TXAPA/TML AFFILIATE LEGISLATIVE COMMITTEE
Planning/Development Legislation Update as of November 7, 2018

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

- Monday, November 12, 2018 - Pre-filing of legislation for 86th Legislature begins;
- Tuesday, January 8, 2019 (1st day) - 86th Legislature convenes at noon;
- Friday, March 8, 2019 (60th day) - Deadline for filing bills and joint resolutions other than local bills, emergency appropriations, and bills that have been declared an emergency by governor; There will be more: legislators can still file bills if they can persuade colleagues to suspend rules on a bill-by-bill basis. In 2017 a total of 401 planning and development related bills are were by TXAPA/TML.
- Monday, May 27, 2019 (140th day) - Last day of 86th Regular Session; corrections only in House and Senate and session Ends. In 2017, of the 401 bills tracked, a total of 43 (9%) were either signed by the Governor or were not vetoed and became law. 14 (3% of total) of those bills were bad for cities, and 12 (3%) were good. An additional 16 bills were “neutral” and not determined to be negative.
- Sunday, June 16, 2019, (20th day following final adjournment) - Last day governor can sign or veto bills passed during regular legislative session. Any bills not signed become law
- Monday, August 26, 2019 (91st day following final adjournment) - Date that bills without specific effective dates (that could not be effective immediately) become law

TXAPA’s Dirty Dozen - Worst Legislation 2018 re: planning, growth & development of cities

1. **Annexation**
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** - SB 1248 (Buckingham) – Manufactured Homes 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

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

This document is 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.

Red Highlighted wording are new bills added since 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

**HB 616 (Leach) – Low Income Housing Tax Credits** (Housing & Community Affairs report sent to Calendars 4/28): would eliminate following as a criteria used by Texas Department of Housing and Community Affairs to rank low income housing tax credit applications: “level of community support for application, evaluated on basis of a written statement from state representative who represents district containing proposed development site;” and (2) retain requirement that Department notify and receive comments from elected officials on low income housing tax credit applications in their area.

**HB 3676 (Ashby) – Affordable Housing** (Referred to Urban Affairs 3/31): would provide that a city may not adopt or enforce a requirement in any form, including through an ordinance or regulation or as a condition for granting a building permit, that establishes a maximum sales price for a privately produced housing unit or residential building lot, including a privately produced housing unit or residential building lot located in a homestead preservation district. (Ed. Note – not against affordable housing, should be a local decision)

**SB 852 (Nelson) – Linkage Fees** (Referred to Business & Commerce 2/27): would provide that: (1) a political subdivision may not adopt or enforce an ordinance, order, policy, or other measure that imposes, directly or indirectly, a fee or other charge on new construction for the purposes of offsetting the cost or rent of any unit of residential housing; and (2) the bill does not affect the authority of a political subdivision to impose a fee for granting an exemption or waiver from a zoning-related height restriction on a structure.

AGENDA 21, RELATED “ANTI-PLANNING LEGISLATION”

ALCOHOLIC BEVERAGES

**HB 982 (Wray) – First Responder Handguns, Wet/Dry Status** (Referred to Homeland Security 2/27): lot of confusion on this bill??????, thought it would provide that, with certain limitations, a city whose local option status allows for legal sale of mixed beverages as a result of an election held on or after January 1, 1985, may adopt an ordinance authorizing sale of mixed beverages for on-premise consumption in an area annexed by city after that election.

**SB 371 (Watson) – Alcoholic Beverage Licenses** (5/28 Sent to Governor): 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 (Ed. Note – Not sure about sale of alcoholic beverages with no running water on premises)

ANNEXATION, DEVELOPMENT, STRATEGIC PARTNERSHIP AGREEMENTS

**HB 3074 (E. Rodriguez) – Emergency Services Districts** (5/04 H Committee report sent to Calendars): would require a city to factor in sales tax revenue to the amount that must be paid to an emergency services district when the city seeks to remove territory from the district. (Also see ESD’s)

**SB 655 (Bettencourt, Huffines co-author) – Annexation/Extraterritorial Jurisdiction** (for annexation and any area that would be newly included in city’s ETJ as a result of proposed annexation)

**S.B.715 (Campbell, Huffines Co-author) – Annexation** (5/29 Senate Point of order sustained, after House overruled Points of Order 4 times) would completely rewrite Municipal Annexation Act to severely curtail ability of cities to annex property. Senate passed on 4/20, House Passed w amendments, reported to Senate 5/23):
YOUR PROPERTY RIGHTS ARE AT STAKE

VOTE FOR PARKER COUNTY PROPOSITION A (TIER 2) TO
STOP FORCED ANNEXATION
IN PARKER COUNTY

Parker County Proposition A (Tier 2 Status) will
- STOP FORCED ANNEXATION -
and give power to the people!

StopForcedAnnexation.com/Parker

Tier 1 Status

- Forced Annexation
- Taxation Without Representation

Tier 2 Status

- Stop Forced Annexation
- Protecting Property Rights
- Citizen Choice About New Taxes & Regulations

Protect Your Property

Vote For

Tier 2
To Stop Forced Annexation

Stand Up for Private Property Rights!

Early Voting Ends: Nov. 2
Election Day: Nov. 6
PARKER COUNTY VOTER ALERT

Protect Your Property

Vote For

TIER 2

To Stop Forced Annexation

PARKER COUNTY PROPOSITION A
“Changing Parker County from Tier 1 county status to Tier 2 county status for purposes of municipal annexation as described by Chapter 43 of the Texas Local Government Code”

CONDADO DE PARKER PROPOSICION A
“Cambiar el estatus de condado del Condado de Parker de Nivel 1 a de condado Nivel 2 para propósitos de la annexión municipal según lo descrito en el Capítulo 43 del Código de Gobierno Autónomo de Texas”

For A FAVOR
Against EN CONTRA

StopForcedAnnexation.com/Parker

Election Day Tuesday, Nov. 6

Early Voting Ends Friday, Nov. 2
HB 57 (Flynn) — Local Control of Milk (Referred to Public Health 2/13): would repeal city authority to require only pasteurized milk and pasteurized milk products to be sold at retail in that city. Also SB 95 (Hall) —

HB 153 (Schaefer) — Occupational Regulation (Referred to Urban Affairs 2/15): would: (1) unless expressly authorized by state law, prohibit a city from adopting or enforcing any ordinance, rule, or regulation that: (a) establishes additional, more stringent licensing requirements for an occupation that requires a state occupational license; or (b) requires a person to obtain an occupational license issued by city; and (2) provide that any ordinance, rule, or regulation that violates (1), above, is void and unenforceable.

HB 1926 (E. Rodriguez) — Cottage Foods (Referred to Public Health 3/13): would: (1) define a “home food processor” as someone who makes certain food at home for sale, including cottage food production; (2) provide that home food processors are subject to county or state health laws and rules and inspections, but otherwise exempt from certain provisions applicable to food service establishments; (3) require that home food processors: (a) obtain a state permit; (b) meet packaging and labeling requirements; (c) meet production requirements; and (d) meet recordkeeping requirements; and (4) prohibit a city zoning ordinance from prohibiting use of a home for home food processor operations, but provide that a person is not limited in ability to bring a nuisance or tort action against a home food processor.

HB 3506 (Cyrier) — Construction Licenses (5/10 H Placed on General State Calendar): would prohibit a local governmental entity from requiring a builder or contractor to obtain a local license through ordinance for the construction or remodel of a commercial or residential structure.

SB 6 (Kolkhorst) — Bathrooms (Referred from the Senate 3/16): (only relevant provisions are listed below). (Also, look up SB 92 — Civil Rights under home rule authority. Preempts any civil rights bills)

1. a political subdivision may not adopt or enforce an order, ordinance, or other measure that relates to designation or use of a private entity’s bathroom or changing facility or that requires or prohibits entity from adopting a policy on designation or use of entity’s bathroom or changing facility;

2. a political subdivision or state agency with control over multiple-occupancy bathrooms or changing facilities in a building owned or leased by this state or political subdivision, as applicable, shall develop a policy requiring each multiple-occupancy bathroom or changing facility located in building to be designated for and used only by persons of same biological sex;

3. bill does not prohibit a political subdivision or state agency from providing an accommodation, including a single-occupancy bathroom or changing facility, on request due to special circumstances, but accommodation may not allow a person to use a multiple-occupancy bathroom or changing facility designated for biological sex opposite to person’s biological sex;

4. bill provides authorizes exceptions to policy developed under (3), would allow: (a) a person entering a multiple-occupancy bathroom or changing facility designated for biological sex opposite to person’s biological sex: (i) for a custodial purpose; (ii) for a maintenance or inspection purpose; (iii) to render medical or other emergency assistance; (iv) to accompany a person needing assistance in using facility; or (v) to receive assistance in using facility; or (b) a child who is younger than eight years of age entering a multiple-occupancy bathroom or changing facility designated for biological sex opposite to child’s biological sex and accompanying a person caring for child;

5. a private entity that leases or contracts to use a building owned or leased by this state or a political subdivision is not subject to a policy developed under (3), above, and a state agency or political subdivision may not require or prohibit a private entity that leases or contracts to use a building owned or leased by this state or a political subdivision from adopting a policy on designation or use of bathroom or changing facilities located in building; Also SB 1113 (Gareia); SB 1276 (Campbell)

SB 1838 (Hughes) — Charter Schools (5/19 Passed Senate, failed to receive affirmative vote in House Public Education 2017): would provide that: (1) a city shall consider an open-enrollment charter school a school district for purposes of zoning, permitting, code compliance, and development; and (2) an open-enrollment charter school is not required to pay municipal impact fees, unless the governing body of the charter school consents to the payment of the fees by entering a contract with the city that imposes the fees. (Note: Independent school districts are exempt from impact fees under current law.)
CODE ENFORCEMENT

HB 2631 (Dutton) — Nuisance Abatement (Referred to Judiciary & Civil Jurisprudence 3/21): would: (1) allow residents of a city, by petition, to require a city to file suit to take remedial action against an alleged public nuisance occurring in the city; (2) set out information that must be included in the petition in (1), including an allegation that the alleged nuisance is within 1,000 feet of a residence, and the procedures the governing body must follow on receipt of a petition; and (3) provide that if a court determines a public nuisance exists that constitutes a threat to the public health or welfare of the city’s residents, the court may order the city to: (a) warn any person who uses or is about to use the premises for the purposes constituting the nuisance that the use constitutes a public nuisance; (b) investigate whether the city should file a suit to abate the nuisance; (c) purchase the nuisance property, if it serves a public purpose of the city; or (d) exercise the power of eminent domain to acquire the nuisance property, if it serves a public purpose of the city.

HJR 62 (Keough) — Home Schooling (Died in Public Education): would provide that an agency of state government, including legislature, or a political subdivision or agency of a political subdivision of this state may not regulate educational program of private school or home school in this state. (Companion bill is SJR 33 (Huffines — Home Schooling)

SB 1620 (Taylor) — Chickens (Passed by Senate 4/6, Calendars 5/21): (1) a political subdivision may not impose a requirement that prohibits an individual from raising or keeping six or fewer chickens in the boundaries of the political subdivision; (2) a city may impose reasonable requirements on the raising or keeping of poultry that do not have the effect of prohibiting the raising or keeping of six or fewer chickens, including: (a) a limit on the number of chickens an individual may raise or keep in excess of six; (b) a prohibition on breeding poultry; (c) a prohibition on raising or keeping roosters; or (d) the minimum distance an individual must maintain between a chicken coop and a residential structure; and (3) a requirement adopted by a political subdivision that violates section (1) is void. (Ed. Note — Not against chickens, just it should be a local option)

COMPREHENSIVE PLANS

HB 3174 (Reynolds) — Comprehensive Plan (Urban Affairs report sent to Calendars 5/5—Did not make it out of the house): would: (1) require a city that has adopted a comprehensive plan to update it every five years; and (2) require that, as part of a city’s comprehensive plan, the city must also adopt an environmental evaluation report that includes certain projected environmental changes, adverse environmental effects, projected environmental benefits, measures for identifying the protection of resources, and either an assessment of the cost to remedy or mitigate any adverse effects or a feasibility study of alternative planning that mitigates adverse effects.

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 1733 (Uresti) — Payday Lending (Referred to Investments & Financial Services 3/6): would provide that the sum of all fees, interest, and other amounts in excess of principal due under an extension of consumer credit in the form of a deferred presentment transaction or motor vehicle title loan that a credit access business obtains for a consumer or assists a consumer in obtaining may not exceed 25 percent of the principal (also HB 741 (Bernal) — HB 3081 (Capriglione) — Payday Lending (Investments & Financial Services report sent to Calendars 5/1—Died in House): would provide that a person subject to regulation by a finance agency and the person's business activities subject to that regulation are subject only to applicable federal law and regulations and applicable state law, including rules adopted by the finance commission. (Companion Bill is SB 1530 (Estes)

Note: this bill would preempt all city payday lending ordinances.)

ECONOMIC DEVELOPMENT/REDEVELOPMENT

HB 1352 (Pickett) — Economic Development (House approved as amended, Senate referred to Natural Resources & Eco. Dev 5/1): would provide: (1) a city can convey land to an entity under a chapter 380 economic
development agreement; (2) city may transfer property without going through notice and bid process; (3) an agreement between city and entity would be consideration for transfer of property with provisions that property will be used to promote economic development public purpose of city and a provision that grants city sufficient control to ensure that public purpose is being accomplished; (4) city must publish notice of transfer in a newspaper of general circulation in county that property is located or, if there is no such newspaper, in an adjoining county; and (5) notice must include a location and description of real property and be published two separate days within 10 days before date property or an interest in property is transferred. (Companion is SB 438 by Rodriguez.)

SB 388 (Burton)—Open Meetings Act (Referred to Business & Commerce 2/1): would repeal authority for a governing body to conduct economic development negotiations in an executive session

SB 2043 (Bettencourt)—Freeport Property Tax Exemption (Referred to Finance 3/28): 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.

EMERGENCY MANAGEMENT/DISASTER RECOVERY

HB 3074 (E. Rodriguez)—Emergency Services Districts (Land & Resource Mgmt 5/21 H Committee report sent to Calendars): would require a city to factor in sales tax revenue to the amount that must be paid to an emergency services district when the city seeks to remove territory from the district.

EMINENT DOMAIN

HB 528 (Schofield)—Eminent Domain (Business & Industry left pending 4/12): would, in relation tolling a property owner’s right of repurchase: (1) eliminate following as elements establishing “actual progress” on a project: (a) acquisition of a tract or parcel of real property adjacent to property for same public use project for which owner’s property was acquired; or (b) for a governmental entity, adoption by a majority of entity’s governing body at a public hearing of a development plan for a public use project that indicates that entity will not complete more than one tolling action before tenth anniversary of date of acquisition of property; and (2) require three of five remaining elements to be met to establish actual progress.

HB 1135 (Workman)—Pay-or-Waive (Left pending in committee 4/12): would provide that: (1) if application of a provision of Natural Resources Code, Government Code, Local Government Code, or Water Code, or of a rule, policy, or ordinance adopted by a city pursuant to those codes, has effect of requiring that more than 55 percent of surface area of an owner’s private real property, other than areas designated by Federal Emergency Management Agency as being in 100-year floodplain, remain in a natural or undeveloped state, statute, rule, policy, or ordinance may not be enforced with respect to property unless enforcing entity pays for a conservation easement or condemns property using eminent domain; and (2) various exceptions from bill apply, such as requirements under federal Coastal Zone Management Act or state laws related to beach erosion or TCEQ on-site sewage facility regulations. (Companion bill is SB 1385 Campbell)

HB 2090 (VanDeaver)—Eminent Domain (Left pending in committee 4/12): would provide: (1) that a bona fide offer to acquire heritage property (defined as property continuously owned within same family for 100 or more years) must include a final offer equal to or greater than 150 percent of: (a) amount of written appraisal obtained by entity of value of property being acquired; and (b) damages, if any, to any of property owner’s remaining property; and (2) procedures related to establishing heritage property status and value.

SB 786 (Nichols)—Eminent Domain (Referred to State Affairs 2/22): 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.
ENVIRONMENT

EXTRATERRITORIAL JURISDICTION

HB 2288 (Gutierrez)—Fireworks (Referred to Urban Affairs 3/15): would repeal the prohibition against a home rule city banning, as a nuisance, the sale of fireworks or similar materials within 5,000 feet outside the city limits.

SB 655 (Bettencourt)—Annexation/Extraterritorial Jurisdiction (Left pending in committee 5/17): (See annexation)

GAMBLING

HB 894 (Raymond)—Eight Liners (Referred to Licensing & Administrative Procedures 2/23): would provide, among other things, that: (1) on proper petition by required number of voters of a county or of a justice precinct or city in a county, commissioners court of county shall order a local option election in that political subdivision to determine whether operation of eight-liners shall be legalized or prohibited in political subdivision; also HJR 23 (Raymond)—Eight-Liners

HB 4136 (Gutierrez)—Casino Gambling (Referred to Licensing & Administrative Procedures 3/31): would allow up to 12 casinos in this state pursuant to a county approval election. (See HJR 119, below.)

GRANTS, FUNDING AGENCIES

GROUP HOMES/HALFWAY HOUSES

NEED TO CONSIDER AMERICAN’S WITH DISABILITIES ACT AND FAIR HOUSING ACT

HB 640 (Phillips)—Halfway Houses (House considered in Calendars 5/5): (1) a city may regulate location of a halfway house by ordinance or order necessary to promote public health, safety, or welfare; (2) require owner or operator of a halfway house to provide written notice to mayor and chief law enforcement officer of city, if proposed location of halfway house is within city limits, not later than 60th day before date a facility begins operations; (3) authorize a city to sue in district court for injunction to prohibit a violation of a regulation adopted under (1); and (4) provide that a person who violates regulation adopted under (1) commits a Class A misdemeanor.

HISTORIC

HB 3595 (Martinez)—Historic Projects (Referred to Culture, Recreation & Tourism 3/30): would provide that the Texas Historical Commission shall establish a program to assist cities with historical projects to construct, repair, restore, and maintain buildings necessary for the governance, health, and safety of the residents of the city.

HB 3418 (Elkins)—Historic Zoning (Public hearing on 4/11, left pending in Urban Affairs): (1) a city designating places or areas as historically important and significant by adoption of zoning regulations/boundaries must include certain detailed adoption criteria including prohibiting the “landmarking of a historic place if the person associated with the building didn’t live there or if the event associated with the site isn’t ‘widely recognized’”; (2) expediting demolition of historic structures; (3) a recommendation by a zoning commission and approval by the city council requires the vote of three-fourths of all members of each body. (Ed. Note—not opposed to concept but it should be a local determination now strongly opposed)

HOME RULE AUTHORITY

HB 997 (Capriglione)—Land Conveyance (Left pending in committee 3/29): would provide that: (1) a city must provide governor with advance notice of proposed conveyance of land owned by city to United States; (2) notice must be sent to governor not later than 30th day before date of either published notice required for sale or
exchange of land by a city or offer of land if published notice is not required; (3) a city shall submit a formal request for approval to governor and can conduct sale of exchange of land unless governor send written notice disapproving of sale or lease of land; and (4) city shall provide certain information on conveyance of public land to United States to General Land Office for them to post on its website.

**HB 2107 (Lucio) — Medical Cannabis** (Public Health 5/09 H Committee report sent to Calendars): would prohibit a city from enacting, adopting, or enforcing a rule, ordinance, order, resolution, or other regulation that prohibits cultivation, production, dispensing, or possession of medical cannabis. (E. note — not really sure where to put this)

**HB 3178 (Anchia) — Land Sales with Brokers** (5/11 H Companion considered in lieu of): would: (1) allow any city to contract with a broker to lease or sell a tract of real property owned by the city; (2) allow a home-rule city to contract with a broker to sell a tract of real property that the city holds in trust and has authority to sell;

**HB 3947 (Laubenberg) — Preemption** (Scheduled for public hearing on 4/11): would provide that a suit to enjoin enforcement of a local regulation may be brought by a state licensee that is subject to the local regulation if the local regulation: (1) establishes requirements for, imposes restrictions on, or otherwise regulates the business activity of the state licensee in a manner that is more stringent than the requirements, restrictions, and regulations imposed on the state licensee under state law; also SB 2178 (Huffines);

**SB 1164 (V. Taylor) — Fees** (Referred to Intergovernmental Relations 3/9): would: (1) prohibit a city from imposing a new fee unless the fee is approved by at least two-thirds of the members of the governing body and the voters voting at an election held for that purpose;

**SB 1716 (Hall) — Lobbying** (Referred to State Affairs 3/22): would prohibit a political subdivision or a private entity that receives state funds from paying expenses for lobbying. (Companion bill is HB 1316 by Swanson.) Also, SB 2044 (Bettencourt) — Lobbying, SB 2045 (Bettencourt) — Lobbying

**SJR 71 (Hall) — Bill of Rights** (DOES NOT EXIST IN SYSTEM): would propose an amendment to Texas Constitution to provide, among other things, that: (1) legislature, by a majority vote of all members elected to each house, may find that a federal law violates Bill of Rights in Texas Constitution; (2) legislature may include in a finding under (1), above, manner in which legislature may interpose itself between federal government and persons in this state to oppose federal government in execution and enforcement of federal law; and (3) a state agency or political subdivision, or an officer or employee of a state agency or political subdivision, may not execute or enforce a provision, penalty, or sanction provided by a federal law that legislature has found to violate Bill of Rights. (See SB 89, above.)

**HOMEOWNER ASSOCIATIONS** (See Property Owner Associations)

**HOUSING**

**IMPACT FEES**

**HB 2185 (Krause) — Charter Schools** — HB 1838 (Hughes) — Charter Schools (Referred to Public Education 3/9): (pre empts impact fees)

**MANUFACTURED HOUSING/INDUSTRIALIZED BUILDINGS/RV PARKS**

**MILITARY BASES, CONVERSIONS**

**MINERAL RIGHTS**

**MUNICIPAL UTILITY DISTRICTS**

**OIL, GAS AND PIPELINES, GAS WELLS**
HB 3403 (Canales) — Oil and Gas Regulation (Referred to Energy Resources 4/3): would authorize a city to regulate or prohibit the drilling of a new oil or gas well located within 1,500 feet of the property line of a child-care facility, private school, or primary or secondary public school. Also HB 1519 (M. Gonzalez)

SB 2099 (Hall) — Preemption (Referred to Natural Resources & Economic Development 3/28): would preempt any city regulations relating to oil and gas intra/interstate pipelines and other hazardous liquid pipelines.

OPEN MEETINGS/PUBLIC INFORMATION/NOTICE

HB 1530 (Workman) — Newspaper Notice (Committee report sent to Local and Consent Calendars 5/5 — Died in House): 1) a political subdivision satisfies a requirement in any other law to provide notice by publication in a newspaper by publishing notice in any other form of media political subdivision determines will provide sufficient public notice, including on political subdivision’s website or an Internet newspaper; and 2) require that any notice provided in (1) be published for same period required by law for publication of notice in a newspaper. Also, HB 1541 (Shaheen) HB 3896 (Gutierrez) HB 3141 (Burkett)—

HB 2742 (G. Bonnen) — Governmental Information Access (Referred to General Investigating & Ethics 3/28): would provide that:

1, the legislature, lieutenant governor, committees of legislature, and legislative agencies would have a right of access to governmental information, including information that is confidential or excepted from disclosure, from governmental bodies (GB) as defined by Public Information Act (PIA);

2, a request for access to governmental information must state that request is made for a legislative purpose, but requestor does not have to specify legislative purpose;

Etc……………………. (Companion bill SB 456 (V. Taylor)

SB 1655 (Watson)—Attorney-Client Privilege (Senate approved, 5/24 H Placed on Local, Consent, and Res. Calendar) would provide that neither the attorney client privilege nor several other exceptions to disclosure in the Public Information Act are compelling reasons to withhold information when a governmental body fails to timely request an attorney general letter ruling. (Note: this bill would overturn the recent Texas Supreme Court opinion in Paxton v. City of Dallas)

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

PRIVATE PROPERTY RIGHTS (Also Regulatory Takings)

HB 3624 (Workman) — Property Rights (Referred to Urban Affairs 3/30): would provide that a city may not adopt an ordinance that affects private property rights and applies only to a defined area unless the ordinance is approved at an election. (Also listed under zoning)

HB 3787 (Bell) — Property Rights (4/28 H Land & Resource Mgmt Committee report sent to Calendars): would provide that a city or county may not enforce an ordinance, order, or other regulation related to land use or business regulation on or after September 1, 2017, that prohibits or restricts the use or development of a property owner’s property if the ordinance, order, or other regulation was not in effect on the date the property owner acquired title to the property.

PROFESSIONAL SERVICES

PROPERTY OWNERS’ ASSOCIATION

PUBLIC IMPROVEMENT DISTRICTS

HB 2435 (Wray) — Public Improvement Districts (House approved, 5/10 Senate Referred to Intergovernmental Relations): would, among other things: (1) add the following to the list of authorized public improvement projects: (a) recreational facilities; (b) acquisition, construction, or improvement of a facility related
to the generation of renewable energy from wind, solar, geothermal, or other renewable sources of energy; (c) acquisition, construction, or improvement of a facility related to a water feature, including a recreational lagoon or artificial body of water used for: (i) aesthetic purposes; or (ii) swimming, boating, or other aquatic recreational sports or activities; and (d) acquisition, by purchase or otherwise, of right of way in connection with an authorized improvement; (2) provide that a public improvement project does not include the payment of expenses related to the operation and maintenance of mass transportation facilities; (3) authorize the governing body of a city or county to call and hold a public hearing for the purpose of increasing the area of a public improvement district if a petition requesting the increase is filed; (4) provide that after the hearing held under (3) the governing body may by ordinance or order increase the area of the district in accordance with the increase proposed in the hearing; (5) provide that if the governing body of a city or county increases the area of a public improvement district under (4) and the governing body has levied an assessment on property in the district before the increase, the governing body may: (a) make a supplemental assessment; or (b) reapportion the existing assessment after notice is given and a hearing is held; (6) provide that the governing body of a city or county may only make a reassessment or new assessment when increasing the area of the district for the purpose of reducing the overall principal amount of a prior assessment;

REDEVELOPMENT

RELIGIOUS FREEDOM/LAND USE

RESIDENTIAL DEVELOPMENT

ROUGH PROPORTIONALITY

MUST NOT EXACT MORE FROM A DEVELOPER THAN IS ROUGHLY PROPORTIONAL TO THE DEVELOPMENT THEY INTEND TO BUILD AND THAT HAS A NEXUS TO THEIR PROJECT ENGINEERS/OTHER EXPERTS DETERMINE CONCEPT EVEN OVERRULES EVEN ORDINANCE LANGUAGE

HB 3834 (Workman) — Rough Proportionality (Referred to Land & Resource Management 3/30): would provide that: (1) the determination of the proportionate share of municipal infrastructure improvements costs under the provision in current law shall be determined by the engineer retained by the city based on the actual, documented and verifiable impact of the development on the existing infrastructure in the immediate area of the development; (2) any fees or costs paid for infrastructure improvements by the developer shall be used only for the purpose collected and the work shall commence and shall be substantially underway not later than the 23rd month following the payment of such fees; (3) fees collected shall be for new capital improvements only and shall not be used for recurring expenses or maintenance; (4) fees collected shall not be to supplement or supplant funding of existing capital infrastructure improvement projects which have funding identified through municipal budgets, bond measures, or any other source; (5) nothing prohibits the developer from making the improvements on behalf of the city if the developer and the city agree; and (6) assessed the proportionate amount calculate shall be offset by the increase in the taxes the city will receive as a result of the increased valuation on the property after development and the estimated amount of the increase in the city’s sales taxes attributed to the development.

SEXUALLY ORIENTED BUSINESSES

SHORT TERM RENTALS

LEGISLATURE MAY PREEMPT LITIGATION NOW WITH CITY OF AUSTIN, CITY OF GRAPEVINE STATE TAKING SIDE OF PROPERTY OWNER IN AUSTIN CASE LOOK AT YOUR CURRENT DEFINITIONS- SEE IF THEY STILL MAKE SENSE IN LIGHT OF AIRBNB ETC
HB 2551 (Krause) – SB 451 (Hancock) – Short-Term Rentals (Senate approved, House referred to Urban Affairs 5/9, died in committee): would preempt a city’s authority to regulate short-term rentals. Specifically, bill would provide that:
1. “short term rental” is defined as a residential property, including a single-family dwelling or a unit in a condominium, cooperative, or time share, that is rented wholly or partially for a fee for a period not longer than 30 consecutive days;
2. a city is prohibited from adopting or enforcing a local law that expressly or effectively prohibits use of a property as a short-term rental;
3. a city is prohibited from adopting or enforcing a local law that restricts use of or otherwise regulates a short-term rental based on short-term rental’s classification, use, or occupancy;
4. a city may adopt or enforce a regulation on a property used as a short-term rental only if city demonstrates regulation’s primary purpose is to protect public’s health and safety;
5. regulations are permitted that would address: (a) fire and building codes; (b) health and sanitation; (c) traffic control; and (d) solid or hazardous waste control;
6. a city may adopt or enforce a local regulation that limits or prohibits use of short-term rental only if law prohibits use of a rental for purpose of: (a) housing sex offenders; (b) operating a structured sober living home; (c) selling illegal drugs; (d) selling alcohol or another activity that requires a permit or license under Alcoholic Beverage Code; or (d) operating as a sexually oriented business;
7. a city must apply a local law regulating land use to a short-term rental in same manner as another similar property, which includes regulations on: (a) residential use and other zoning matters; (b) noise; (c) property maintenance; and (d) nuisance.

SIGNS

HB 361 (Huberty) – Election Signs (Referred to Transportation 2/16): would: (1) provide an exemption from laws prohibiting signs from being placed in rights-of-way of public roads and state highways, including prohibition on placing a sign in right of way of a road or highway maintained by a city without city authorization, for a political sign that: (a) is on private property; (b) is erected not earlier than 90th day before date of election and is removed not later than 10th day after date of election; (c) is constructed of lightweight material; and (d) has a surface area not larger than 50 square feet; and (2) repeal law requiring notice on any political advertising sign that sign cannot be placed in right of way of a highway. Also HB 3339 (Alonzo) –

HB 405 (Villalba) – Billboards (No action taken in committee 5/2): would provide that, if a sign located in a city or its extraterritorial jurisdiction is required to be removed because of widening, construction, or reconstruction of a road by Texas Department of Transportation (TxDOT), and if relocation of sign would be allowed under TxDOT rules but is restricted or prohibited by charter, ordinance, or a decision of city, city shall reimburse TxDOT for any just compensation paid to owner or lessee of sign in a condemnation proceeding. Also

HB 2956 (Kuempel) – Signs (Referred to Transportation 3/22): would: (1) repeal city authority to regulate outdoor signs in the extraterritorial jurisdiction; (2) provide that, in regard to state highways, a person commits an offense if the person erects, maintains, or allows outdoor advertising on property owned by the person, that is higher than 65 feet, excluding a cutout that extends above the rectangular border, measured from the highest point on the sign to grade level of the road; and (3) provide that, in regard to rural roads, an on-premise or off-premise sign may not be higher than 65 feet, excluding a cutout, measure from the highest point on the sign to grade level of road (current law is 42 ½ feet). Also HB 3860 (Wray) –

REED VS TOWN OF GILBERT

EVERYONE REVISED THEIR ORDINANCE SINCE THIS SUPREME COURT CASE?

BIG PROBLEM FOR CLASSIFICATION OF SIGNS THAT USED TO BE OKAY

BASICALLY IF YOU HAVE TO READ THE SIGN TO KNOW ITS CLASSIFICATION, THE CLASSIFICATION IS NOT LEGAL

SOME “TRICKS” SUCH AS SIGNS ON DEVELOPMENT PROJECTS UNDER CONSTRUCTION OR HOUSES THAT ARE FOR SALE INSTEAD OF “REAL ESTATE SALE SIGNS”
SPECIAL DISTRICTS, TRUSTS

SB-1863 (Lucio)—SB-2047 (Bettencourt)—Municipal Management District (Referred to Intergovernmental Relations 3/28): would impose various changes to the governance and operation of municipal management districts.

STORMWATER AND DRAINAGE

HB-1135 (Workman)—Pay or Waive (Referred to Land & Resource Management 3/13): (re: 100-year floodplain restrictions, see Eminent Domain)

HB-3501 (Isaac)—Drainage Fees (Referred to Public Education 4/3): would: (1) allow a city to exempt open-enrollment charter schools from municipal drainage fees; and (2) prohibit a city from solely granting the exemption to a school district or open-enrollment charter school (i.e., city must grant neither or both exemption). (Companion bill is SB-601 by Campbell.)

SUBDIVISION PLATTING

SB-1980 (Schwertner)—Developer Participation Agreements (Senate passed, 5/16 House Referred to Business & Industry—died in House committee): would provide that: (1) the amount of a bond for a developer participation agreement must be for the contract price for the improvements; (2) a city may not require the developer to include in the amount of the bond any other improvement related to the development that the developer did not contract with the municipality to construct; (3) a city and developer may agree that, instead of a performance bond, the developer may submit an irrevocable letter of credit in the amount required for the bond; (4) as part of the agreement, the city may not pay any amount to the developer, issue a building permit related to the development other than a permit necessary for the improvements that are the subject of the contract, or approve a subdivision plat for the developer until: (a) the improvements are complete or in the final phase of construction if the improvements are constructed in phases; and (b) the developer has submitted to the city an affidavit stating that the developer has paid all costs associated with the construction.

TAX ABATEMENT

TAX INCREMENT FINANCING

HB-2480 (E. Johnson)—Tax Increment Financing (5/12 Committee report sent to local & consent calendar): would, among other things: (1) provide that, before adopting an ordinance designating a tax increment reinvestment zone, prepare or have prepared an affordable housing impact statement; (2) require that the statement under (1) be made available to the public and posted on the city’s website at least 60 days before the city holds the hearing required prior to creation of the zone; and (3) require the statement under (1) include estimates of the impact on the availability of affordable housing in the area of the proposed zone for the 30-year period following designation of the proposed zone.

SB-650 (Bettencourt)—Tax Increment Financing (Left pending in committee 4/4): would make numerous changes to tax increment financing statute, including: (1) providing that an area may be characterized as a tax increment reinvestment zone (TIRZ)

SB-1765 (Garcia)—Tax Increment Financing (Left pending in committee 4/4): would: (1) provide that an ordinance or order designating a Tax Increment Reinvestment Zone (TIRZ) that is adopted on or after September 1, 2017, must provide that the TIRZ terminates not later than the 10th anniversary of the date on which the ordinance or order designating the TIRZ is adopted; (2) provide that the term of all or any portion of a TIRZ may not be extended beyond the 10th anniversary of the date on which the ordinance or order designating the zone is adopted, unless the extension is approved by the voters of the zone voting at an election held for that purpose; (3) provide that a TIRZ designated before September 1, 2017, with a term extending beyond ten years must terminate on the earlier of: (a) the termination date expressed in the ordinance or order designating the TIRZ; or (b) the date on...
which all project costs, tax increment bonds and interest on those bonds, and other obligations of the zone have been paid in full; (4) provide that if the owners of property constituting at least 50 percent of the appraised value of the property in an area petition the governing body of a city or county requesting the area to be designated as a TIRZ, the area must be unproductive, underdeveloped, or blighted; (5) provide that a member of a TIRZ board designated by a city with city council term limits is subject to the same term limits regarding the member’s service on the TIRZ board; (6) require a city that has designated a TIRZ to maintain an Internet website, including a web page with specific information on it that provides transparency to the residents of the city regarding each TIRZ designated by the city; and (7) prohibit a city from removing a document or item of information required to be posted under (6) from the transparency web page until 10th anniversary of date the applicable TIRZ is terminated.

TRANSPORTATION

HB 479 (Metcalf), HB 113 (Keough) — Automated Traffic Control Systems (Referred to Transportation 2/14): would (1) prohibit a city from implementing or operating an automated traffic control system; (2) provide civil penalties for a city that implements or operates an automated traffic control system; and (3) repeal Transportation Code chapter providing authority for red light camera systems.

HB 732 (Bohac) — Red Light Cameras (5/12 H Returned to Local & Consent Calendars Comm.): would require that red light camera signs list possible monetary penalties for violations in addition to information required by current law. Also HB 808 (Fallon), HB 1244 (Geren), HB 3259 (Shaheen), HB 3980 (Pickett), SB 88 (Hall), SB 111 (Huffines), SB 1282 (Huffines)

HB 1311 (Sanford) — State Highways (Referred to Transportation 2/27): would impose a prohibition on converting state highway lanes to tolled or other types of managed lanes.

SB 312 (Nichols) — Texas Department of Transportation (House, Senate approved w amendments, conf comm appointed 5/24): this bill is the same as HB 3207, above.

TRANSPORTATION FUNDING

HB 432 (Metcalf) — Transportation Funding (Referred to Appropriations 2/21): (1) in each state fiscal year beginning on or after September 1, 2019, comptroller shall deposit to credit of state highway fund a graduated percentage of money that is received from motor vehicle sales tax until that percentage equals 100 percent in 2028; and (2) money deposited to credit of state highway fund under this section may not be used for toll roads.

HB 1518 (Leach) — Transportation Funding (Referred to Transportation 3/13): would provide that legislature may not appropriate money deposited to credit of state highway fund to construct, maintain, or acquire rights-of-way for a toll project or system. (See HJR 65, below.) Companion bill is SB 639 by Huffines) also HJR 65 (Leach), SB 639 (Huffines), SJR 35 (Huffines)

HB 4160 (Pickett) — Commuter Rail (Referred to Transportation 3/31): would provide that a political subdivision may not accept, including through the Texas Department of Transportation, or use federal funds for the construction, maintenance, or operation of a commuter rail or other commuter rail project, including for the repayment of debt issued for a project, unless approved at an election in the city. Also SB 385 (Burton) — Passenger Rail Projects

TRANSPORTATION REINVESTMENT ZONES

TREES

SB 782 (Campbell) — Tree Ownership, Removal and Mitigation (Co-author authorized 2/28): A landowner owns all trees and timber located on landowner's land as real property until cut or otherwise removed from land, unless otherwise provided by a contract, bill of sale, deed, mortgage, deed of trust, or other legally binding document. A governmental entity may not prohibit a landowner from trimming or removing trees or timber located on landowner's land either in City or ETJ. Sets a mitigation fee limit and landowner is entitled to plant
replacement tree at landowner’s expense instead of paying mitigation fee. Landowner who chooses to plant a replacement tree is not required to plant a number of replacement trees whose total girth is greater than total girth of all mature trees to which mitigation fee would have applied. Also, SB 898 (Bettencourt), SB 1082 (Burton), HB 1572 (Workman), HB 2535 (Zedler),

UTILITIES

HB 31 (Larson)—Regulation of Groundwater (5/24 S placed on intent calendar); would provide: (1) that a groundwater conservation district may not require that information in addition to the statutory requirements be included in an application for a permit; and (2) the conditions under which a groundwater conservation district may adopt a moratorium on the issuance of permits.

VESTING

HB 898 (Workman)—Permit Vesting (Land & Resource Management 4/28 Committee report sent to Calendars died in House); would, in relation to permit vesting statute, provide that: (1) a regulatory agency may not impose a fee for agency to review an application for determination of applicability of statute to applicant’s project; (2) a permit applicant may request mandatory mediation regarding any regulatory agency determination that statute does not apply to applicant’s project; and (3) a political subdivision that has been found by a court to have violated statute is liable for actual damages, reasonable attorney’s fees, administrative and court costs, and applicant’s portion of cost of any mediation that did not result in an agreement.

WATER DISTRICTS

WIRELESS including CELLULAR FACILITIES

FCC Threatens to Limit Right-of-Way Authority: Late last month (December) Federal Communications Commission (FCC) issued a public notice seeking comment on two topics that could shape future of cities’ control over their rights-of-way. FCC’s Wireless Bureau requested public comment on how to “streamline” deployment of small wireless facilities, primarily through potential changes to local land-use ordinances, and it also seeks comment on a petition filed by infrastructure company Mobilitie regarding local government rules and procedures.

NEW FCC ORDERS

<table>
<thead>
<tr>
<th>SMALL CELL – 5G</th>
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<tbody>
<tr>
<td>STATE LAW IS PREEMPTED- SO ALL THE WORK FROM SB1004 NEEDS TO BE REVISTED</td>
</tr>
<tr>
<td>CHANGE SHOT CLOCK FROM STATE LAW</td>
</tr>
<tr>
<td>NO MORATORIA ON SMALL CELL ALLOWED</td>
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<tr>
<td>LIKELY NEED TO CONSIDER FRANCHISE UTILITIES AS WELL AS SMALL CELL FOR DETERMINING APPROPRIATE REGULATION OF POLE SPACING, ETC.</td>
</tr>
<tr>
<td>ALSO COVERS SMALL CELL ON PRIVATE PROPERTY AND CITY PROPERTY OTHER THAN ROW</td>
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ZONING

HB 780 (Shaheen)—Zoning of Cannabis (Referred to Urban Affairs 2/23); would: (1) authorize a city to enact: (a) reasonable zoning rules that limit use of land for dispensing organizations or cultivation or production of low-THC cannabis to specified areas; and (b) ordinances, orders, or other rules that regulate time, place, and manner of dispensing organization operations; and (2) provide that a rule, ordinance, order, resolution or other city regulation that prohibits or has effect of prohibiting cultivation, production, dispensing, or possession of low-THC cannabis, as authorized by Health and Safety Code, is void and unenforceable.
Texas Legislative Service was founded in 1924 under motto "Nulla Lex Sine Luce" which translated means "No law without light"……From their website.