending in Energy Resources as of 3/23/15): would provide that a city with authority to adopt an oil or gas measure may not adopt one unless the city complies with the numerous and complex requirements of the bill, including submitting various information to the state related to the alleged costs of the measure to the state and remitting payment to the state for its alleged losses as determined by a state agency. TML says “Because setback requirements deny drilling in all locations within the setback distance, and because cities have no money to pay the state for “lost” severance taxes, the likely effect would be to force cities to repeal their oil and gas ordinances.”

H.B. 1972 (Keffer) – Water Wells (Referred to Natural Resource as of 3/12/15): would require a groundwater conservation district to provide an exemption from the requirement to obtain a permit for a water well used to supply water for drilling operations to establish the production of a well after the production casing string has been set, cemented, and pressure-tested.

H.B. 2132 (Craddick) – Water Wells (Referred to Natural Resource as of 3/13/15): would exempt a well used to supply water for operations related to oil and gas exploration from a groundwater conservation district’s permit requirements.

H.B. 2581 (Springer) – Regulatory Takings/Oil and Gas (Referred to Energy Resources as of 3/16/15): would make a city regulation that imposes or enforces a limitation that has the effect of preventing or prohibiting the development of an oil or gas well that has been permitted by the Texas Railroad Commission subject to the Private Real Property Rights Preservation Act, which would: (1) waive sovereign immunity to suit and liability for a regulatory taking; (2) authorize a private real property owner to bring suit to determine whether the governmental action of a city results in a taking; (3) require a city to prepare a “takings impact assessment” prior to imposing certain regulations; and (4) require a city to post 30 day’s notice of the adoption of most regulation prior to adoption. The bill would exempt a city regulation that imposes or enforces a reasonable standard established by the political subdivision for oil or gas wells relating to: (1) visual aesthetics; (2) noise abatement; or (3) hours of operation. (Companion bill is S.B. 809 by Taylor.)

H.B. 2855 (Darby) – Oil and Gas Preemption (Referred to Energy Resources 3/16/15): would provide that: (1) a political subdivision may not adopt or enforce an order, ordinance, or similar measure that prohibits or has the effect of prohibiting an operation under the jurisdiction of the Railroad Commission; (2) the commission has exclusive jurisdiction to determine whether the adoption or enforcement by a political subdivision of an order, ordinance, or similar measure prohibits or has the effect of prohibiting an operation under its jurisdiction; (3) a person affected by the adoption or enforcement by a political subdivision of an order, ordinance, or similar measure may submit to the commission a request that the commission make a determination described by (1), above; (4) the
person and the political subdivision shall share equally the costs incurred by the commission in connection with making the determination; and (5) a commission determination is not appealable.

H.B. 2991 (Paddie) — Mineral Exploration Regulation (Reported favorably from Energy Resources on 5/7): would: (1) define “identified marker” as a school, regular place of worship, residence, residential neighborhood, public park or other specified land use identified by a city from which mineral exploration and development must maintain a maximum proximity; (2) require a maximum proximity allowance established by a city between mineral exploration and identified markers to be applied uniformly to subsequent development of identified markers in relation to all existing mineral exploration activity locations; and (3) authorize a property owner or lessee desiring to build or use property within the area created by a proximity allowance to petition the city for a waiver which, if granted, must be recorded in the county records so as to provide notice to a potential purchaser.

H.B. 2993 (Paddie) — Oil and Gas Development (Energy Resources; scheduled for public hearing 4/20/15): would provide that: (1) a setback requirement established by a city between mineral exploration and development activities and a school, regular place of religious worship, residence, residential neighborhood, public park, or similar use must be applied uniformly to subsequent development; (2) a property owner or lessee desiring to build or otherwise utilize property within the setback may petition the city for a waiver; and (3) approval of a waiver shall essentially change the future setback to be the waiver distance.

H.B. 3044 (Dale) — Pipeline Preemption (Referred to Energy Resources as of 3/23/15): would provide that: (1) the rules and standards promulgated and adopted by the Railroad Commission pursuant to its jurisdiction under any statute or law preempt and supersede any ordinance, order, or rule adopted by a political subdivision of this state relating to any aspect, facility or phase of the pipeline industry; and (2) a political subdivision may petition the commission for permission to promulgate more restrictive rules and standards related to conditions for mapping, inventorying, locating, or relocating pipelines over, under, along or across a public street, alley or other public property in the boundaries of the city.

H.B. 3217 (Dale) — Oil and Gas/Pipeline Preemption (Referred to Energy Resources as of 3/23/15): would, among other things, provide that: (1) the Railroad Commission (relating to oil and gas development) and the Public Utility Commission (relating to gas pipelines) have exclusive jurisdiction to determine whether the adoption or enforcement by a political subdivision of an order, ordinance, or similar measure applies to a person or operation over whom or which either of the commissions has jurisdiction; (2) a political subdivision shall petition the appropriate commission for permission before adopting or enforcing an ordinance, order, or similar measure under a commission’s jurisdiction and (3) a commission may grant a petition only if the political subdivision offers proof satisfactory to the commission that the ordinance, order, or similar measure is reasonable and enhances public safety.

H.B. 3598 (Hughes) — Regulatory Takings/Oil and Gas (Referred to Energy Resources as of 3/19/15): would make a city regulation that takes, damages, destroys, impairs, or prohibits development of mineral interests subject to the Private Real Property Rights Preservation Act, which would: (1) waive sovereign immunity to suit and liability for a regulatory taking; (2) authorize a private real property owner to bring suit to determine whether the governmental action of a city results in a taking; (3) require a city to prepare a “takings impact assessment” prior to imposing certain regulations; and (4) require a city to post 30-day’s notice of the adoption of most regulation prior to adoption.

S.B. 440 (Burton) — Hydraulic Fracturing (Referred to Natural Resources & Economic Development as of 2/9/15): would prohibit a city from banning hydraulic fracturing treatment of oil or gas wells.

S.B. 720 (Burton) — Hydraulic Fracturing (Referred to Natural Resources & Economic Development as of 3/02/15): would prohibit a political subdivision from adopting or enforcing an order, ordinance, or similar measure that prohibits or has the effect of prohibiting hydraulic fracturing.
S.B. 809 (Taylor)—Regulatory Takings/Oil and Gas (Referred to Natural Resources & Economic Development as of 3/03/15): would make a city regulation that imposes or enforces a limitation that has the effect of preventing or prohibiting the development of an oil or gas well that has been permitted by the Texas Railroad Commission subject to the Private Real Property Rights Preservation Act, which would: (1) waive sovereign immunity to suit and liability for a regulatory taking; (2) authorize a private real property owner to bring suit to determine whether the governmental action of a city results in a taking; (3) require a city to prepare a “takings impact assessment” prior to imposing certain regulations; and (4) require a city to post 30-day’s notice of the adoption of most regulation prior to adoption. The bill would exempt a city regulation that imposes or enforces a reasonable standard established by the political subdivision for oil or gas wells relating to: (1) visual aesthetics; (2) noise abatement; or (3) hours of operation.

S.B. 1165 (Sen. Troy Fraser, the Chair of the Senate Natural Resources and Economic Development Committee; Companion document considered in lieu of on 5/4): would expressly preempt city regulation of oil and gas operations and declare that oil and gas operations are subject to the exclusive jurisdiction of the state. Among other consequences could be the invalidation of city distance, or setback, requirements relative to homes, schools, churches, and daycares. (The House version is H.B. 40 by Drew Darby, the Chair of the House Committee on Energy Resources. TML says Chairman Darby has expressed an interest to work with the League on compromise language, but the as-filed version of the bills would be disastrous.

TML UPDATE—A bill that would gut oil and gas drilling ordinances in more than 300 Texas cities, S.B. 1165 by Sen. Troy Fraser, was unanimously voted from the Senate Natural Resources and Economic Development Committee. The bill expressly preempts ordinances that relate to oil and gas, but purports to create a “safe harbor” provision for certain city ordinances that are “commercially reasonable.” The safe harbor is so narrowly drafted, however, that municipal attorneys believe basic health and safety ordinances provisions, such as setbacks (buffer zones), would be difficult to enforce. TML has been contacting cities to see how many have adopted an ordinance that in some way regulates oil and gas drilling activity in their city limits. So far, 322 cities have been identified as having some form of drilling regulation.

The bill was voted from the committee the same day it was heard. The companion bill (H.B. 40 by Rep. Drew Darby) was heard the day before in the House Energy Resources Committee. Numerous city officials ably testified against both bills.

The bills’ authors, who are also the chairmen of their respective committees, have pledged to listen to suggested amendments from the League that would clarify their stated intent to retain basic health and safety authority. It is clear, however, that the oil and gas industry would prefer to see the bills pass in their present, harmful form. City officials should discuss the legislation with both their senators and their state representatives right away, urging them to support beneficial city amendments.

S.B. 1990 (Menendez)—Hydraulic Fracturing (Referred to Natural Resources & Economic Development as of 3/25/15): would provide that the Texas Commission on Environmental Quality shall: (1) require an operator of a well on which a hydraulic fracturing treatment is performed to submit to the commission, among other things, the total volume of water used in the hydraulic fracturing treatment, with the volume from each source of water listed separately; and (2) create and maintain a website to collect and make available to the public the information.

OPEN MEETINGS/PUBLIC INFORMATION/NOTICE

House Committee on Government Efficiency and Reform

Charge: Review the application of the Public Information Act regarding requests for large amounts of electronic data. Examine whether the procedures and deadlines imposed by the Act give governmental bodies enough time to identify and protect confidential information in such requests.
Consider allowing public entities to satisfy the requirements of the Act by directing appropriate requests to the entities’ website where the information could be regularly posted and easily accessible.

Consider adding “utility billing” information (i.e., new water customer lists) to the current list of exceptions identified in ORD No. 684. If the customer has marked their application as confidential, it would eliminate the need to request an Attorney General’s opinion.

Add copyrighted material to the current list of exceptions identified in ORD No. 684, which would eliminate the need to request an Attorney General’s opinion. The Attorney General’s office currently denies the release of copyrighted materials; however, the Act allows for viewing and reviewing of this material by requester.

H.B. 139 (Stickland) — Notice by Internet Posting (Government Transparency & Operation; Scheduled for public hearing on 4/22/15): would, except in regard to a notice of election, do the following: (1) require a city to provide the comptroller with an electronic copy of a notice required by law to be published in a newspaper not later than the third day before the date the city is required to first publish the notice in the newspaper; (2) require a city to determine by official action whether it will exclusively provide notice in the manner described in (1), above, or provide notice by both newspaper publication and in the manner described in (1), above; (3) provide that if a city decides to exclusively provide notice in the manner described in (1), above, the city: (a) is exempt from providing notice in a newspaper; but (b) must publish in a newspaper of general circulation in the city once a week for four consecutive weeks the Internet website at which the city’s notice may be located; (4) require the comptroller to establish and maintain a web page on the comptroller’s website to post the notices described in (1), above, not later than the third day after the date the city provides the notice to the comptroller; (5) require the comptroller to establish a system to allow a person, on request, to receive an e-mail alert for an update to a category of notices on the web page established under (4), above, and to maintain an archive on the website of notices posted on the web page; and (6) authorize the comptroller to adopt rules to implement and administer the notice by internet posting program.

H.B. 283 (Fallon) — Open Meetings (Signed by the Governor on 6/17/15, effective 1/1/16) would: (1) require a home-rule city with a population of 50,000 or more: (a) to make a video and audio recording of reasonable quality of each regularly scheduled open meeting that is not a work session or a special called meeting, and make available an archived copy of such recording on the Internet; (b) to make the archived recording described in (a), above, available on an existing Internet site, which could be a publicly accessible video-sharing or social networking site; (c) to make available, in a conspicuous manner, on an Internet site that the city maintains the archived recording described in (a), above, or a link to the archived recording; (d) to make the archived recording described in (a), above, available on the Internet not later than seven days after the recording was made and maintain the archived recording on the Internet for not less than two years after the date the recording was first made available; and (e) to comply with the requirements in (b)-(d), above, unless the required recording cannot be made as the result of a catastrophe or technical breakdown, after which the city must make all reasonable efforts to make the required recording available in a timely manner; and (2) authorize a home-rule city with a population of 50,000 or more to broadcast a regularly scheduled open meeting on television.

H.B. 685 (Sheets) — Public Information (Signed by the Governor on 6/17/15, effective 9/1/15) would provide that a public information officer complies with the requirement to promptly produce public information by referring a requestor to a publically accessible website maintained by the city if the requested information is identifiable and readily available on that website.

H.B. 814 (Larson) — Meeting Notice (Referred to Government Transparency & Operation as of 2/23/15): would provide that: (1) a governmental body that is required by law to post notice of a meeting in a newspaper may instead post notice of the meeting on the Internet; and (2) a governmental body that is required by law to post notice of a meeting on the Internet is not required to post notice in a newspaper.

H.B. 856 (Sanford) — Metropolitan Planning Organization Meetings (Left pending in Government Transparency & Operation as of 4/15/15): would require a metropolitan planning organization to broadcast over the Internet live video and audio of each open meeting held by the policy board, and to subsequently make available through the organization’s website archived video and audio for each meeting for which live video and audio was provided.
H.B. 1019 (Flynn) — Internet Notice (Government Transparency & Operation; Scheduled for public hearing on 4/22/15): would provide that: (1) notwithstanding any other law, a governmental entity (including a city) may satisfy a requirement in another law for the governmental entity to provide publication of notice in a newspaper by publishing the notice on a newspaper’s Internet website; (2) publication of notice on a newspaper’s Internet website must be in substantially the same form as required under the general or special law requiring or authorizing the publication of notice in a newspaper by a governmental entity; (3) to meet “official newspaper” eligibility requirements, a newspaper must: (a) establish an Internet-only option for publication of notice by a governmental entity; (b) charge a reasonable fee not to exceed $25 for the Internet publication of notice; and (c) establish an archive of the publications of notice posted on the newspaper’s Internet website that allows free public access to the current and archived publications of notice and that is searchable by keyword and county; and (4) a newspaper that publishes a notice on the newspaper’s Internet website may electronically provide to the governmental entity the bill, clipping, and verified statement containing the information required under current law.

H.B. 2134 (Burkett) – Public Information Request (Signed by the Governor on 6/10/15, effective 9/1/15) would provide that if a request for public information is sent by electronic mail, the request may be considered to have been withdrawn if a request from the city for clarification, discussion, or additional information is sent by electronic mail to the address from which the request was sent (or another electronic mail address provided by the requestor) and a response is not received within the period established by state law.

S.B. 392 (Burton) — Meeting Notice (Left pending in Business & Commerce as of 4/16/15): would provide that: (1) a governmental body that is required by law to post notice of a meeting in a newspaper may instead post notice of the meeting on the Internet; and (2) a governmental body that is required by law to post notice of a meeting on the Internet is not required to post notice in a newspaper. (Companion bill is H.B. 814 by Larson.)

S.B. 434 (Burton) — Closed Meeting (Business & Commerce as of 2/09/15): would repeal the statutory authorization in the Open Meetings Act for a governing body to conduct a closed meeting for deliberations regarding economic development negotiations.

PAYDAY/AUTO TITLE LENDING

H.B. 371 (McClendon) — Payday and Auto Title Lending (Investments & Financial Services; Scheduled for public hearing on 4/22/15): would provide that the term of a payday or auto title loan made by a credit access business to certain military personnel or their dependents may not exceed 90 days or 180 days, respectively.

H.B. 411 (C. Turner) – Payday and Auto Title Lending (Passed the House, referred to Business and Commerce 5/15) would prohibit a credit access business from making a telemarketing call to a consumer, regardless of whether the consumer’s name and telephone number are on the Texas no-call list.

H.B. 1020 (Giddings) — Payday and Auto Title Lending (Referred to Investments & Financial Services as of 3/02/15): this bill makes extensive modifications to the payday and auto title lender laws. It would, among other things:
1. require the consumer credit commissioner to establish and implement a database for the compilation of information relating to payday loans;
2. provide that payday/auto title lenders are subject to same level of state regulation and oversight as other credit services organizations (i.e., currently regulated consumer lenders that don’t provide payday or auto title loans);
3. prohibit a credit services organization from assisting a consumer in obtaining an extension of consumer credit in any form other than in the form of a single-payment payday loan, multiple-payment payday loan, single payment auto title loan, or multiple-payment auto title loan;
4. provide that a credit services organization may obtain or assist a consumer in obtaining a payday or auto title loan only if the loan is made by a third-party lender that is unaffiliated with the credit services organization and does not have any ownership, directors, officers, members, or employees in common with the credit services organization;
5. prohibit total charges imposed under a payday or auto title loan from exceeding the permissible interest, fee, and other charges for certain consumer loans under current law;
6. prohibit a credit access business that is subject to a city ordinance regulating payday and auto title loans from evading the city ordinance by: (a) requiring that any part of the transaction occur in a location outside the city limits; or (b) transferring the business’s obligations and rights under a payday or auto title loan contract to a branch of the business or another business located outside the city limits;
7. provide that if a credit access business evades a municipal ordinance as provided by (6), above, that the contract between the business and the consumer is void and unenforceable, including any requirement that the consumer pay fees or other consideration;
8. provide that the term of an extension of consumer credit, including all renewals and refinances, obtained for a military borrower may not exceed 90 days for a payday or single-payment auto title loan or 180 days for a multiple-payment auto title loan;
9. provide that the term of an extension of consumer credit by a credit access business may not exceed 180 days;
10. provide that, at any given time, a consumer may have only one outstanding debt from a payday loan and one outstanding debt from an auto title loan;
11. provide that the proceeds of a repossessed motor vehicle that secured an auto title loan shall satisfy all outstanding and unpaid indebtedness under that extension of consumer credit;
12. provide that a local ordinance regulating a credit access business is not preempted if the ordinance is compatible with and equal to or more stringent than a requirement in the bill;
13. provide that a single-payment payday loan: (a) may not exceed 20 or 25 percent of the consumer’s gross annual income depending on the income level; (b) may not have a term of less than 10 days or longer than 35 days; and (c) may not be refinanced more than three times;
14. provide that a multiple-payment payday loan: (a) may not exceed 10 or 15 percent of the consumer’s gross monthly income, depending on the income level; (b) may not have an original term of more than 180 days if it is payable in more than 12 installments; and (c) with regard to the first installment, may not be due before the 10th day after the loan is agreed upon, and any other installment may not be due before the 14th day or after the 31st day after the date the previous installment is due;
15. provide that a single-payment auto title loan: (a) may not exceed the lesser of 70 percent of the retail value of the motor vehicle securing the debt, or the lesser of six or eight percent of the consumer’s gross annual income, depending on the income level; (b) may not have a term of less than 30 days or longer than 35 days; and (c) may not be refinanced more than three times;
16. provide that a multiple-payment auto title loan: (a) may not exceed 70 percent of the retail value of the motor vehicle securing the debt; (b) may not impose a sum of all fees, principal, interest, and other amounts that exceeds 20 or 30 percent of the consumer’s gross monthly income, depending on the income level; (c) may not be payable in more than six installments; (d) may not require the first installment to be paid before the 10th day after the date the consumer enters into the loan agreement; (e) may not require subsequent installments to be due before the 28th day after the date the previous installment of the loan was due; and (f) may not have a total term of more than 180 days;
17. require an extended payment plan that: (a) provides for payment in four substantially equal installments with respect to a single-payment payday or auto title loan; (b) provides for payment in two substantially equal installments with respect to multiple-payment payday and auto title loans; (c) has a period between installment payments that are not shorter than 10 days for a single-payment payday loan or 30 days for a multi-payment payday loan or any auto title loan; and (d) provides for the first payment to be due not before the 10th day after the date the consumer requests an extended payment plan; and
18. require any refinance of a payday or auto title loan to meet all requirements applicable to the original loan.

(Companion bill is S.B. 121 by West.)

H.B. 2166 (Flynn) – Payday Lenders (Investments & Financial Services; Scheduled for public hearing on 4/22/15): would impose additional requirements on payday and auto title loans. More specifically, the bill would provide that:

1. The proceeds given to a consumer in connection with a deferred presentment transaction extended to the consumer may not exceed: (a) 35 percent of the consumer’s gross monthly income for a single payment transaction; and (b) 25 percent of the consumer’s gross monthly income for a scheduled payment on a multiple payment transaction.
2. In determining a consumer’s gross monthly income under (1), above, a credit access business may utilize payroll documents, checks, bank statements and reports from nationally or regionally recognized credit and data reporting companies, and may rely on the representations of a consumer to form a reasonable belief about the consumer’s gross monthly income.

3. The term of a single payment transaction may not exceed 30 days.

4. A consumer who is unable to fully repay the fourth refinance of an initial single payment deferred presentment transaction may elect to repay the loan by means of an extended payment plan provided the consumer is not otherwise in default of such loan.

5. For the purposes of (4), above, a “refinance” means any transaction a credit access business assists a consumer in obtaining that extends the repayment period of a then outstanding deferred presentment transaction beyond its original term. (A refinance under the bill includes both a traditional refinance that is evidenced by new written loan documents with new disclosures that satisfy and replace the prior loan documents, as well as a renewal of a single-payment transaction in which the term of the transaction is extended for an additional identical period, and includes the terms “renewal” and “rollover.”)

6. At every licensed location, a credit access business must notify a consumer of the consumer’s right to an extended payment plan by posting the following notice in at least 12-point bold type in a conspicuous location visible to the general public, and on the first page of a contract: “If you are unable to repay your transaction when due, you may be eligible for an extended payment plan. You are eligible for an extended payment plan if you have refinanced your initial transaction four times. You are eligible for an extended payment plan at least once in any 12-month period. If you meet the requirements for an extended payment plan, we will offer you a plan before the due date of your existing transaction. To accept our offer of an extended payment plan, you must sign a written agreement that describes the terms of the plan before the due date of your exiting transaction.”

7. The proceeds given to a consumer in connection with a motor vehicle title loan given to the consumer may not exceed the lesser of: (a) seven percent of the consumer’s gross monthly income for a single payment loan; (b) 30 percent of the consumer’s gross monthly income for a scheduled payment on a multiple payment loan; or (c) 70 percent of the retail value of the motor vehicle.

8. The term of a single payment loan may not exceed 30 days and the term of a multiple payment loan shall not exceed 365 days.

9. A consumer who is unable to fully repay the eighth refinance of an initial single payment motor vehicle title loan may elect to repay the loan by means of an extended payment plan provided the consumer is not otherwise in default of such loan.

10. An extended payment plan for a payday loan or an auto-title loan shall comply with the following: (a) a credit access business must offer to assist an eligible consumer in obtaining an extended payment plan at least once every 12 months; (b) a credit access business must offer a consumer an extended payment plan before the due date of the fourth refinance of the outstanding transaction; (c) a credit access business may not charge the consumer additional fees during an extended payment plan; (d) a consumer must sign a written agreement that describes terms of the extended payment plan; (e) an extended payment plan must allow consumer to repay all outstanding amounts owing at the time such extended payment plan is offered in at least four substantially equal payments; and (f) a consumer may prepay an extended payment plan in full at any time without penalty.

11. If a consumer continues to make timely payments pursuant to an extended payment plan, a credit access business is prohibited from engaging in collection activities with respect to such deferred presentment transaction and obtaining, or assisting the consumer in obtaining, additional deferred presentment transactions.

H.B. 2803 (Pena) – Payday and Auto Title Lending (Referred to Investments & Financial Services as of 3/16/15) would: (1) require a payday or auto title lender to prominently and conspicuously post at the lender’s place of business a sign containing a specific statement regarding how to contact the Office of Consumer Credit Commissioner with any concerns or complaints about the lender.

H.B. 2808 (J. White) – Payday and Auto Title Lending (Referred to Investments & Financial Services as of 3/16/15) would, among other things: (1) provide that a municipal ordinance regulating credit access businesses is not preempted by state law; (2) provide that, if a municipal ordinance conflicts with a provision of state law, the more stringent regulation controls; (3) require the contract and other documents provided by a credit access business to be written wholly in the language in which the contract is negotiated and readable in their entirety in the language in which the contract is negotiated to any consumer who cannot read; (4) prohibit a credit services organization from assisting a consumer in obtaining an extension of consumer credit in any form other than in the form of a single-payment payday loan, multiple-payment payday loan, single payment auto title loan, or multipayment auto title loan; (5) require a credit access business to require certain types of documentation to establish a
consumer’s income for purposes of extending credit; (6) provide that a single-payment payday loan: (a) may not exceed 20 percent of the consumer’s gross annual income; (b) may not be refinanced more than three times, with the amount of each refinanced payment used to repay at least 25 percent of the principal amount of the original debt; (7) provide that a multiple-payment payday loan: (a) may not exceed 20 percent of the consumer’s gross monthly income; and (b) may not be payable in more than four installments, with the amount of each installment used to repay at least 25 percent of the principal amount of the debt; (8) provide that a single-payment auto title loan: (a) may not exceed the lesser of 70 percent of the retail value of the motor vehicle securing the debt, or three percent of the consumer’s gross annual income; and (b) may not be refinanced more than three times, with the amount of each refinanced payment used to repay at least 25 percent of the principal amount of the original debt; (9) provide that a multiple-payment auto title loan: (a) may not exceed the lesser of 70 percent of the retail value of the motor vehicle securing the debt, or three percent of the consumer’s gross annual income; and (b) may not be payable in more than four installments, with the amount of each installment used to repay at least 25 percent of the principal amount of the debt; (10) require any refinancing of a payday or auto title loan to: (a) be authorized by state law; (b) be in the same form as the original loan; and (c) meet all requirements applicable to the original loan; and (11) require a credit access business to maintain a complete set of all records, and retain the records until the third anniversary of the date of the loan.

H.B. 3047 (Craddick) — Payday and Auto Title Lending (Referred to Investments & Financial Services as of 3/23/15): would, among other things: (1) require the consumer credit commissioner to establish and implement a database for the compilation of information relating to payday loans; (2) provide that a municipal ordinance regulating credit access businesses is not preempted by state law; (3) provide that, if a municipal ordinance conflicts with a provision of state law, the more stringent regulation controls; (4) require the contract and other documents provided by a credit access business to be written wholly in English or the language in which the contract is negotiated, and read in their entirety in the language in which the contract is negotiated to any consumer who cannot read; (5) prohibit a credit services organization from assisting a consumer in obtaining an extension of consumer credit in any form other than in the form of a single-payment payday loan, multiple-payment payday loan, single-payment auto title loan, or multiple-payment auto title loan; (6) provide that the general limitations on payday and auto title loans in the bill apply to any consumer physically located in this state at the time the loan is made, regardless of whether the loan was made in person in this state; (7) require a credit access business to require certain types of documentation to establish a consumer’s income for purposes of extending credit; (8) provide that a single-payment payday loan: (a) may not exceed 20 percent of the consumer’s gross annual income; (b) may not be refinanced more than three times, with the amount of each refinanced payment used to repay at least 25 percent of the principal amount of the original debt; (9) provide that a multiple-payment payday loan: (a) may not exceed 20 percent of the consumer’s gross monthly income; and (b) may not be payable in more than four installments, with the amount of each installment used to repay at least 25 percent of the principal amount of the debt; (10) provide that a single-payment auto title loan: (a) may not exceed the lesser of 70 percent of the retail value of the motor vehicle securing the debt, or three percent of the consumer’s gross annual income; and (b) may not be refinanced more than three times, with the amount of each refinanced payment used to repay at least 25 percent of the principal amount of the original debt; (11) provide that a multiple-payment auto title loan: (a) may not exceed the lesser of 70 percent of the retail value of the motor vehicle securing the debt, or three percent of the consumer’s gross annual income; and (b) may not be refinanced more than three times, with the amount of each refinanced payment used to repay at least 25 percent of the principal amount of the debt; (12) require any refinance of a payday or auto title loan to: (a) be authorized by state law; (b) be in the same form as the original loan; and (c) meet all requirements applicable to the original loan; and (13) require a credit access business to maintain a complete set of records of all loans, and retain the records until the third anniversary of the date of the loan.

H.B. 3058 (Giddings) — Payday and Auto Title Lending (Referred to Investments & Financial Services as of 3/24/15): would limit the instances in which a payday or auto title lender could file or threaten to file a criminal complaint against a consumer.

H.B. 3599 (C. Turner) — Auto Title Lenders (Referred to Investments & Financial Services as of 3/19/15): would provide that a credit access business (e.g., an auto title lender) shall pay to the consumer the amount received by the business from the sale of any property securing the extension of consumer credit that exceeds the sum of the outstanding indebtedness and unpaid fees owed by the consumer not later than the 14th day after the date of the sale.
H.B. 3638 (C. Turner)—Payday Lenders (Referred to Investments & Financial Services as of 3/19/15): would provide that: (1) a credit access business (e.g., a payday or auto title lender) shall file an annual report with the Office of Consumer Credit Commissioner for each licensed location on a form prescribed by the commissioner that provides detailed information relating to the number, type, etc., of extensions of consumer credit during the preceding year; (2) all information submitted by a credit access business to the commissioner for inclusion in a report under this section is confidential; and (3) the commissioner shall publish a statewide consolidated analysis and recaptulation of reports filed under this section that includes an analysis of: (a) the 15 largest metropolitan statistical areas (MSA) of this state; (b) the five largest counties of this state; and (c) the 10 largest municipalities of this state (Note: previous reports included only MSA data).

H.B. 3811 (S. Thompson)—Payday Lending (Referred to Investments & Financial Services as of 3/23/15): would make several consumer-friendly amendments to the state law relating to payday lenders that would likely preempt municipal ordinance provisions.

H.B. 3812 (S. Thompson)—Auto Title Lending (Referred to Investments & Financial Services as of 3/23/15): would make several consumer-friendly amendments to the state law relating to auto title lenders that would likely preempt municipal ordinance provisions.

H.B. 3824 (Capriglione)—Payday and Auto Title Lending (Investments & Financial Services; Scheduled for public hearing on 4/22/15): would make several consumer-friendly amendments to the state law relating to payday and auto title lenders that would likely preempt municipal ordinance provisions.

H.B. 4073 (E. Rodriguez)—Payday and Auto Title Lending (Investments & Financial Services; Scheduled for public hearing on 4/22/15): would make several consumer-friendly amendments to the state law relating to payday and auto title lenders.

S.B. 91 (Ellis)—Payday and Auto Title Lending (Referred to Business & Commerce as of 1/26/15): would limit the annual percentage rate of a payday or auto title loan to 36 percent.

S.B. 92 (Ellis)—Payday and Auto Title Lending (Referred to Business & Commerce as of 1/26/15): would: (1) provide that a municipal ordinance regulating credit access businesses is not preempted by the following state law provisions; (2) provide that, if a municipal ordinance conflicts with a provision of state law, the more stringent regulation controls; (3) require the contract and other documents provided by a credit access business to be written wholly in the language in which the contract is negotiated and read in their entirety in the language in which the contract is negotiated to any consumer who cannot read; (4) require the mandatory disclosure under state law that is issued by a credit access business to a borrower to reference nonprofit agencies that provide financial education and training or cash assistance to borrowers; (5) require the mandatory disclosure and notice to be available in English and Spanish and read in their entirety in the language in which the contract is negotiated if the consumer cannot read; (6) prohibit a payday loan if the amount of cash advanced exceeds 20 percent of the borrower’s gross monthly income; (7) prohibit an auto title loan if the amount of cash advanced exceeds the lesser of: (a) three percent of the borrower’s gross annual income; or (b) 70 percent of the retail value of the motor vehicle; (8) require a payday or auto title loan to be payable in four or fewer installments and proceeds from each installment must be used to repay at least 25 percent of the principal amount of the debt; (9) provide that a payday or auto title loan to be paid by a single lump-sum payment may not be refinanced or renewed more than three times and proceeds from each refinancing or renewal must be used to repay at least 25 percent of the principal amount of the original debt; (10) provide that a payday or auto title loan made to a consumer on or before the seventh day after the date the consumer has paid a previous extension of consumer credit is considered a refinance or renewal of the previous debt; and (11) require a credit access business to maintain a complete set of records of all extensions of consumer credit for three years after the loan was made.
S.B. 121 (West) — Payday and Auto Title Lending (Referred to Business & Commerce as of 1/27/15):

This bill makes extensive modifications to the payday and auto title lender laws. It would, among other things:

1. Require the consumer credit commissioner to establish and implement a database for the compilation of information relating to payday loans;
2. Provide that payday and auto title lenders are subject to the same level of state regulation and oversight as other credit services organizations (i.e., currently regulated consumer lenders that don’t provide payday or auto title loans);
3. Prohibit a credit services organization from assisting a consumer in obtaining an extension of consumer credit in any form other than in the form of a single-payment payday loan, multiple-payment payday loan, single payment auto title loan, or multiple payment auto title loan;
4. Provide that the credit services organization may obtain or assist a consumer in obtaining a payday or auto title loan only if the loan is made by a third-party lender that is unaffiliated with the credit services organization and does not have any ownership, directors, officers, members, or employees in common with the credit services organization;
5. Prohibit total charges imposed under a payday or auto title loan from exceeding the permissible interest, fee, and other charges for a certain consumer loans under current law;
6. Prohibit a credit access business that is subject to a city ordinance regulating payday and auto title loans from evading the city ordinance by: (a) requiring that any part of the transaction occur in a location outside the city limits; or (b) transferring the business’s obligations and rights under a payday or auto title loan contract to a branch of the business or another business located outside the city limits;
7. Provide that if a credit access business evades a municipal ordinance as provided by (7), above, that the contract between the business and the customer is void and unenforceable, including any requirement that the consumer pay fees or other consideration;
8. Provide that the term of an extension of consumer credit, including all renewals and refinances, obtained for a military borrower may not exceed 90 days for a payday or single payment auto title loan or 180 days for a multiple-payment auto title loan;
9. Provide that the term of an extension of consumer credit by a credit access business may not exceed 180 days;
10. Provide that, at any given time, a consumer may have only one outstanding debt from a payday loan and one outstanding debt from an auto title loan;
11. Provide that the proceeds of a repossessed motor vehicle that secured an auto title loan shall satisfy all outstanding and unpaid indebtedness under that extension of consumer credit;
12. Provide that a local ordinance regulating a credit access business is not preempted if the ordinance is compatible with and equal to or more stringent than a requirement in the bill;
13. Provide that a single-payment payday loan: (a) may not exceed 20 or 25 percent of the consumer’s gross annual income depending on the income level; (b) may not have a term of less than 10 days or longer than 35 days; and (c) may not be refinanced more than three times;
14. Provide that a multiple-payment payday loan: (a) may not exceed 10 or 15 percent of the consumer’s gross monthly income, depending on the income level; (b) may not have an original term of more than 180 days if it is payable in more than 12 installments; and (c) with regard to the first installment, may not be due before the 10th day after the loan is agreed upon, and any other installment may not be due before the 14th day or after the 31st day after the date a previous installment is due;
15. Provide that a single-payment auto title loan: (a) may not exceed the lesser of 70 percent of the retail value of the motor vehicle securing the debt, or the lesser of six or eight percent of the consumer’s gross annual income, depending on the income level; (b) may not have a term of less than 30 days or longer than 35 days; and (c) may not be refinanced more than three times;
16. Provide that a multiple-payment auto title loan: (a) may not exceed 70 percent of the retail value of the motor vehicle securing the debt; (b) may not impose a sum of all fees, principal, interest, and other amounts that exceeds 20 or 30 percent of the consumer’s gross monthly income, depending on the income level; (c) may not be payable in more than six installments; (d) may not require the first installment to be paid before the 10th day after the date the consumer enters into the loan agreement; (e) may not require subsequent installments to be due before the 28th day after the date the previous installment of the loan was due; and (f) may not have a total term of more than 180 days;
17. Require an extended payment plan that: (a) provides for payment in four substantially equal installments with respect to a single-payment payday or auto title loan; (b) provides for payment in two substantially equal installments with respect to multiple-payment payday and auto title loans; (c) has a period between installment payments that are not shorter than 10 days for a single-payment payday loan or 30 days for a multi-payment payday loan or any auto title loan; and (d) provides for the first payment to be due not before the 10th day after the date the consumer requests an extended payment plan; and
18. Require any refinance of a payday or auto title loan to meet all requirements applicable to the original loan.
S.B. 1323 (Menendez)—Payday and Auto Title Lenders (Referred to Business & Commerce 3/18/15): would provide that the amount of a fee paid or to be paid to a credit services organization (e.g., a payday or auto title lender) to assist a consumer in transacting, arranging, guaranteeing, or negotiating an extension of credit or to obtain for a consumer an extension of credit is considered interest for usury purposes under state law.

S.B. 1650 (Eltife)—Payday and Auto Title Lending (Passed the Senate, referred to Investments and Financial Services and left in committee as of 5/20) would make several consumer-friendly amendments to the state law relating to payday and auto-title lenders.

PRIVATE PROPERTY RIGHTS (Also Regulatory Takings)

H.B. 540 (P. King)—Initiative and Referendum (Left pending in State Affairs on 3/11/15): this bill would apply only to a home rule city that has initiative and referendum provisions in the city charter. A municipality may not: (1) accept for verification, certification, or other approval a petition requesting the enactment or repeal of an ordinance or charter provision, if the proposed enactment or repeal would restrict the right of any person to use or access the person's private property for economic gain or (2) hold an election proposed by a petition on the proposed enactment or repeal of an ordinance or charter provision described in (1). The purported enactment or repeal of an ordinance or charter provision that is prohibited has no effect. An election held in violation is void. A person whose rights are affected by a violation of may sue for injunctive relief. The bill would provide that: (1) before ordering an election as required by charter, the city shall submit a measure proposed by petition to enact a new ordinance or repeal an existing ordinance to the attorney general; (2) the attorney general shall, not later than the 90th day after submission: (a) determine whether any portion of the proposed measure would violate the Texas or federal constitution, a state statute, or a rule adopted as authorized by state statute; (b) determine whether passage of the measure would cause a governmental taking of private property for which the Texas or federal constitution would require compensation to be paid to the property owner; and (c) advise the city of its determinations; (3) the city may not hold an election on the proposed measure if the attorney general has determined that any portion of the proposed measure would violate the Texas or federal constitution or a state statute or rule or would cause a governmental taking of private property; and (4) to the extent that the requirements of the bill conflict with a charter provision requiring the city to order an election within a period following receipt of a petition, the bill controls and the period during which the city must order the election is extended to the extent necessary to comply with the bill.

H.B. 2595 (Keffer)—(Passed the House, referred to Natural Resources & Economic Development, left pending in committee 5/19) relating to the use of municipal initiative and referendum to restrict property rights.

S.B. 360 (Estes)—Regulatory Takings (Referred to State Affairs as of 2/2/15): would make most city regulations subject to the Private Real Property Rights Preservation Act, which would: (1) waive sovereign immunity to suit and liability for a regulatory taking; (2) authorize a private real property owner to bring suit to determine whether the governmental action of a city results in a taking; (3) require a city to prepare a “takings impact assessment” prior to imposing certain regulations; and (4) require a city to post 30-days’ notice of the adoption of most regulations prior to adoption. The bill would also define a “taking” as: (1) a governmental action or series of actions within a 10-year period that: (a) affects private real property, in whole or in part or temporarily or permanently, in a manner that requires the governmental entity to compensate the private real property owner as provided by the federal or state constitutions; (b) affects an owner’s private real property that is the subject of the governmental action, in whole or in part or temporarily or permanently, in a manner that restricts or limits the owner’s right to the property that would otherwise exist in the absence of the governmental action, and is the cause of a reduction of at least 20 percent in the market value of the affected private real property; or (b) is the producing cause of at least a 20 percent reduction of revenue or income from the use or sale of the affected real private property, determined by comparing the revenue or income from the use or sale of the property as if the governmental action is not in effect and the revenue or income from the use or sale of the property determined as if the governmental action is in effect;
The bill would also: (1) remove numerous exceptions to the law that would otherwise exempt a city from the Act; (2) extend the statute of limitations for a claim under the Act from 180 days to two years; (3) change the current remedies in the Act to allow for a property owner to seek invalidation of the governmental regulation and money damages from the governmental entity that imposes the regulation; (4) a judgment or final decision or order under the Act shall include a fact finding that determines the monetary damages suffered by the private real property owner as a result of the taking, including, if the governmental action has ceased or has been rescinded, amended, invalidated, or repealed, the temporary or permanent economic loss sustained by the private real property owner while the governmental action was in effect; (5) require a city to give 30 days’ notice of any proposed ordinance or rule that could result in a taking of private real property; (6) provide that a court shall award a governmental entity that prevails in a suit or contested case filed under the Act reasonable and necessary attorneys’ fees and court costs, but only if the court determines that the private real property owner knew that the suit or contested case had no merit at the time the owner filed the suit; and (7) provide that a proposed governmental action that requires a takings impact assessment may be stayed by a court if an assessment is not prepared or if the assessment is not in compliance with guidelines developed by the attorney general under the Act.

PROFESSIONAL SERVICES

PROPERTY OWNERS’ ASSOCIATION

H.B. 745 (Bohac) – Property Owners’ Association (Effective 6/10/15): would: (1) authorize a property owners’ association (POA) to install a solar-powered light-emitting diode stop sign (See TRANSPORTATION BELOW)

PUBLIC IMPROVEMENT DISTRICTS

REDEVELOPMENT

RELIGIOUS FREEDOM

H.B. 1558 (Parker) – Overnight Shelters (Signed by the Governor on 6/10/15, effective 9/1/15): would: (1) prohibit a city from adopting an ordinance, or enforcing an existing ordinance, that prohibits a church from providing overnight shelter for children 17 years of age and younger; (2) provide that a city ordinance or regulation that relates to the safe and sanitary operation of a homeless shelter for children applies to a church that provides overnight shelter for children; and (3) authorize a city to adopt or enforce an ordinance establishing limits on the number of nights a child may use an overnight shelter provided by a church or on the number of children that can be housed in the shelter per night.

H.J.R. 55 (Villalba) – Freedom of Religion (Referred to State Affairs as of 3/03/15): would amend the Texas constitution to provide that government may not “burden in any way” a person’s free exercise of religion, unless the burden is: (1) necessary to further a compelling governmental interest; and (2) the least restrictive means of furthering that interest.

H.J.R. 125 (Krause) – Religious Freedom (Referred to State Affairs as of 3/23/15): would amend the Texas constitution to provide that government may not “burden in any way” a person’s free exercise of religion, unless the burden is: (1) necessary to further a compelling governmental interest; and (2) the least restrictive means of furthering that interest. ( Companion bill is H.J.R. 55 by Villalba.)

S.J.R. 10 (Campbell) – Freedom of Religion (State Affairs; Co-author authorized as of 4/13/15): would amend the Texas constitution to provide that: (1) government may not “burden” an individual’s or religious organization’s freedom of religion; (2) the right to act or refuse to act in a manner motivated by a sincerely held religious belief may not be burdened unless the government proves it has a compelling governmental interest and has used the least restrictive means to further that interest; and (3) a burden for purposes of (1) and (2), above, includes indirect burdens such as withholding benefits, assessing penalties, or denying access to facilities or programs.
RESIDENTIAL DEVELOPMENT

SEXUALLY ORIENTED BUSINESSES

H.B. 148 (Menendez)—Alcoholic Beverages/Sexually Oriented Businesses (Referred to Licensing & Administrative Procedures as of 2/9/15): would create a new “public consumption” alcoholic beverage permit to be administered by the Texas Alcoholic Beverage Commission and authorize various regulations for an establishment holding such a permit.

H.B. 3768 (Zedler)—Sexually Oriented Businesses (Referred to Licensing & Administrative Procedures as of 3/24/15): would: (1) create a state licensing scheme for sexually oriented businesses; and (2) provide that, to the extent of a conflict between the bill and a municipal or county regulation, the bill controls. (Companion bill is S.B. 1653 by L. Taylor.)

SIGNS

SPECIAL DISTRICTS

H.B. 2883 (Simmons) – Special Districts (Signed by the Governor on 6/19/15, effective immediately): would provide that a city that has created a crime control and prevention district or a fire control, prevention, and emergency medical services district may add territory to the district pursuant to an election called for that purpose.

H.B. 3097 (Paul) – Municipal Management Districts (Reported from Special Purpose Districts Committee as of 5/1/15): would impose various detrimental restrictions on municipal management districts.

STORMWATER AND DRAINAGE

H.B. 3340 (Bohac)—Floodplain Administrators (Natural Resource; Scheduled for public hearing on 4/22/15): would: (1) require a city to designate a floodplain administrator; (2) require that a floodplain administrator be accredited by the Texas Water Development Board (TWDB) according to standards established by the TWDB; and (3) require TWDB to establish mandatory continuing education or training of no less than 6 hours per year for accredited floodplain administrators.

H.B. 1662 (Sheets/Perry) - Municipal Drainage Service Charges (Effective immediately): allows a city to exempt property used for cemetery purposes from drainage charges if the cemetery is closed to new interments and does not accept new burials.

SUBDIVISION PLATTING

H.B. 2215 (Guillen) — Subdivision Regulations (Left pending in International Trade & Intergovernmental Affairs as of 3/30/15): would: (1) with some exceptions, require that before a civil enforcement action is filed against a subdivider under certain regulations related to subdivision platting requirements in counties near the international border that the subdivider be notified in writing about the alleged violation and given 90 days to cure the violation; (2) with some exceptions, require that before a civil enforcement action is filed against a subdivider under certain regulations related to subdivision platting requirements in certain economically distressed counties that the subdivider be notified in writing about the alleged violation and given 90 days to cure the violation; and (3) with some exceptions, require that before a civil enforcement action is filed against a subdivider under certain regulations related to economically distressed areas that the subdivider be notified in writing about the alleged violation and given 90 days to cure the violation.
TAX ABATEMENT

TAX INCREMENT FINANCING

H.B. 3827 (Elkins) — Tax Increment Financing (Referred to Ways & Means as of 3/24/15): would: (1) provide that a city ordinance designating a reinvestment zone must provide that the reinvestment zone terminates not later than the tenth anniversary of the date on which the ordinance is adopted; (2) provide that the term of all or any portion of a reinvestment zone may not be extended beyond the tenth anniversary of the date on which the ordinance designating the zone is adopted; (3) prohibit a city from designating a reinvestment zone if more than ten percent of the property in the proposed zone is used for residential purposes or the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds ten percent of the total appraised value of taxable real property in the city and in the industrial districts created by the city; (4) prohibit the board of directors of a reinvestment zone from adopting, and a city council from approving, and amendment to the project plan if the median appraised value of real property located in the zone equals or exceeds the median appraised value of taxable real property located outside the boundaries of the zone that is within the designating city’s corporate boundaries and extraterritorial jurisdiction; and (5) a city may not authorize tax increment bonds and notes unless approved by a majority of voters at an election. (Companion bill is S.B. 1220 by Bettencourt.)

S.B. 1220 (Bettencourt) — Tax Increment Financing (Public Hearing scheduled before Natural Resources & Economic Development on 5/5/15): would: (1) provide that a city ordinance designating a reinvestment zone must provide that the reinvestment zone terminates not later than the tenth anniversary of the date on which the ordinance is adopted; (2) provide that the term of all or any portion of a reinvestment zone may not be extended beyond the tenth anniversary of the date on which the ordinance designating the zone is adopted; (3) prohibit a city from designating a reinvestment zone if more than ten percent of the property in the proposed zone is used for residential purposes or the total appraised value of taxable real property in the proposed zone and in existing reinvestment zones exceeds ten percent of the total appraised value of taxable real property in the city and in the industrial districts created by the city; (4) prohibit the board of directors of a reinvestment zone from adopting, and a city council from approving, and amendment to the project plan if the median appraised value of real property located in the zone equals or exceeds the median appraised value of taxable real property located outside the boundaries of the zone that is within the designating city’s corporate boundaries and extraterritorial jurisdiction; and (5) a city may not authorize tax increment bonds and notes unless approved by a majority of voters at an election. (Companion bill is S.B. 1220 by Bettencourt.)

TRANSPORTATION

H.B. 20 (Simmons) — Transportation Planning (Signed by the Governor on 6/03/15, effective immediately): would, among other things: (1) create the Texas Department of Transportation’s state infrastructure advisory committee; (2) require the committee to prepare a report detailing the department’s collaboration with state elected officials, local governments, government trade associations, metropolitan planning organizations, regional mobility authorities, and other entities when adopting rules or formulating policies; (3) provide that the Texas Transportation Commission shall establish one or more stakeholder advisory committees to make recommendations to the commission or department before the adoption of a rule, policy, or procedure affecting the stakeholders; (4) mandate that the department work with all local transportation entities in the state to develop and adopt uniform guidelines governing the funding prioritization of the entities’ transportation projects; and (5) direct the commission to establish a project selection stakeholders advisory, which would include municipal officials. (Companion bill is H.B. 2685 by Simmons.) (This bill is identical to H.B. 2685.)

H.B. 745 (Bohac) — Property Owners’ Association (Effective 6/10/15) would: (1) authorize a property owners’ association (POA) to install a solar-powered light-emitting diode stop sign on a road, highway, or street in the POA’s jurisdiction if the POA receives the consent of the governing body of the political subdivision that maintains the road, highway, or street and the POA pays for the installation of the sign; and (2) require a property owners’ association that installs a sign described in (1), above, to maintain the sign.
H.B. 1738 (Isaac) – Highway Right-of-Way *(Effective 6/18/15)*: would authorize a city that has received a grant of highway right-of-way from the Texas Department of Transportation (TxDOT) that is subject to a reservation to enter into an agreement with TxDOT under which: (1) TxDOT agrees to recommend to the governor that an instrument releasing the reservation be executed and, if executed, record the instrument in the county deed records; and (2) the city, if the instrument releasing the reservation is executed, agrees to transfer the right-of-way to one or more landowners in exchange for real property that is of equal or greater value to use for public road purposes, and to execute and record in the county deed records a restrictive covenant that grants the real property to the state if the real property ceases to be used for public road purposes.

H.B. 2685 (Simmons) – Transportation Planning: this bill is identical to H.B. 20, above.

S.B. 1167 (Ellis) – Self-Driven Vehicles *(Left pending in Transportation as of 4/15/15)*: would allow autonomous, self-driven motor vehicles on state highways where: (1) the vehicles have certain systems and equipment; (2) the operator: (a) has an autonomous motor vehicle designation on her drivers license; and (b) is an employee, contractor, or designee of certain state agencies or an employee of the manufacturer; and (3) the vehicle is insured as required by state law.

SB 1717 (Ellis) – Safe Neighborhood Streets Bill *(Referred to Transportation as 03/23/15)*: would change the default speed limit on local, residential streets from 30 to 25 mph, both to safe lives by lowering the speed limit and to allow public works departments to design for safer streets intended for the new lower limit. As currently written, the bill applies statewide, but one of two options will most likely emerge if it makes it out of Committee: applying this only to the City of Houston or making it an option for all cities.

**TRANSPORTATION FUNDING**

**House Committee on Transportation**

**Charge:** Monitor the usage of state funds by the Texas Department of Transportation for improving road quality in areas impacted by Energy Sector activities.

**Recommendations:**

- Explore options to continue to provide funding for energy sector roads.
- Encourage TxDOT to continue working with local governments and citizens to meet transportation needs.
- Reexamine formulas used by TxDOT for the distribution of funds through TIF grants to ensure that funds appropriately target areas most impacted by energy sector activity.
- Ensure TxDOT has the resources needed to identify future areas of energy sector growth in order to take preventative maintenance measures resulting in overall cost savings.

**Charge:** Evaluate the status of passenger and freight rail in Texas, including a review of the structure and operations of the Rail Division of the Texas Department of Transportation. Encourage and monitor the continued efforts of TxDOT’s Rail Division.

**Recommendations:**

- Identify any necessary legislative authority to allow the Rail Division to effectively promote the needs of Texas’ rail system.
- Identify resources to fund the Rail Relocation Fund.

**Charge:** Monitor the implementation of the “Turn-Back Program” by the Texas Department of Transportation, specifically its fiscal impact to municipalities and taxpayers.

[Note: According to the report, “In January and February 2014, TxDOT met with members of the Texas Municipal League (TML) and the Texas Association of Metropolitan Planning Organizations (TEMPO); the result of these meetings was a memorandum of understanding (MOU) agreeing to a framework for accomplishing the goals of the Turn-Back Program. The MOU was executed by TxDOT, TML, and TEMPO in March 2014 and accepted by the Texas Transportation Commission at its March 2014 meeting. The major point of the MOU is that the Turn-Back Program is voluntary, and that no local government will be forced to assume responsibility for a state-owned roadway or be penalized for choosing not to participate.”]

**Recommendations:**
• The Committee would like to thank the local communities and entities that worked with TxDOT to resolve the confusion surrounding the Turn-Back Program and would encourage TxDOT and its local partners to continue to work together to find mutually beneficial ways to increase local mobility and efficiency.
• Any turn-back program should continue to be voluntary.
• Explore alternatives for enabling legislation to allow local governments to utilize funding mechanisms which would provide the means of increasing local mobility and efficiency.

House Select Committee on Transportation Funding, Expenditures & Finance

Charge: Review bonds issued for transportation, the Texas Emissions Reduction Plan Account, the comptroller’s allowance for motor fuels tax administration and enforcement, overweight/oversize vehicle permits, and state highway fund appropriations to agencies other than TxDOT.

Recommendations:
• Discontinue the issuance of bonds secured by the Texas Mobility Fund.
• Discontinue transfer from the State Highway Fund to the Texas Emission Reduction Plan Account.
• Eliminate the comptroller’s one percent allowance for motor fuels tax administration and enforcement.
• Redirect receipts from oversize/overweight permits to highway funding.
• Redirect receipts from commercial carrier registration to highway funding.
• Discontinue transfers from the State Highway Fund that are not rights-of-way acquisition, construction, or maintenance.

In November, Texas voters overwhelmingly approved Proposition 1, the ballot proposition related to additional state transportation funding. The legislation calling for the election was actually passed in 2013. In the third special session that year, two bills—S.J.R. 2 and H.B. 1—passed. The general idea of those two bills is to amend the Texas Constitution to divert some of the state’s oil and gas tax revenues from the “rainy day fund” for transportation purposes. The Texas Department of Transportation (TxDOT) prepared a detailed FAQ on the legislation, available at http://ftp.dot.state.tx.us/pub/txdot-info/sla/transportation-funding/proposition-faq.pdf. The amendment that ultimately passed provides for additional TxDOT funding annually. Essentially, the amendment takes a portion of the state’s oil and gas severance tax revenue that would have gone into the rainy day fund, and instead allocates some of that money to the State Highway Fund. That amount had been estimated at around $1.7 billion annually, but falling oil and gas prices may reduce that amount. While the additional funding is welcome, TxDOT has reported that it needs an additional $4 billion annually to keep up with the state’s transportation needs. The legislature in 2015 will likely consider a number of additional related proposals.

Senate Transportation Committee

Charge: Evaluate Texas Department of Transportation and metropolitan planning organization progress in reducing congestion on the 100 most congested roadway segments and make recommendations to advance the development of the remaining congestion relief projects.

Conclusion: With the expected growth in Texas’ population and funding challenges for many of the traditional solutions in Texas’ large metropolitan regions, congestion will worsen. There is a generally accepted path toward improvement. State and local transportation agencies must do a good job with the funding, policies, and priorities.

The Texas Department of Transportation, metropolitan planning organizations, metropolitan transit authorities, and private entities all pursue alternative congestion relief strategies; however, some challenges still remain. The legislature should continue to monitor the implementation of alternative congestion relief strategies, and further explore means to mitigate congestion on Texas’ 100 most congested roadways.

Senate Select Transportation Funding Committee

Charge: Review the current state of transportation funding expenditures and new methods to finance our future transportation needs.

Conclusion: The committee did not make any formal recommendations on new transportation funding measures, but rather it encourages the legislature to make a commitment to providing adequate funding for our aging and congested transportation system. There are numerous options available to the Legislature, including the following:
— Options Utilizing Existing Revenues: (1) the Texas Emissions Reduction Plan account is currently at $950 million and this money could be used for transportation projects; (2) end the “diversion” of gasoline tax to purposes other than transportation; and (3) use the revenue from the motor vehicle sales tax to fund transportation projects.
— Options Utilizing New Revenue: (1) index the gasoline tax to inflation; (2) increase the vehicle registration fee; and (3) add a drivers’ license surcharge fee to be used for transportation projects.

TML

H.B. 122 (Pickett) – Transportation Funding (Signed by the Governor on 6/10/15, effective immediately): would provide that: (1) debt obligations for state transportation needs may not be issued after January 1, 2015; and (2) the Texas Mobility Fund may be used to repay the principal and interest on bonds that have already been issued for state transportation needs.

H.B. 129 (Goldman) – Transportation Funding (Referred to Transportation as of 03/18/15): would allocate all motor vehicle sales tax proceeds to the state highway fund.

H.B. 151 (Guillen) – Transportation Funding (Referred to Ways & Means as of 2/9/15): would, among other things: (1) create a tax to be imposed on the number of vehicle miles traveled during a tax period by a motor vehicle subject to inspection; (2) define the tax period to be the 12 months between a vehicle’s inspection period; (3) provide a total exemption for vehicles that travel less than 5,000 miles in the tax period; (4) provide that the tax is equal to the difference between the following, rounded to the nearest whole dollar: (a) the number of miles traveled during the tax period multiplied by one cent; and (b) a credit as defined by the bill and representing motor fuels taxes paid by the owner of the vehicle; (5) direct the comptroller to establish a road construction account in the state highway fund and to deposit the revenue from the tax imposed by the bill to the credit of that account to be used only for the purpose of maintaining public roadways in this state.

H.B. 202 (Leach) – Transportation Funding (Referred to Transportation as of 03/18/15): would provide that: (1) in each state fiscal year beginning on or after September 1, 2018, the comptroller shall deposit to the credit of the state highway fund an amount of money that is equal to 50 percent of the money that is received from the motor vehicle sales tax and is remaining after the comptroller makes the required allocation to the property tax relief fund; and (2) the money allocated to the state highway fund may not be used for toll roads.

H.B. 373 (Simmons) – Transportation Funding (Left pending in Transportation as of 4/9/15): would provide that, beginning in increments in 2015 and completed in 2020, the net revenue derived from the state sales tax imposed on the sale of a motor vehicle sold in this state shall be deposited to the credit of the state highway fund.

H.B. 392 (McCLendon) – Transportation Funding (Transportation; Committee report sent to Calendars): would (1) authorize the commissioners court of a county to impose an additional fee, not to exceed $10, for registering a vehicle in the county; and (2) provide that the county may use the fee revenue only to fund a non-tolled transportation project that relieves congestion, improves safety, or addresses air quality.

H.B. 393 (McCLendon) – Transportation Funding (Transportation; Failed to receive affirmative vote in committee): would increase by $10 the motor vehicle registration fee for vehicles under 6,000 pounds.

H.B. 395 (McCLendon) – Transportation Funding (Referred to Ways & Means as of 2/19/15): would, among other things, raise the state’s gas tax from 20 to 30 cents per gallon and direct that the increase be deposited in the state highway fund.

H.B. 399 (Harless) – Transportation Funding (Referred to Transportation as of 3/18/15): would incrementally increase the state’s gas tax from 20 to 30 cents by 2018, and would thereafter index annual increases or decreases to the highway cost index. (See H.J.R. 48, below)
H.B. 401 (Harless) — Transportation Funding (Referred to Transportation as of 2/18/15): would in 2016 increase by $24.25 the motor vehicle registration fee for vehicles under 6,000 pounds and in 2017 increase the fee by an additional $25. (See H.J.R. 48, below)

H.B. 457 (McClendon) — Transportation Funding, Utilities and Environment (Left pending in Transportation as of 4/2/15): would allocate a certain amount of state revenue from the titling of motor vehicles to the Texas emissions reduction plan and the Texas rail relocation and improvement fund.

H.B. 469 (Metcalf) — Transportation Funding (Withdrawn from schedule as of 4/20/15): would provide that, beginning in increments in 2017 and completed in 2026, the revenue derived from the state sales tax imposed on the sale of a motor vehicle sold in this state shall be deposited to the credit of the state highway fund. (See H.J.R. 53, below.)

H.B. 1031 (Leach) — Roadway Funding (Referred to Transportation as of 3/04/15): would: (1) create the clean air roadway project account in the state's general revenue fund; (2) provide that the comptroller shall transfer certain funds collected for the Texas emissions reduction plan fund to the account; (3) provide that money in the account may be appropriated only to fund roadway projects designed to improve or prevent the deterioration of ambient air quality, but may not be appropriated to fund a toll road; and (4) the Texas Department of Transportation, in consultation with the Texas Commission on Environmental Quality, shall determine which roadway projects are eligible to be funded by money appropriated from the account.

H.B. 1081 (Paul) — Transportation Funding (Referred to Transportation as of 3/18/15): would provide that, in each state fiscal year beginning on or after September 1, 2017, the comptroller shall deposit to the credit of the state highway fund all money received from the state’s motor vehicle sales tax.

H.B. 1165 (Burkett) — Transportation Funding (Left pending in Transportation as of 4/9/15): would provide that administrative penalties and fines collected for violations of certain laws involving the operation of an overweight vehicle shall be deposited to the credit of the state highway fund.

H.B. 1370 (Phillips) — Transportation Funding (Left pending in Transportation as of 4/9/15): would provide that all net revenue derived from the tax on the sale of a motor vehicle sold in this state that exceeds the first $2.5 billion of that revenue coming into the treasury for a state fiscal year (excluding amounts previously dedicated to school property tax relief) shall be deposited to the credit of the state highway fund and may be appropriated only to: (1) construct, maintain, or acquire rights-of-way for public roadways other than toll roads; or (2) repay the principal and interest on general obligation bonds. (Companion bill is S.B. 5 by Nichols. See H.J.R. 91, below.)

H.B. 1432 (Howard) — Transportation Funding (Left pending in Transportation as of 4/9/15): would authorize Travis County to impose by commissioners court order an additional vehicle registration fee to fund certain transportation projects in the county.

H.B. 1652 (S. Turner) — Transportation Funding (Referred directly to s/c on Long-term Infrastructure Planning on 3/19/15): would provide that money in the state highway fund may be used only to improve the state highway system.

H.B. 1836 (Sanford) — Transportation Funding (Referred directly to s/c on Long-term Infrastructure Planning on 3/19/15): would provide: (1) that 10 percent of the state’s sales and use tax revenue be deposited in state highway fund; and (2) none of that revenue can be used for a toll road or a mass transit rail system.

H.B. 2686 (Shaheen) — Transportation Funding (Referred to Transportation as of 3/18/15): would: (1) allocate a portion of the state’s motor vehicle sales tax to the state highway fund; and (2) prohibit spending on toll roads, mass transit, or highway beautification projects.
H.B. 2737 (Capriglione)—Transportation Funding (Referred to Appropriations as of 3/18/15): would reallocate three-fourths of the state’s gas tax, and essentially all of the state’s liquid propane tax, to the state highway fund.

H.B. 3520 (Munoz)—Local Transportation Funding (Referred to Transportation as of 3/18/15): would provide that certain regional mobility authorities that collect certain overweight vehicle permit fees on certain roads shall give 25 percent of those fees to cities responsible for the maintenance of the roads.

H.B. 3634 (Reynolds)—Local Transportation Funding (Transportation; Scheduled for public hearing on 4/23/15): would provide that: (1) a city, by ordinance adopted by the governing body, may impose a tax of up to five cents on the sale of motor fuel sold in the city if imposition of the tax is approved at an election called for that purpose; (2) the comptroller shall collect and send to the city an amount equal to three-fourths of the taxes collected during that calendar quarter and deposit one-fourth of the taxes collected to the credit of the available school fund; and (3) a city may use net tax revenue received only for: (a) the construction, maintenance, repair, and rehabilitation of streets, roads, intersections, thoroughfares, and bridges located in the city; and (b) the purchase, installation, maintenance, and operation of traffic improvements, including signs, signals, and other mechanical, digital, or electronic traffic control devices, located in the city.

H.B. 13 (Pickett)—Transportation Funding (Passed Senate, House returned to Senate): would limit the authority of the Texas Transportation Commission to issue debt for transportation funding. In addition to many other things, the bill would also provide that: (1) the Texas Department of Transportation shall develop and implement, and the commission shall approve, a performance-based planning and programming process dedicated to providing the executive and legislative branches of government with indicators that quantify and qualify progress toward attaining all department goals and objectives established by the legislature and the commission; (2) the department shall work with all local transportation entities in the state to develop and adopt uniform guidelines governing the funding prioritization of the entities’ transportation projects; and (3) in making prioritization recommendations under (2), the department shall consider many factors, including the local contribution to be made to construct the project.

H.B. 3763 (Fletcher)—Transportation Funding (Referred directly to s/c on Long-term Infrastructure Planning on 4/02/15): would provide that: (1) the Texas Department of Transportation may establish an economic impact zone around a transportation project, subject to certification by the state’s Legislative Budget Board; (2) to the greatest extent practicable, the department shall collaborate with a city or county in which a zone will be located in establishing the zone; and (3) the comptroller shall transfer the incremental increase in sales tax in the zone as follows: (a) 20 percent to the credit of the state highway fund; and (b) the remainder to the credit of the general revenue fund.

H.B. 3825 (Fletcher)—Transportation Funding (Referred directly to s/c on Long-term Infrastructure Planning as of 4/02/15; Scheduled for public hearing in s/c on 4/20/15): would allocate a small percentage (7.5 percent after certain deductions) of the state’s oil and gas severance taxes to the credit of the state infrastructure fund.

H.J.R. 13 (Pickett)—Transportation Funding (Left pending in Transportation as of 3/26/15): would amend the Texas Constitution to provide that: (1) in each state fiscal year, the comptroller of public accounts shall deposit an amount equal to $3 billion of the total net revenue derived from the state sales and use tax to the credit of the state highway fund; (2) in addition to the deposit made under (1), the comptroller shall deposit an amount equal to two percent of the net revenue derived from the state sales and use tax to the credit of the state highway fund; and (3) revenue deposited to the credit of the state highway fund under the bill can be used only to: (a) construct, maintain, or acquire rights-of-way for public roadways other than toll roads; (b) repay the principal of and interest on certain state transportation debt.

H.J.R. 24 (Harless)—Transportation Funding (Referred to Transportation as of 3/24/15): would allocate most motor vehicle sales tax proceeds to the state highway fund.
H.J.R. 27 (Pickett) — Transportation Funding (Referred to Transportation as of 3/18/15): would amend the Texas Constitution to provide that: (1) subject to legislative allocation, appropriation, and direction, three-fourths of the net revenue from the motor fuel tax shall be used for the sole purpose of constructing and maintaining public highways; and one-fourth of the net revenue shall be allocated to school funding; and (2) for a biennium, the legislature may not appropriate funds derived from the revenue described (1), above, for a purpose other than acquiring rights-of-way or constructing or maintaining public roadways in an amount that exceeds the lesser of: (a) the total amount of those funds appropriated for a purpose other than acquiring rights-of-way or constructing or maintaining public roadways in the preceding biennium; or (b) the maximum amount that may be appropriated under (a), above, reduced by 20 percent from the preceding biennium if the estimate of anticipated revenue from all sources made in advance of the regular session for the biennium exceeds the total amount of revenue from all sources for the preceding biennium by more than three times the amount of the reduction.

H.J.R. 28 (Pickett) — Transportation Funding (Referred to Transportation as of 3/18/15): would amend the Texas Constitution to provide that the net revenue from motor vehicle registration fees and motor fuel taxes shall be used for the sole purpose of constructing and maintaining public highways, provided that one-fourth of that revenue remains allocated to public school funding. (Companion bill is S.J.R. 12 by Perry.)

H.J.R. 29 (Pickett) — Transportation Funding (Transportation; Committee report sent to Calendars 4/20/15): this bill is identical to H.J.R. 28, above.

H.J.R. 36 (Larson) — Transportation Funding (Referred to Transportation as of 3/18/15): would amend the Texas Constitution to provide: (1) that, subject to legislative appropriation, allocation, and direction: (a) three-fourths of the net revenue that is remaining after payment of all refunds allowed by law and expenses of collection that is derived from taxes on motor fuels and lubricants used to propel motor vehicles over public highways — and on new and used motor vehicle tires and new and used motor vehicle parts — shall be used for the sole purpose of constructing and maintaining public highways; and (b) one-fourth of the net revenue shall be allocated to the available school fund; and (2) certain limits on the amounts that may appropriated for those purposes each biennium.

H.J.R. 48 (Harless) — Transportation Funding (Referred to Transportation as of 3/18/15): would amend the Texas Constitution to provide that revenue from increases in the state sales tax on motor vehicles, state gas tax, and state registration fees must be credited to the state highway fund, which can be used only to plan, design, construct, and maintain nontolled highways. (See H.B. 399 and H.B. 401, above.)

H.J.R. 53 (Metcalf) — Transportation Funding (Referred to Transportation as of 3/18/15): would amend the Texas Constitution to authorize revenue from the state sales tax imposed on the sale of a motor vehicle to be deposited to the credit of the state highway fund. (See H.B. 469, above.)

H.J.R. 91 (Phillips) — Transportation Funding (Referred to Transportation as of 3/24/15): would amend the Texas Constitution to provide that all net revenue derived from the tax on the sale of a motor vehicle sold in this state that exceeds the first $2.5 billion of that revenue coming into the treasury for a state fiscal year (excluding amounts previously dedicated to school property tax relief) shall be deposited to the credit of the state highway fund and may be appropriated only to: (1) construct, maintain, or acquire rights-of-way for public roadways other than toll roads; or (2) repay the principal and interest on general obligation bonds. (Companion bill is S.J.R. 5 by Nichols. See H.B. 1370, above.)

H.J.R. 94 (Burkett) — Transportation Funding (Referred to Appropriations as of 3/17/15): would amend the Texas Constitution to provide that the legislature may, by a two-thirds vote of the members present in each house, appropriate amounts from the economic stabilization fund to: (1) retire state debt; (2) pay costs associated with a state of disaster declared by the governor; or (3) pay nonrecurring costs of infrastructure projects.

H.J.R. 114 (Shaheen) — Transportation Funding (Referred to Appropriations as of 3/23/15): would amend the Texas Constitution to provide that the net revenue from motor vehicle registration fees and motor
fuels tax shall be used for the sole purpose of constructing and maintaining public highways, provided that one-fourth of that revenue remains allocated to public school funding.

S.B. 5 (Nichols) — Transportation Funding *(Bill passed the Senate 3/4/15, House referred to Transportation on 4/15)*: would provide that all net revenue derived from the tax on the sale of a motor vehicle sold in this state that exceeds the first $2.5 billion of that revenue coming into the treasury for a state fiscal year (excluding amounts previously dedicated to school property tax relief) shall be deposited to the credit of the state highway fund and may be appropriated only to: (1) construct, maintain, or acquire rights-of-way for public roadways other than toll roads; or (2) repay the principal and interest on general obligation bonds. (See S.J.R. 5, below.)

S.B. 61 (Huffines) — Transportation Funding *(Referred to Finance as of 1/26/15)*: would provide that: (1) all of the revenue from the state gasoline and special fuels taxes be credited to the state highway fund; and (2) money deposited to the state highway fund may be used only for acquiring rights-of-way and constructing public roadways.

S.B. 139 (Perry) — Transportation Funding *(Bill passed the Senate 3/28/15, House referred to Transportation on 5/04)*: would provide that: (1) money that is required to be used for public roadways by the Texas Constitution or federal law and that is deposited in the state treasury to the credit of the state highway fund be used only: (a) to improve the state highway system; or (b) to mitigate adverse environmental effects that result directly from construction or maintenance of a state highway. (This bill would end “diversion” of state transportation money that is currently funding the Texas Department of Transportation.) (See S.J.R. 12, below.)

S.B. 184 (Schwertner) — Transportation Funding *(Referred to Finance as of 1/27/15)*: would end the diversion of state highway fund money that currently supports the Department of Public Safety. (See S.J.R. 15, below)

S.B. 321 (Hinojosa) — Transportation Funding *(Bill passed the Senate 4/22/15, House referred to Transportation on 4/30)* would modify the formula governing the transfer of money from the State Highway Fund to the Texas Emissions Reduction Plan Fund.

S.B. 341 (Huffines) — Transportation Funding *(Referred to Transportation as of 2/2/15)*: would provide that: (1) in each state fiscal year beginning on or after September 1, 2017, the comptroller shall deposit to the credit of the state highway fund all money that is received from the motor vehicle sales tax; and (2) money deposited to the credit of the state highway fund under this section may not be used for toll roads.

S.B. 579 (Watson) — Transportation Funding *(Referred to Transportation as of 2/23/15)*: would authorize Travis County to impose by commissioner’s court order an additional vehicle registration fee to fund certain transportation projects in the county.

S.B. 704 (Creighton) — Transportation Funding *(Referred to Transportation as of 2/25/15)*: would generally provide for a formula by which certain state revenue would be used to reduce the amount of state transportation debt.

S.B. 731 (Rodriguez) — Transportation Funding *(Referred to Transportation as of 3/02/15)*: would provide that the Texas Department of Transportation shall develop a transportation project grant program to make grants to a governmental entity located in a department district that is adjacent to the border between Texas and Mexico or a private entity that owns or operates an international port of entry between this state and the United Mexican States.

S.B. 906 (Hinojosa) — Transportation Funding *(Referred to Transportation as of 3/09/15)*: would increase from $10 to $20 the amount of the optional county vehicle registration fee used to fund a county’s road and bridge fund.
S.B. 1048 (Hall)—Transportation Funding (Referred to Transportation as of 3/11/15): would prohibit the Texas Department of Transportation, a local governmental entity, or another political subdivision of this state from using money provided by the Federal Transit Administration for a mass transit passenger rail project.

S.B. 1182 (Huffines)—Toll Roads (Transportation; Co-author authorized 3/30/15): would prohibit the use of any state transportation money for toll projects.

S.J.R. 5 (Nichols) – Transportation Funding (Signed in Senate and House on 6/01, filed with Secretary of State on 6/01, this will require a Constitutional Amendment to be voted on by Texas Voters on November 3, 2015) proposes an amendment to the Texas Constitution to provide that: (1) in each state fiscal year, the comptroller shall deposit to the credit of the state highway fund $2.5 billion of the net revenue derived from the imposition of the state's general sales and use tax that exceeds the first $28 billion of that revenue coming into the treasury in that state fiscal year (until 2032); (2) in each state fiscal year, the comptroller shall deposit to the credit of the state highway fund an amount equal to 35 percent of the net revenue derived from the motor vehicle sales tax that exceeds the first $5 billion of that revenue coming into the treasury in that state fiscal year (until 2029); (3) money deposited to the credit of the state highway fund under the bill may be appropriated only to construct, maintain, or acquire rights-of-way for public roadways other than toll roads or to repay the principal of and interest on general obligation bonds; (4) the legislature by adoption of a resolution approved by a record vote of two-thirds of the members of each house may direct the comptroller to reduce the amount of money deposited to the credit of the state highway fund under the bill, except that the comptroller may be directed to make that reduction only: (a) in the state fiscal year in which the resolution is adopted, or in either of the following two state fiscal years; and (b) by an amount or percentage that does not result in a reduction of more than 50 percent of the amount that would otherwise be deposited to the fund; and (5) the legislature by adoption of a resolution approved by a record vote of a majority of the members of each house of the legislature may extend the 2032 and 2029 deadlines in (1) and (2), above, in 10-year increments. (See S.B. 5, above.)

S.J.R. 12 (Perry) — Transportation Funding (Bill passed the Senate 4/28/15, House referred to Transportation on 5/04): this bill is identical to H.J.R. 28, above.

S.J.R. 15 (Schwertner) — Transportation Funding (Finance; Scheduled for public hearing on 4/21/15): would provide that three-quarters of the state’s motor vehicle registration fees and the state’s gas tax shall be credited to the state highway fund to be used only for the purpose of constructing and maintaining public highways. (See S.B. 184, above.)

S.J.R. 42 (Huffines) — Transportation Funding (Referred to Finance as of 03/11/15): would amend the Texas Constitution to provide that the net revenue from motor vehicle registration fees and motor fuels tax shall be used for the sole purpose of constructing and maintaining public highways, provided that one-fourth of that revenue remains allocated to public school funding.

S.J.R. 62 (Nichols) — Transportation Funding (Transportation; Committee report printed and distributed on 4/20/15): would provide that several fee, toll, and sale revenues to the state shall be used for construction of state roads, other than toll roads.

TRANSPORTATION REINVESTMENT ZONES

TREES

H.B. 1442 (Workman) — Tree or Vegetation Removal (Business and Industry on 3/04): would provide that a city, county, or other political subdivision may not enact or enforce any ordinance, rule, or other regulation that restricts the ability of a property owner to remove a tree or vegetation on the owner’s property that the owner believes poses a risk of fire to a structure on the property or adjacent property, with certain exceptions.
UTILITIES

H.B.946 (Workman) — Utility Towers (Reported from House Committee on Agriculture and Livestock): would: (1) provide that a tower that is at least 50 feet but not more than 200 feet in height above ground level: (a) must be painted in equal alternating bands of aviation orange and white; (b) must have aviation orange marker balls; and (c) may not be supported by guy wires unless the wires have a seven foot safety sleeve; (2) make it a misdemeanor offense to own, operate, or erect a tower in violation of (1), above; (3) except from the requirements in (1), above: (a) a tower that supports an electric utility transmission or distribution line; (b) a facility licensed by the Federal Communication Commission or any structure with the primary purpose of supporting telecommunications equipment; (c) a wind-powered electrical generator with a rotor blade radius greater than six feet; or (d) a traffic control signal erected or maintained by the Texas Department of Transportation; and (4) authorize the Texas Department of Transportation to adopt certain rules, including rules requiring a person who owns, operates, or erects a tower to provide notice to the department of the existence of or intent to erect a tower and to register the tower with the department. (Companion bill is S.B. 505 by Perry)

H.B. 3916 (Strickland) — Water and Electric Utility Service (Referred to State Affairs as of 3/23/15): would prohibit a city from providing water or electric utility service to a federal data collection and surveillance agency or to the property of a facility used to support a federal data collection and surveillance agency.

S.B. 253 (Ellis) — Environmental Justice Communities (Natural Resources & Economic Development; Co-author authorized as of 3/18/15): would: (1) require a person applying for a permit for a new facility that requires approval from Texas Commission on Environmental Quality (TCEQ) or the expansion of such a facility to submit to the TCEQ a report stating whether the facility is to be located in an environmental justice community; (2) require a facility in an environmental justice community to consult with the mayor in the city in which the facility is to be located; (3) require a permit applicant to publish notice of and hold a public hearing to provide information on the potential environmental impacts of the facility; and (4) allow a city and an owner or developer of an affecting facility to enter into a community environmental benefit agreement.

S.B. 505 (Perry) — Meteorological Evaluation Utility Towers (Signed by the Governor on 5/19, effective 9/1 - apparently the final wording clarified that it was only “meteorological towers”) provides that: (1) a meteorological evaluation tower as defined by the bill that is at least 50 feet but not more than 200 feet in height above ground level: (a) must be painted in equal alternating bands of aviation orange and white, beginning with orange at the top of the tower; (b) must have aviation orange marker balls installed and displayed in accordance with the certain Federal Aviation Administration requirements; and (c) may not be supported by guy wires unless the guy wires have a seven-foot-long safety sleeve at each anchor point that extends from the anchor point along each guy wire attached to the anchor point and (3) the Texas Department of Transportation shall adopt rules to implement and administer the bill, including rules requiring a person: (a) who owns, operates, or erects a meteorological evaluation tower to provide notice to the department of the existence of or intent to erect a meteorological evaluation tower; and (b) to register the meteorological evaluation tower with the department. provide that a tower that is at least 50 feet but not more than 200 feet in height above ground level: (a) must be painted in equal alternating bands of aviation orange and white; (b) must have aviation orange marker balls; and (c) may not be supported by guy wires unless the wires have a seven foot safety sleeve; (2) make it a misdemeanor offense to own, operate, or erect a tower in violation of (1), above; (3) except from the requirements in (1), above: (a) a tower that supports an electric utility transmission or distribution line; (b) a facility licensed by the Federal Communication Commission or any structure with the primary purpose of supporting telecommunications equipment; (c) a wind-powered electrical generator with a rotor blade radius greater than six feet; or (d) a traffic control signal erected or maintained by the Texas Department of Transportation; and (4) authorize the Texas Department of Transportation to adopt certain rules, including rules requiring a person who owns, operates, or erects a tower to provide notice to the department of the existence of or intent to erect a tower and to register the tower with the department. (Companion bill is H.B. 946 by Workman.)
VESTING

H.B. 1472 (Workman)—Permit Vesting (Referred to Land & Resource Management as of 3/05/15): would provide that: (1) the attorney general may bring an action to enforce Chapter 245 of the Local Government Code (the “Permit Vesting” Statute); and (2) a city that violates that chapter is liable for actual damages and attorney’s fees. (Note: Current law authorizes enforcement only through mandamus, declaratory relief, or injunction.)

H.B. 3876 (Workman)—Permit Vesting (Referred to Urban Affairs as of 3/24/15): would provide, in relation to the permit vesting statute (Chapter 245, Local Government Code) that: (1) a fee imposed by a regulatory agency to review an application for determination of the applicability of the statute to the applicant’s project may not exceed $250; (2) a permit applicant may request mandatory mediation regarding any regulatory agency determination that this chapter does not apply to the applicant's project; and (3) a political subdivision that has been found by a court to have violated the statute is liable for the permit applicant's attorney's fees and administrative and court costs and the applicant's portion of the cost of any mediation that did not result in an agreement.

WATER DISTRICTS

ZONING
The House Committee on Land and Resource Management issued its interim report in January. One of the recommendations was to “Reintroduce legislation from the last session that would allow a county commissioners court to overturn a city’s zoning decisions.” Obviously this would be detrimental to cities.

H.B. 132 (Flynn)—Agriculture (Referred to Urban Affairs as of 2/12/15): would provide that: (1) a city may not adopt regulations that interfere with a person’s right to engage in agriculture; and (2) the attorney general may bring an action in a district court in the name of the state to obtain a temporary or permanent injunction against a city adopting a regulation in violation of the bill.

The Texas Legislative Service was founded in 1924 under the motto "Nulla Lex Sine Luce" which translated means "No law without light"……From their website.