Bill filing for 2017 legislative session began on November 14, 2016 and a new record was set for most bills “pre-filed” on first day. (Around 500 bills) Legislative bill filing was basically complete as of March 10th. As of that deadline, approximately 5200 House bills and 2700 Senate bills had been filed for a total of over 8,000 bills (the second most in history). (Compared to 6,476 in 2015). TML tracked a whopping 1300+ bills that would affect cities, more than 80% of them negatively.

A total of 401 planning and development related bills were tracked by TXAPA/TML in the regular session. Of those, 43 (9%) were either signed by the Governor or not vetoed to become law September 1. 14 (3%) of the total were bad for cities and 12 (3%) were good. The rest were “neutral” and not determined to be negative.

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

Bold red heading is a bill that was determined by TXAPA or TML to be detrimental to cities in their regulation of development. Green heading is generally beneficial to cities. Other bills listed were still important to cities and individual cities reviewed as to their support. Strike outs were bills that did not become law. Bills listed as (1HB ## or 1SB ##) were introduced in the Special Session. Note, the 1 is our notation for 1st Special Session to avoid confusion and the R is for refiled from the regular legislative session. For the status of any bill or to find the text go to the Texas Legislature Online Home Page http://www.capitol.state.tx.us/Home.aspx

**TXAPA’s Dirty Dozen** - Worst Legislation affecting planning, growth & development of cities

1. **Annexation** – HB 299 (Larson), HB 424 (Huberty), SB 715 (Campbell) (HB 299 & HB 424 – rewrites statutes and severely curtail rights of cities to annex
2. **Payday Lending** HB 3508 (Neave) – will preempt all city payday lending ordinances
3. **ESD’s** – HB 3074 (E.Rodriguez) – requires sales tax to be paid to ESD’s in addition to debt upon annexation or removal from ESD by City
4. **Historic Zoning** – HB 3418 (Elkins) – restricts historic zoning, speeds up demolition, requires ¾ vote of both P&Z and Council
5. **Manufactured Homes** - HB 1852 (Lucio) – SB 1248 (Buckingham) –Manufactured Homes (5/30 Sent to the Governor) - severely limits non-conforming regulation enforcement and prohibits regulation of less than 4 spaces as a park
6. **Property rights/zoning/vesting** – HB 3787 (Bell) – cannot enforce new regulation after 9.1.2017 if it was not in effect when owner bought property
7. **Short Term Rentals** – HB 2551 (Krausea), SB 451 (Hancock) – would preempt city’s authority to regulate short term rentals
8. **Billboards/TXDOT** – HB 405 (Villalba) if City regulations do not allow relocation of billboard acquired by TXDOT, City has to pay (in ETJ also)
9. **TIRZ’s** – **SB 1765 (Garcia)** – extremely onerous, only allows for 10 yr term w/no extensions and has retroactive provisions

10. **Commuter Rail** – **HB 4160 (Pickett) SB 385 (Burton)** – may not accept funding including TXDOT or Fed for construction, operation or maintenance of commuter rail w/o citywide election. Not clear if operation fund req. is retroactive

11. **Trees** – **HB 1572 (Workman), HB 2052 (Phelan), HB 2535 (Zedler), SB 744 (Kolkhorst)** – Tree Mitigation Fees (5/27 Sent to the Governor), SB 782 (Campbell), SB 898 (Bettencourt), SB 1082 (Burton), —same theme, trees are private property, cannot be prohibited from being trimmed or removed, limits mitigation fees (amazingly similar wording)

12. **Wireless** free use of ROW – **HB 2838 (Geren), SB 1004 (Hancock, Bettencourt authorized as co-author)** – Small Cellular Network Deployment (As expected, 5/27 Amended version sent to the Governor), SB 515 (Hancock) (worst of the 3) – well funded efforts to curtail or eliminate cities ability to permit and/or charge for use of ROW by wireless providers with poles (some requests for poles 75 ft. in height in residential areas have been seen)

(Also keep an eye on) 13. Low Income Housing Tax Credits, **HB 616 Leach** – eliminates City support requirement

______________________________________________________________________________

**AFFORDABLE HOUSING**

**HB 1449 (Simmons)** – New Construction Fees (Effective 5.29): would: (1) prohibit a political subdivision from adopting or enforcing an ordinance, order, policy or other measure that imposes, directly or indirectly, a fee or other charge on new construction for purposes of offsetting cost or rent of any unit of residential housing; and (2) except from (1) a fee for granting an exemption or waiver from a zoning-related height restriction on a structure. (See also Zoning)

**SB 1238 (Rodriguez)** – Low Income Housing (Effective 6.12): would make certain at-risk developments eligible to receive low income housing tax credits.

**AGENDA 21, RELATED “ANTI-PLANNING LEGISLATION”**

**ALCOHOLIC BEVERAGES**

**HB 256 (Hernandez)** – Nuisance Abatement (Effective 9.1): would add city attorneys to list of individuals authorized to sue in name of state to enjoin common nuisance of selling, bartering, manufacturing, storing, possessing or consuming an alcoholic beverage in a room, building, boat, structure, or other place in violation of Texas Alcoholic Beverage Code.

**SB 371 (Watson)** – Alcoholic Beverage Licenses (Effective 9.1): would: (1) prohibit a county judge from refusing to approve an application for a license as a distributor or retailer if premises on which beer is to be sold for on-premises consumption does not have: (a) running water, if it is available; or (b) separate free toilets for males and females, properly identified, on premises for which license is sought or, if premises is a restaurant that derives less than 50 percent of its gross revenue from sale of alcohol, is 2,500 square feet or less, and has an occupancy rating of 50 persons or less, at least one toilet, properly identified, on premises for which license is sought or, if premises is a restaurant that derives less than 50 percent of its gross revenue from sale of alcohol, is 2,500 square feet or less, and has an occupancy rating of 50 persons or less, at least one toilet, properly identified, on premises for which license is sought; and (2) prohibit Texas Alcoholic Beverage Commission or administrator from suspending for not more than 60 days or cancelling an original or renewal retail dealer’s on- or off-premise license if it is found, after notice and a hearing, that licensee does not have at licensed premises: (a) running water, if it is available; and (b) separate free toilets for males and females, properly identified, on premises for which license is sought or, if premises is a restaurant that derives less than 50 percent of its gross revenue from sale of alcohol, is 2,500 square feet or less, and has an occupancy rating of 50 persons or less, at least one toilet, properly identified, on premises for which license is sought. (Ed. Note – Not sure about sale of alcoholic beverages with no running water on premises)
ANNEXATION, DEVELOPMENT, STRATEGIC PARTNERSHIP AGREEMENTS

1SB 6 (Campbell/Buckingham/Schwertner) - Annexation.  **Signed by Governor, effective December 1**  As passed, this bill would completely rewrite the Municipal Annexation Act to severely curtail the ability of cities to annex property - 57 pages of convoluted Chapter 43 amendments that labels counties with less than 500,000 population as “Tier 1” and counties with more than 500,000 population as “Tier 2” counties. Cities in “Tier counties are “Tier 1 Municipalities” and those in Tier 2 counties are “Tier 2” Municipalities. Last minute amendment allows the voters of a Tier 1 county to force it to become a Tier 2 county with no involuntary annexation by either a vote of more than 50% or by a petition of more than 10% of the registered county voters. It deals with annexing by Tier 1, Tier 2 and general law cities with such diverse subjects as buildings with retail sales, military bases, solid waste facilities, navigable streams, etc., etc. It expands the public hearings and annexation process for everyone. More importantly, Tier 2 cities, including cities annexing into a Tier 2 County, must not only obtain more than 50% of the property owners signatures requesting annexation but most also put it to a vote of the entire community. Net effect is to stop annexation in Tier 2 Counties and by Tier 2 Municipalities. However, this also has numerous provisions, some of which apply to all cities including general law cities so the engrossed text should be examined at [http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB6](http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB6)

According to TML, the amended SB 6 version that was engrossed had the following changes:

Generally, the bill would provide that:

1. A “Tier 1 county” means a county with a population of less than 500,000.
2. A “Tier 2 county” means a county with a population of 500,000 or more.
3. A “Tier 1 city” means a city wholly located in one or more tier 1 counties that proposes to annex an area wholly located in one or more tier 1 counties.
4. A “Tier 2 city” means a city: (a) wholly or partly located in a tier 2 county; or (b) wholly located in one or more tier 1 counties that proposes to annex an area wholly or partly located in a tier 2 county.
5. A tier 2 city is authorized to 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.
6. A tier 2 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 more than 50 percent of the registered voters of the area, or if the voters don’t own more than 50 percent of the land in the area, the petition must be signed by the owners of more than 50 percent of the land in the area.
7. A city may annex for full or limited purposes any part of the area located within one-half mile of the boundaries of a military base in which an active training program is conducted only if the city and the military base enter into a memorandum of agreement to establish provisions to maintain the compatibility of the city’s regulation of land in the area with the military base operations following the annexation.

All cities in the following counties and cities located in adjacent tier 1 counties that have a portion of their city in a tier 2 county will be required to have some type of petition or election process to annex property (residential, non-residential or developing raw land). County population in order from 2010 census [https://www.tsl.texas.gov/ref/abouttx/popcnty32010.html](https://www.tsl.texas.gov/ref/abouttx/popcnty32010.html)

<table>
<thead>
<tr>
<th>County</th>
<th>Population</th>
</tr>
</thead>
<tbody>
<tr>
<td>Harris County</td>
<td>4,092,459</td>
</tr>
<tr>
<td>Dallas County</td>
<td>2,368,139</td>
</tr>
<tr>
<td>Tarrant County</td>
<td>1,809,034</td>
</tr>
<tr>
<td>Bexar County</td>
<td>1,714,773</td>
</tr>
<tr>
<td>Travis County</td>
<td>1,024,266</td>
</tr>
<tr>
<td>El Paso County</td>
<td>800,647</td>
</tr>
<tr>
<td>Collin County</td>
<td>782,341</td>
</tr>
<tr>
<td>Hidalgo County</td>
<td>774,769</td>
</tr>
<tr>
<td>Denton County</td>
<td>662,614</td>
</tr>
<tr>
<td>Fort Bend County</td>
<td>585,375</td>
</tr>
</tbody>
</table>
BUILDING, HEALTH AND FIRE CODES/INSPECTION

HB 1463 (Smithee) – Americans with Disabilities Act (Effective 9.1) would: (1) require a person seeking a claim for relief under Americans with Disability Act (ADA) to first notify respondent of intent to file claim; (2) give a respondent who has received a notice in (1) right to correct alleged violation, and provide for related notice and judicial proceedings regarding corrections; and (3) prohibit a person from providing a notice of intent to file an ADA claim in bad faith and authorize attorney general to enforce this prohibition through injunctive and other relief such as civil penalties and restitution.

HB 1468 (S. Thompson) – Artificial Swimming Lagoons: (Effective 6.15) would: (1) add “artificial swimming lagoon” to Health and Safety Code regulations governing swimming pools; (2) define “artificial swimming lagoon” as an artificial body of water open to public for recreational purposes with more than 20,000 square feet of surface area, an artificial liner, and a disinfection system; and (3) allow a city to require a permit and inspect an artificial swimming lagoon. (Companion bill is SB 733 by Hancock.)

HB 3329 (Paddie) – Electricians (Effective 9/1): would provide that a city may not collect a permit fee, registration fee, administrative fee, or any other fee for work performed in a city by an electrician who holds a state license. (Companion bill is SB 1797 by Campbell.) Editor’s Note: Cities are already receiving comments from electricians about becoming contractors and, relying on this statute, applying for other building permits without having to pay any fees for a project. The bill specifically states: “This subsection does not prohibit a municipality or region from collecting a building permit fee.”

CODE ENFORCEMENT

HB 240 (Hernandez) – Nuisance Abatement (Effective 9.1) would, in regard to a suit to abate a common nuisance, provide that proof that that massage therapy or other massage services occur at a place not licensed for that purpose is prima facie evidence that defendant knowingly tolerated activity and place is habitually used for activity. (See also sexually oriented businesses)

HB 2386 (Bailes) – Outdoor Burning (Effective 9.1): would allow a person to burn outdoor waste under the supervision of a volunteer firefighter. (Companion bill is SB 1064 by Nichols.)

HB 3907 (Frullo) – Fireworks (Effective 6.1) would: (1) if authorized under state law, give a local fire prevention officer authority to inspect a retail fireworks site, and enact certain limitations on related fees; (2) provide that a “local fire prevention officer” under (1) means a county fire marshal or, in some instances, a fire prevention officer of an emergency service district; and (3) require the building of an indoor retail fireworks site be a free-standing single-tenant durable building that prevents customers from handling fireworks. (Companion bill is SB 1896 by Perry.)

HB 4007 (Kuempel) – Occupational Regulation (Effective 9.1) makes changes to the licensing and regulation of various occupations and would: (1) in regard to code enforcement officers, repeal: (a) the criminal penalty for violating the prohibition against a person claiming to be a code enforcement officer or using the title “code enforcement officer” when the person does not have a certificate of registration; and (b) administrative penalties for a violation of the licensing laws related to code enforcement officers; and (2) in regard to sanitarians, repeal: (a) the criminal penalty for violating the prohibition against a person claiming to be a sanitation when the person does not have a certificate of registration; and (b) administrative penalties for a violation of the licensing laws related to sanitarians.

SB 1049 (Uresti) – Assisted Living Facilities (Effective 9.1) would: (1) require the Health and Human Services Commission (commission) to issue a technical memorandum providing guidance on the minimum life safety code standards for assisted living facilities, and provide that the memorandum is legally binding and must be followed by a person conducting a life safety code survey; (2) authorize a city fire marshal to grant a waiver for a violation of a life safety requirement or fire safety standard cited in an official statement of violation from the commission provided that the waiver will not have any adverse effect on the safety of the residents in the assisted living facility; (3) require the commission to specify an edition of the Life Safety Code of the National Fire Protection Association to be used for assisted living facilities; and (4) require the commission to recognize a
certificate of occupancy or other approval issued by a city or county indicating that a structure complies with all building, fire, and health requirements of the city or county.

**COMPREHENSIVE PLANS**

**COUNTY/RURAL AUTHORITY/OLONIAS**

**CREDIT ACCESS BUSINESS/PAYDAY/AUTO TITLE LENDING**
(Also see "Payday Lending Clearinghouse" webpage, available at www.tml.org/payday-updates)

**HB 2008 (Cosper) – Payday Lending** (Effective 9.1) would require a lender who engages in a payday loan transaction with a member of United States military or dependent of a member of United States military to comply with relevant federal laws pertaining to loans for military personnel and their dependents.

**ECONOMIC DEVELOPMENT/REDEVELOPMENT**

**HB 2004 (C. Anderson) – State Economic Development Fund** (Effective 6.9) would allow Department of Agriculture to use Texas economic development fund to administer, continue, implement, or maintain an economic development program established through an agreement with a local governmental entity to encourage rural economic development in this state.

**HB 3045 (Dale) – Economic Development Corporations** (Effective 6.15) would authorize a city to hold an election to reduce or increase the sales tax rate for a Type B economic development sales tax.

**EMERGENCY MANAGEMENT/DISASTER RECOVERY**

**EMERGENCY SERVICE DISTRICTS (ESD’s)**

**EMINENT DOMAIN**

**ENVIRONMENT**

**SB 1045 (Estes) – Air Quality Permits** (Effective 9.1) would allow an applicant for an air quality permit to combine the notice of intent and notice of preliminary decision into one notice, if: (1) before the 16th day after the application is received, the TCEQ determines the application to be administratively complete; and (2) the preliminary decision and draft permit are available at the time of the TCEQ’s determination.

**EXTRA-TERRITORIAL JURISDICTION (ETJ)**

**HB 1584 (T. King) – Solid Waste Collection** (Effective 9.1) would authorize a county to regulate solid waste collection, handling, storage, and disposal in ETJ of a city, regardless of whether city consents to regulation.

**GAMBLING**

**GRANTS, FUNDING AGENCIES**

**GROUP HOMES/HALFWAY HOUSES**

**HISTORIC**
HOME RULE AUTHORITY

SB 1289 (Creighton) – U.S. Steel (Effective 9.1) (1) the uniform general conditions for a construction project, including a city project, in which iron or steel products will be used must require that the bid documents provided to all bidders, and the contract, include a requirement that any iron or steel product used in the project be produced in the United States; (2) a governmental entity may decide not to use iron or steel products produced in the United States if the products are not: (a) produced in sufficient quantities; (b) reasonably available; or (c) of a satisfactory quality; and (3) a governmental entity may decide not to use iron or steel products produced in the United States if the use will increase the total cost of the project by more than 20 percent. (Companion bill is HB 2780 by Paddie).

HOMEOWNER ASSOCIATIONS (See Property Owner Associations)

HOUSING

IMPACT FEES

MANUFACTURED HOUSING/INDUSTRIALIZED BUILDINGS/RV PARKS

HB 2019 (T. King) – Manufactured Housing (Effective 9.1) would make various amendments to Texas Manufactured Housing Standards Act, including exemptions of lease-purchase.

SB 1248 (Buckingham) – Manufactured Homes (Effective 9.1): would: (1) prohibit a city from requiring “a change in nonconforming use” of any portion of land within a manufactured home community if nonconforming use of land is: (a) authorized by law; or is not authorized by law on September 1, 2017, but city has taken no action to enforce violation before September 1, 2017; and (b) at least 50% of lots are occupied by a manufactured home as a residence; (2) define “a change in nonconforming use” to include: (a) requiring amount of land designated as a nonconforming use to be decreased; (b) imposing an expiration on nonconforming use designation; (c) declaring nonconforming use of land to be abandoned; and (d) requiring an amortization period for nonconforming use of land; (3) authorize a manufactured home owner to install a new or used manufactured home on a lot in a manufactured home community under certain circumstances; and (4) prohibit a city from regulating a tract or parcel of land as a manufactured home community, park, or subdivision unless tract or parcel contains at least four spaces offered for lease for installing and occupying manufactured homes. Companion bill HB 1852 by Lucio.

MILITARY BASES, CONVERSIONS

SB 377 (Campbell) – Wind Energy (Effective 5.29) would, among other things, provide that a city may not enter into a tax abatement agreement for property where a wind-powered energy device is installed or constructed if property is located within 30 nautical miles of boundaries of a military aviation facility in Texas. (Note: after discussing with representatives of executive board, it was determined that this would be a “sustainable” planning practice and TXAPA would support but individual cities may want to review legislation for their own position)

SB 751 (Campbell) – Military Base Realignment and Closure Task Force (Effective 9.1) would provide that any information written, produced, collected, assembled, or maintained by Military Base Realignment and Closure Task Force is confidential and exempt from disclosure under Public Information Act.
MINERAL RIGHTS

MUNICIPAL UTILITY DISTRICTS

OIL, GAS AND PIPELINES, GAS WELLS

PRIVATE PROPERTY RIGHTS (Also Regulatory Takings)

OPEN MEETINGS/PUBLIC INFORMATION/NOTICE

HB 53 (Romero) – Settlement (Effective 9.1) would: (1) prohibit a city or other governmental unit from entering a settlement of a claim or action if: (a) the settlement is equal to or more than $30,000; and (b) a settlement condition requires a party seeking relief against the governmental unit to agree not to disclose to facts, allegations, evidence, or other matters; and (2) limit the admissibility of certain evidence relating to settlement negotiations. Companion bill SB 1463 (Huffman)

SB 79 (Nelson) – Public Information (Effective 9.1) would provide that an officer for public information for a governmental body complies with production of public information by referring a requestor to an exact Internet location or URL address on governmental body’s website if requested information is identifiable and readily available on that website.

SB 1440 (Campbell) – Open Meetings (Effective 9.1) The term “meeting” would not include the gathering of a quorum of a governmental body at a…. “candidate forum, appearance, or debate to inform the electorate, if formal action is not taken and any discussion of public business is incidental to the social function, convention, workshop, ceremonial event, [or] press conference, forum, appearance, or debate.” This bill is the same as HB 3394 by Romero.

PAYDAY/AUTO TITLE LENDING (see Credit Access Business – name they prefer)

PARKS AND OPEN SPACE

PROFESSIONAL SERVICES

PROPERTY OWNERS’ ASSOCIATION

PUBLIC IMPROVEMENT DISTRICTS

REDEVELOPMENT

RELIGIOUS FREEDOM/LAND USE

RESIDENTIAL DEVELOPMENT

ROUGH PROPORTIONALITY

SEXUALLY ORIENTED BUSINESSES

HB 240 (Hernandez) – Nuisance Abatement (Effective 9.1) in regard to a suit to abate a common nuisance, provide that proof that massage therapy or other massage services occur at a place not licensed for that purpose is prima facie evidence that defendant knowingly tolerated activity and place is habitually used for activity. (See also Code Enforcement)
SHORT TERM RENTALS

SIGNS

SB 2006 (Watson) – Signs regulated by the Texas Department of Transportation (Effective 6.15) (1) replace references to “outdoor advertising” and “off-premise sign” with the term “commercial sign” and define the term “commercial sign” to mean a sign that is intended to be leased, or for which payment of any type is intended to be or is received, for the display of any good, service, brand, slogan, message, product, or company; (2) adopt wind load pressure requirements and height restrictions for commercial signs; (3) adopt spacing requirements for commercial signs, including: (a) a requirement that a commercial sign located in a city on a primary system freeway not be closer than 500 feet to another commercial sign that is on the same side of the highway and inside the city boundaries; and (b) a requirement that a commercial sign inside a city on a non-freeway primary system highway not be closer than 750 feet to another commercial sign that is on the same side of the highway in an unincorporated area or 300 feet to another commercial sign on the same side of the highway inside city’s corporate boundaries (Note: Bill may be an attempt to address the holding in Auspro v. Texas Dep’t of Transportation.)

SPECIAL DISTRICTS, TRUSTS

SB 2014 (Creighton) – Special Districts (Effective 9.1) would provide, among other things, that: (1) the Texas Commission on Environmental Quality may approve the creation of a special district that includes any portion of the land covered by the city’s consent to creation of the district; and (2) the legislature may create and may validate the creation of a district that includes any portion of the land covered by the city’s consent to the creation of the district. (Note: Cities that frequently have special districts created in their ETJ should carefully review this bill.)

STORMWATER AND DRAINAGE

HB 2252 (Faircloth) – Coastal Barrier System (Effective 9.1) would provide that the legislature shall establish a joint interim committee to continue to study the feasibility and desirability of creating and maintaining a coastal barrier system in this state that includes a series of gates and barriers to prevent storm surge damage to gulf beaches or coastal ports, industry, or property. (Companion bill is SB 1000 by Taylor.)

SUBDIVISION PLATTING

TAX ABATEMENT

TAX INCREMENT FINANCING

SB 1465 (L. Taylor) – Tax Increment Financing (Effective 9.1) (1) not later than January 31 of each odd-numbered year, require the board of directors of a tax increment reinvestment zone (TIRZ) to send to each member of the state legislature who is an ex officio member of the TIRZ’s board of directors written notice by certified mail informing the legislator of the person’s membership on the board; and (2) provide that a state legislator may elect not to serve on the TIRZ board or designate another individual to serve in the legislator’s place.

TRANSPORTATION

HB 561 (Murphy) – Golf Carts and Utility Vehicles (Effective 5.26) would: (1) authorize a master planned community to adopt reasonable safety and maintenance rules for operation of a golf cart and a commercial utility vehicle in community; (2) authorize Texas Department of Motor Vehicles to register commercial utility vehicles for operation on public highways; (3) allow operation of a commercial utility vehicle: (a) in a master planned community that has in place a uniform set of restrictive covenants and for which a county or city has approved a plat; or (b) on a public or private beach; (4) authorize an employee or agent of a political subdivision to operate its commercial utility vehicles on any public highway; (5) authorize a city to allow operation of a commercial utility vehicle on all or part of a public highway that is in city and has a posted speed limit of not more than 35 miles per hour; and (6) set out required equipment that must be on a commercial utility vehicle.
TRANSPORTATION FUNDING

HB 1140 (Anderson) – Transportation Funding (Effective 9.1) would, for purposes of allocation categories for state transportation funding, provide that: (1) “large urbanized area” means an urbanized area with population of 200,000 or more; and (2) “Small urbanized area” means an urbanized area with a population of less than 200,000.

TRANSPORTATION REINVESTMENT ZONES

SB 1305 (Nichols) – Transportation Infrastructure Fund (Effective 12.31) would: (1) make various modifications to the Transportation Reinvestment Zone statute; and (2) abolish the Transportation Infrastructure Fund. Companion bill is HB 2813, Darby.

TREES

1HB 7 (Phelan) Fee in Lieu of Tree Mitigation Fees. (Signed by Governor, effective 12.1) similar to (SB 744) vetoed by the Governor as not going far enough: Does not allow a mitigation fee against a residential property removing less than a 10-inch diameter tree. A city that imposes a tree mitigation fee for tree removal that is necessary for development or construction on a person’s property must allow that person to apply for a credit for tree planting under this section to offset the amount of the fee http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB7

UNFUNDED MANDATES

UTILITIES

HB 544 (Anderson) – Rural Water Assistance Fund (Effective 5.26) would allow Texas Water Development Board to use Rural Water Assistance Fund to assist rural political subdivisions with water planning.

HB 965 (Springer) – Water Conservation (Effective 5.29): would allow a city owned utility to require a correctional facility that receives water from city to comply with water conservation measures adopted or implemented by city.

HB 2369 (Nevarez) – Water Rates (Effective 6.15) would: (1) require that a city utility that provides water or sewer service to a public school district charge the district the lowest rates the utility charges commercial businesses or nonprofit organizations that receive water or sewer service; (2) allow a public school district to appeal the water rates charged to the district by a city by filing a petition with the Public Utility Commission; (3) place the burden of proof on the city to establish that the rates are just and reasonable; and (4) prohibit a city owned utility from charging a school district a fee based on the number of district students or employees.

HB 2771 (Phelan) – On-Site Wastewater Fee (Effective 9.1) repeals the $10 fee that cities collect and remit to the TCEQ for each on-site wastewater treatment permit application processed.

SB 873 (Creighton) – Master Water Meters (Effective 6.1) makes various changes to authority and liability of owners and managers of apartment houses, manufactured home rental communities, condominiums, and multiple use facilities in charging tenants for sub-metered and non-sub-metered master metered water and wastewater services. Companion bill is HB 1964.

SB 1430 (Perry) – Desalination (Effective 9.1) would entitle an existing water right holder that begins using desalinated seawater to expedited consideration of an application for an amendment to the water right, provided that certain conditions are met. (Companion bill is HB 2894 by Lucio.)

SB 1511 (Perry) - Water Planning (Effective 9.1) would require: (1) the Texas Water Development Board to adopt rules specifying the manner for prioritizing projects for regional water planning groups; and (2) a regional water planning group to consider amending the approved regional water plan to include a feasible water management strategy or project that was to be addressed by a strategy or project declared infeasible.
**VESTING**

**HB 1704 (Kuempel) – Permit Vesting** (Effective 9.1) would provide that a court may award court costs and reasonable and necessary attorney’s fees to the prevailing party in an action under Chapter 245 of the Local Government Code (the “permit vesting” statute). (Companion bill is SB 787 by Huffman.)

**WATER DISTRICTS**

**SB 1842 (Lucio) – Certificates of Convenience and Necessity** (Effective 9.1) would make numerous modifications to the CCN process for water districts.

**WIRELESS including CELLULAR FACILITIES**

Position of TML is “In favor of this technology but not in favor of free, unfettered access.” City officials need to testify about the harmful effect on public safety, ROW management, coordination with other utilities, etc. Note - May be a violation of constitution by giving away city assets/ to the private sector.

**SB 1004 (Hancock, Bettencourt authorized as co-author) – Small Cellular Network Deployment** (Effective 9.1) This bill is much better than SB 1515 but still should be opposed. This bill is really gaining traction and cities need to discuss this with their legislators. This bill is sought by wireless industry vendors (“network providers”) to quickly install small cellular equipment (“network nodes”) and/or towers in a city’s rights-of-way. It would make various findings related to the deployment of cellular network nodes in the public rights-of-way and municipal authority over those rights-of-way.

1. Except as provided by the bill, a city may not prohibit, regulate, or charge for the installation or collocation of network nodes in a public right-of-way.
2. A city may not directly or indirectly require, as a condition for issuing a permit required under the bill, that the applicant perform services unrelated to the installation or collocation for which the permit is sought, including in-kind contributions such as reserving fiber, conduit, or pole space for the city’s use.
3. A city may not enter into an exclusive arrangement with any person for use of the public rights-of-way for the construction, operation, marketing, or maintenance of network nodes or node support poles, and any regulations must be nondiscriminatory and competitively neutral.
4. A city can never impose a moratorium on network nodes or support poles.
5. A city may require a network provider to obtain one or more permits (up to 30 in one “batch application”) to install a network node or node support pole in a public right-of-way only if the permit: (a) is of general applicability to users of the public rights-of-way; and (b) does not apply exclusively to network nodes. (This is essentially a construction permit that can’t require more than a city would of a land-line user of the right-of-way.)
6. A 30-day “shot clock” is imposed on a city to notify a network provider that its application is complete.
7. A 150-day shot clock is imposed on a city to approve or deny a completed application for a new node support pole and a 90-day shot clock is imposed for any other application (e.g. a node to be placed on an existing pole).
8. Detailed procedures must be followed if a city denies a permit.
9. A network provider shall begin the installation for which a permit is granted not later than the 90th day after the date the permit is approved and shall complete the installation not later than the 180th day after the date the installation begins, unless a city grants a longer time.
10. A city may charge an application fee for a permit only if it requires the payment of the fee for similar types of commercial development inside the city’s territorial jurisdiction, and any fee must be cost-based and not contingent-based. (This restriction is for permits to access the right-of-way. An additional rental fee is provided for in (1), below.)
11. A city may not require a network provider to submit an application for: (a) routine maintenance that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way; or (b) replacing or upgrading a network node or pole with a node or pole that is substantially similar in size (defined as not more than 10 percent higher than existing equipment) or smaller and that does not require excavation or closing of sidewalks or vehicular lanes in a public right-of-way.
12. A city that chooses to allow collocation of network nodes on municipal poles must do so in a non-discriminatory manner.
13. Subject to the bill’s provisions and to applicable federal and state law: (a) a city may continue to exercise zoning, land use, planning, and permitting authority in the city’s boundaries, including with respect to utility poles; and (b) a city may exercise that authority to impose police-power-based regulations for the management of the public rights-of-way that apply to all persons to the extent that the regulations are reasonably necessary to protect the health, safety, and welfare of the public. 14. A network provider must indemnify a city for damages caused solely by the negligent act, error, or omission of the provider, but not for liability resulting from the negligence of the city, its officers, employees, contractors, or subcontractors.

15. A network provider shall relocate or adjust network nodes in a timely manner and without cost to the city if the city requires the relocation or adjustment to accommodate public improvements constructed on behalf of the city in a public right-of-way.

16. A network provider shall ensure that the operation of a network node does not cause any harmful radio frequency interference to a Federal Communications Commission-authorized mobile telecommunications operation of the city operating at the time the network node was initially installed or constructed, and a network provider shall take all steps reasonably necessary to remedy any harmful interference.

Additionally, with regard to the use of and rental compensation for the use of a city’s rights-of-way, the bill would provide that:

1. A public right-of-way rate or fee for use of the public rights-of-way may not exceed an annual amount equal to $1,000 multiplied by the number of node support poles (i.e., those installed by a private company dedicated to cell service) and utility poles (i.e., those that provide electric or telecommunications service), other than municipally owned utility poles, inside the municipality’s corporate boundaries on which the network provider has installed a network node. (The fee is adjusted annually to reflect changes in inflation based on the consumer product index.)

2. At the city’s discretion, it may charge a network provider a lower rate or fee if the lower rate or fee is: (a) nondiscriminatory; (b) related to the use of the public rights-of-way; and (c) not a prohibited gift of public property.

3. The current-law access line compensation system for right-of-way use applies to telecommunications network facilities, other than network nodes, installed by a network provider. (For purposes of calculating that fee, each network node is considered an end-use customer termination point.)

4. Subject to the approval of a permit application (if required by the city) and to any applicable building codes, a network provider is entitled, as a permitted use that is not subject to zoning review or similar approval, and is not subject to further land use approval in an area that is not zoned, to do the following in the public rights-of-way: (a) construct, modify, maintain, and operate a network node; (b) construct, modify, maintain, and operate a utility pole or network support pole; and (3) collocate on a pole with the discretionary, nondiscriminatory, and express written consent of the pole’s owner.

5. A network provider shall construct and maintain its structures and facilities in a manner that does not: (a) obstruct, impede, or hinder usual travel or public safety on public right-of-way; (b) obstruct the legal use of a public right-of-way by other utility providers; (c) violate applicable codes; (d) violate or conflict with the city’s publicly-disclosed public rights-of-way design specifications; or (e) violate the federal Americans with Disabilities Act.

6. A network provider shall ensure that each new, modified, or replacement utility pole or node support pole installed in a public right-of-way in relation to which the network provider received approval of a permit application: (a) does not exceed the greater of: (i) 10 feet in height above the tallest existing utility pole located within 500 linear feet of the new pole in the same public right-of-way; or (ii) 50 feet above ground level; and (b) is spaced at least 300 linear feet from the nearest existing pole that is capable of supporting network nodes and is located in a public right-of-way.

7. A network provider may not install a new node support pole in a public right-of-way without the city’s discretionary, nondiscriminatory, and written consent if the public right-of-way is adjacent to a street or thoroughfare: (a) that is not more than 50 feet wide; and (b) both sides of which are adjacent to single-family residential lots or other multifamily residences.

8. A network provider shall ensure that the vertical height of an equipment cabinet installed as part of a network node does not exceed certain height limitations, subject to approval of the pole’s owner if applicable.

9. A network provider shall, in relation to installation for which a city approved a permit application, comply with nondiscriminatory undergrounding requirements, except in relation to existing structures.

10. A city may adopt a design manual for the installation and construction of network nodes and new node support poles in the public rights-of-way that includes additional installation and construction details that do not conflict with the bill. (Companion Bill is HB 2838 by Geren)
**ZONING**

**HB 1449 (Simmons) – New Construction Fees** (Effective 5.29) would: (1) prohibit a political subdivision from adopting or enforcing an ordinance, order, policy or other measure that imposes, directly or indirectly, a fee or other charge on new construction for purposes of offsetting cost or rent of any unit of residential housing; and (2) except from (1) a fee for granting an exemption or waiver from a zoning-related height restriction on a structure.

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