TXAPA/TML AFFILIATE LEGISLATIVE COMMITTEE
Planning/Development Legislation Update as of May 29, 2019

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 began, 460 bills filed on the first day. The number of city related bills as a percentage of total bills filed has risen every year. Twenty years ago, around 17 percent of bills filed affected cities in some way. By 2017, that percentage had almost doubled to 30 percent. In other words, almost a third of the legislature’s work is directed at cities, and much of that work aims to limit municipal authority.
- 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 were monitored 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 effectively immediately) become law.

Following is status of Planning Related Bills and other issues as listed on TML Legislative Reports 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. Only bills sent to the Governor or signed by the Governor as of 5.29.19 are listed.

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BILL SEARCH AND STATUS

Each bill below has a link to the bill as introduced. Just click on the link and it will take you directly to the bill. We will strive to replace the links where a bill is updated in committee. To find out the exact status of a bill or to view amended bills, just click on the link below to “Texas Legislature Online” and enter the bill number as shown in the picture. You can also find out committee agendas and information about individual legislators. https://capitol.texas.gov/ TML legislative information and links can be found at: https://www.tml.org/319/Legislative-Information

AFFORDABLE HOUSING

HB 1215 (Collier) – Low Income Housing Tax Credits:  (05/29/2019 E Sent to the Governor) would: (1) provide that the Texas Department of Housing and Community Affairs (“Department”) may require, as part of the threshold criteria under a qualified allocation plan (“QAP”), that a proposed development satisfy certain criteria relating to educational quality specified in the plan; (2) prohibit the Department from adopting a QAP that uses a scoring system to award points to an application for housing credits based on criteria relating to the educational quality applicable to a proposed development; and (3) require that the governing board of the Department ensure that the 2018 QAP conforms to the requirements of (1) and (2) above.

SB 493 (Alvarado) – Housing Tax Credits:  (05/25/2019 E Sent to the Governor) would allow the Texas Department of Housing and Community Affairs to allocate housing tax credits to more than one development in a single community, in the same calendar year, if: (1) the developments are located in an area declared to be a disaster by the state; and (2) the communities are located within a county with a population that exceeds one million.


ALCOHOLIC BEVERAGES

HB 1443 (S. Thompson) – Alcohol:  (05/27/2019 E Signed by the Governor, effective 9.1.19) would require that, not later than the 30th day after the date a prospective applicant for an alcoholic beverage permit or license requests certification, the city secretary or clerk certify whether the location or address given in the request is in a wet area and whether the sale of alcoholic beverages for which the permit or license is sought is prohibited by charter or ordinance. (Companion bill is SB 699 by Hall.)


ANNEXATION, DEVELOPMENT, STRATEGIC PARTNERSHIP AGMTS

HB 347 (P. King) – Annexation:  (Governor signed 5.24.19, effective immediately) would essentially eliminate most unilateral annexations by any city, regardless of population or location. Specifically, the bill would: (1) eliminate the distinction between Tier 1 and Tier 2 cities and counties created by SB 6 (2017); (2) eliminate existing annexation authority that applied to Tier 1 cities and make most annexations subject to the three consent annexation procedures created by SB 6 (2017), which allow for annexation: (a) on request of the each owner of the land; (b) of an area with a population of less than 200 by petition of voters and, if required, owners in the area; and (c) of an area with a population of at least 200 by election of voters and, if required, petition of landowners; and (3) authorize certain narrowly-defined types of annexation (e.g., city-owned airports, navigable streams, etc.) to continue using a service plan, notice, and hearing annexation procedure.-- (Companion bill is SB 745 (Birdwell) Enrolled version: https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB347
SB 746 (Campbell) – Annexation: (5/25/19 Vetoed by the Governor, will probably be signed) would modify the provisions of SB 6 (2017) that authorize a countywide election to adopt Tier 2 status to: (1) lower the petition threshold from 10 percent to seven percent of the registered voters in the county; and (2) provide that, in relation to Tier 2 cities: (a) if a city does not obtain the number of signatures on a petition required to annex an area, it may not annex any part of the area and may not adopt another resolution to annex any part of the area until the fifth anniversary of the date the petition period ended; and (b) if a majority of qualified voters do not approve a proposed annexation at an election called for that purpose, it may not annex any part of the area and may not adopt another resolution to annex any part of the area until the fifth anniversary of the date of the adoption of the resolution. https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB746

SB 1024 (Perry) – Annexation: (House passage reported 5/19/19, 5.21.19 sent to Governor) would provide that: (1) a Tier 1 city shall provide access to services provided to an annexed area under a service plan that is identical or substantially similar to access to those services in the city; (2) a person residing in an annexed area subject to a service plan may apply for a writ of mandamus against a city that fails to provide access to services in accordance with (1); (3) in the action for the writ: (a) the court may order the parties to participate in mediation; (b) the city has the burden of proving that it complied with (1); (c) the person may provide evidence that the costs for the person to access the services are disproportionate to the costs incurred by a municipal resident to access those services; and (d) if the person prevails, the city shall dis-annex the property that is the subject of the suit within a reasonable period specified by the court or comply with (1) and court shall award person’s attorney’s fees and costs incurred in bringing the action for the writ; and (4) a city’s governmental immunity to suit and from liability is waived and abolished to the extent of liability created by the bill.

SB 1303 (Bettencourt) – Annexation/Extraterritorial Jurisdiction: (05/25/2019 E Sent to the Governor) Placed on General State Calendar 5.21.19, Land & Resource Mgmt reported favorably on 5.7.19, Senate approved on 4.11.19 would provide that: (1) a home rule city shall make publicly available a digital map (in addition to a paper map under current law) reflecting annexations and extraterritorial jurisdiction (ETJ) changes; (2) a city, before the 90th day after the date it adopts or amends an annexation plan, shall give written notice with certain provisions to each property owner in any area that would be newly included in the city’s extraterritorial jurisdiction as a result of the proposed annexation; (3) a home rule city, before the 90th day after the date it adopts or amends an annexation plan, shall create and make publicly available a digital map that identifies the area proposed for annexation and any area that would be newly included in the city’s ETJ as a result of the proposed annexation; (4) in addition to publishing notice of annexation hearings in a newspaper of general circulation in the city and area to be annexed, the notice must be published in a newspaper of publish notice of the hearings in a newspaper of general circulation in any area that would be newly included in the city’s ETJ resulting from the proposed annexation; and (5) if applicable, the notice for each annexation hearing must include: (a) a statement that the completed annexation of the area will expand the city’s ETJ; (b) a description of the area that would be newly included in the city’s ETJ; (c) a statement of the purpose of ETJ designation; and (d) a list of municipal ordinances that would be applicable in the area that would be newly included in the city’s ETJ; and (6) in addition to the notice requirements for a plan-exempt annexation, a home rule city, before it may institute annexation proceedings, shall create and make publicly available a digital map that identifies the area proposed for annexation and any area that would be newly included in the city’s ETJ as a result of the proposed annexation.

SB 1468 (Campbell) – Annexation: (Sent to Governor on 5.25.19, House Passage on 5.16.19, Senate on 5.2.19) would: (1) apply to a city that operates a municipally owned water utility and uses revenue from the utility partly for general municipal purposes or other purposes not related to the water utility; and (2) provide that such a city may not annex a water district for full purposes under the terms of an existing strategic partnership agreement, but rather must comply with the more restrictive annexation requirements enacted by SB 6 (2017).
BATHROOMS

BOARD OF ADJUSTMENTS

HB 2497 (Cyrier) – Board of Adjustment (05/26/2019 E Sent to the Governor): would allow the following persons to appeal to the board of adjustment a decision made by an administrative official: (1) a person who filed an application that is the subject of the decision; or (2) a person who is the owner of property that is the subject of the decision. https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2497

BUILDING AND FIRE CODES/INSPECTION

HB 852 (Holland) – Permit Fees: (Signed by the Governor 5.21.19, effective immediately) would provide that: (1) in determining the amount of a building permit or inspection fee required in connection with the construction or improvement of a residential dwelling, a city may not consider: (a) the value of the dwelling; or (b) the cost of constructing or improving the dwelling; and (2) a city may not require the disclosure of information related to the value of or cost of constructing or improving a residential dwelling as a condition of obtaining a building permit. (companion bill by SB 855 Fallon below) https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB855

HB 2439 (Phelan) – Building Materials and Methods: (See Home Rule Authority) Moved because of broad effect on all development ordinances.

HB 2546 (Guillen) – Industrialized Housing and Buildings: (05/29/2019 E Sent to the Governor) would provide that a manufacturer or builder of industrialized housing or buildings may construct industrialized housing or buildings in accordance with the energy efficiency performance standards outlined in: (a) the energy efficiency chapter of the International Residential Code; or (2) a local amendment to that code that is applicable to the city or county in which the industrialized housing or buildings will be located and determined by the State Energy Conservation Laboratory to be equally or more stringent than the state-adopted version of the energy efficiency chapter of the International Residential Code. https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2546

HB 2858 (Toth) – Swimming Pools (05/29/2019 E Sent to the Governor) would provide that: (1) to protect the public health, safety, and welfare, the International Swimming Pool and Spa Code, as it existed on May 1, 2019, is adopted as the municipal swimming pool and spa code in this state; (2) the code applies to all construction, alteration, remodeling, enlargement, and repair of swimming pools and spas in a city that elects to regulate pools or spas; (3) a city may establish procedures for the administration and enforcement of the code; and (4) a city may review and adopt amendments made by the International Code Council to the code after May 1, 2019. https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2858

CODE ENFORCEMENT

HB 36 (Ortega) – Substandard Buildings: (05/29/2019 E Sent to the Governor) would: (1) authorize an appeal from an interlocutory order denying a motion filed by a city related to a substandard building determination; and (2) require a court to expedite a proceeding, including an appeal, related to certain substandard building determinations. https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB36

HB 2584 (Cortez) – Code Enforcement Officers: (05/29/2019 E Sent to the Governor) (1) exempts a code enforcement officer from prohibition on carrying a club, if the officer holds a certificate of registration as a code enforcement officer and is carrying the club to deter animal bites while the officer is on duty; and (2) require the Texas Commission of Licensing and Regulation to include educational training requirements regarding the principles and procedures to be followed when possessing or carrying an instrument used for deterring animal bites. (Companion bill SB 764 by Menendez.) https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2584
SB 254 (Rodriguez) – Substandard Property: **(Signed by the Governor, effective immediately)** would expand those persons a court may appoint as a receiver for a substandard property to include any individual that the city demonstrates is competent and able to fulfill the duties of a receiver. (Companion bill is HB 280 by Ortega)


**COMPREHENSIVE PLANS**

**CREDIT ACCESS BUSINESS/PAYDAY/AUTO TITLE LENDING**

(Also see “Payday Lending Clearinghouse” webpage, available at www.tml.org/payday-updates

Update - On February 6, the federal Consumer Financial Protection Bureau issued proposed changes to federal rules regulating payday lending. The current rules contain a provision that requires a lender to ensure that a borrower can afford to repay a payday loan prior to issuing it. This “ability to pay” or “underwriting requirement” standard is a key consumer protection component, and it would be eliminated under the proposed changes. The CFPB’s web page contains a summary explanation. A comment period will begin once the proposed changes are published in the Federal Register. See Payday Lending Clearinghouse webpage above)

**ECONOMIC DEVELOPMENT/REDEVELOPMENT**

SB 289 (Lucio) – Natural Disasters: **(05/25/2019 E Sent to the Governor)** would: (1) authorize cities to develop local housing recovery plans to provide for the rapid and efficient construction of permanent replacement housing following a natural disaster; (2) require the General Land Office (or other state agency designated by the governor) to seek approval from certain federal agencies for the immediate post-disaster implementation of local housing recovery plans; and (3) require local housing recovery plans be approved by the Hazard Reduction and Recovery Center at Texas A&M University, the General Land Office, and the governor.


SB 450 (Powell) – Economic Development Corporations: **(Signed by Governor 4.25.19, effective 9.1.19)** would require an economic development corporation to turn in its required report to the comptroller by April 1st of each year rather than February 1.

https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB450

**EMERGENCY MANAGEMENT/DISASTER RECOVERY**

HB 137 (Hinojosa) – Hazardous Dam Reporting: **(Sent to the Governor 5.24.19)** would require the Texas Commission on Environmental Quality to provide a report of a dam that has a hazard classification of high or significant to the emergency management director for the political subdivision in which the dam is located.


HB 2305 (Morrison) – Emergency Management Training: **(05/28/2019 E Sent to the Governor)** would provide that the Texas Division of Emergency Management shall establish a work group of persons knowledgeable on emergency management to study and develop a proposal for enhancing the training and credentialing of emergency management directors, emergency management coordinators, and other emergency management personnel on the state or local level.


SB 285 (Boris) – Hurricane Preparedness: **(05/25/2019 E Sent to the Governor)** would, among other things, require: (1) the governor to issue a proclamation each year before hurricane season instructing: (a) individuals, including residential and commercial property owners, to prepare their property and communities for the upcoming hurricane season; and (b) cities and other agencies, to the extent practicable, to conduct community outreach and education activities on hurricane preparedness between May 25 and 31 of each year; and (2) the General Land Office conduct a public information campaign each year before and during hurricane season to provide local officials and the public with information regarding housing assistance that may be available under state and federal law in the event of a major hurricane or flooding event, including information about types of assistance unavailable under the law.

SB 799 (Alvarado) – Disaster Recovery: (05/28/2019 E Sent to the Governor) would create a business advisory council, composed of members who represent business, to provide advice on economic recovery following a disaster, including proposed solutions to address inefficiencies or problems in local governmental disaster response with respect to the impact on business and the economy.  

SB 986 (Kolkhorst) – Emergency Management Contracts: (05/25/2019 E Sent to the Governor) would provide that: (1) the Comptroller shall: (a) update the contract management guide to include contract management standards and information for contracts related to emergency management; and (b) develop such standards in consultation with the Texas Division of Emergency Management, Texas A&M AgriLife Extension Service, Texas A&M Engineering Extension Service, and local governmental entities; and (2) the contract management guide must include: (a) preferred contracting standards; (b) information on contracts for services that may be necessary to respond to a natural disaster or to construct, repair, or rebuild property or infrastructure after a national disaster, including clearing debris and providing information management services and construction services; and (c) advice on preparing for a natural disaster, including procedures for contracting for services described in (2)(b) before a natural disaster occurs.  

EMERGENCY SERVICE DISTRICTS (ESD’s)

SB 1083 (Zaffirini) – Emergency Services Districts: (05/26/2019 E Sent to the Governor) would require a city to factor in sales tax revenue in the amount that must be paid to an emergency services district when the city seeks to remove territory from the district.  
https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB1083

EMINENT DOMAIN

ENVIRONMENT

SB 698 (Birdwell) – Clean Air Act Permits: (05/20/2019 E Sent to the Governor) would provide that the Texas Commission on Environmental Quality may: (1) add a surcharge for an expedited application for a Clean Air Act permit to cover, among other things, the costs of full-time equivalent TCEQ employees to support the expedited processing of air permits and that money from the surcharge collected may be used to support the expedited processing; (2) authorize the use of overtime, full-time equivalent TCEQ employees to support the expedited processing of air permit applications; and (3) pay for compensatory time, overtime, full-time equivalent TCEQ employees supporting the expedited processing of air permit applications used in expedited permitting; and (4) set the rate for overtime compensation for full-time equivalent TCEQ employees.  

EXTRATERRITORIAL JURISDICTION

SB 1303 (Bettencourt) – Annexation/Extraterritorial Jurisdiction: (4.16.19 Referred to Land & Resource Mgmt., 4.11.19 Passed by Senate) See Annexation.

GAMBLING

HB 914 (S. Thompson) – Bingo Regulation: (05/29/2019 E Sent to the Governor) would: (1) provide that cities could impose a bingo prize tax if the governing body votes to impose the tax before November 1, 2019; (2) authorize the Texas Lottery Commission (Commission) to make a determination that a licensed bingo organization engages in illegal gambling and is detrimental to other licensed bingo organizations; (3) terminate a city’s entitlement to its share of a bingo prize tax if the Commission makes the determination in (2), above, and provide a process for a city to challenge the Commission’s determination; and (4) provide that a city currently entitled to receive a bingo prize fee (cities that had a gross receipts tax on charitable bingo operations in place as of January 1, 1993) may only continue to receive those funds if: (a) a majority of the governing body approves the continued receipt of the funds and notifies the Commission of that decision no later than November 1, 2021; and (b) notifies each licensed authorized bingo organization within the city of the continued imposition of the tax.  
GRANTS, FUNDING AGENCIES

GROUP HOMES/HALFWAY HOUSES

HEALTH CODES AND INSPECTIONS

HB 234 (Krause) – Sale of Lemonade: (05/29/2019 E Sent to the Governor) would provide that a city, county, or other local public health authority may not adopt or enforce an ordinance, order, or rule that prohibits an individual younger than 18 years of age from temporarily selling lemonade or other nonalcoholic beverage from a stand on private property. (Companion bill is SB 824 by Nelson)

HB 1694 (Lambert) – Farmer’s Markets: (05/22/2019 E Sent to the Governor) would prohibit a local government authority, including a local health department, from: (1) requiring a person to obtain a permit in order to provide samples of food at a farm or farmers’ market; (2) regulating the provision of samples of food at a farm or farmers’ market except as expressly provided in certain state law; and (3) adopting a rule requiring a farmers’ market to pay a permit fee for: (a) conducting a cooking demonstration for educational purposes; or (b) providing samples of food. (Companion bill is SB 789 by Johnson.)

HB 2107 (Capriglione) – Food Regulation: (05/16/2019 E Sent to the Governor) would require a city to: (1) provide a response to a request for written information pertaining to the regulation of food not later than the 30th day after receipt of the request (unless prohibited by law); (2) provide an official written determination in regard to a request about the applicability of a food regulation or compliance with a food regulation not later than the 30th day after receipt of a written request; and (3) provide that a determination in (2) is valid until the regulation is amended by statute, rule, or regulation.

SB 572 (Kolkhorst) – Cottage Foods: (05/25/2019 E Sent to the Governor) would: (1) expand the definition of “cottage food production operation” to include pickled vegetables, fermented products, and canned goods that are acidified or low acid; (2) require a cottage food production operation producing a fermented product or a canned good that is acidified or low acid to submit the recipe to and get approval from the Texas Department of Health and Human Services (department) to sale the product; and (3) require the department to study the competitiveness of the Texas cottage food industry.

SB 932 (Hughes) – Farmers’ Markets: (05/17/2019 E Sent to the Governor) would provide that a temporary food establishment permit or permit issued by a public health district to a farmers’ market must be valid for a term of not less than one year, may impose an annual fee not to exceed $50, and must cover sales at all locations within the jurisdiction of the permitting authority.

HISTORIC

HB 1422 (Paddie) – Texas Historical Commission: (Signed by Governor 5.24.19, effective 9.1.19 except Section 16 takes effect 8.26.19) would: (1) continue the functions of the Texas Historical Commission (commission) until September 1.; (2) authorize the commission to establish the Texas Heritage Trails Program to promote tourism to heritage and cultural attractions in the state; and (3) transfer jurisdiction over certain historic sites and parks from the Texas Parks and Wildlife Department to the commission. (See companion bill SB 605 by Buckingham) https://capitol.texas.gov BILLLookup/Text.aspx?LegSess=86R&Bill=HB1422

HB 2496 (Cyrier) – Local Historic Landmarks: (4.29.19 Received by the Senate, 4.26.19 Passed by House as amended and substituted) (Signed by Governor 5.25.19, effective immediately) would provide that a city that has established a process for designating places or areas of historical, culture, or architectural significance through zoning districts may not designate a property as a local historic landmark unless the owner of the property consents to the designation, and must allow the owner to withdraw consent at any time.
during the designation process.


**HOME RULE AUTHORITY**

HB 2439 (Phelan) – Building Materials and Methods:  (Sent to Governor on 5.29.19, Passed by Senate 5.20.19 as amended, House on 4.30.19) would provide that: (1) a governmental entity may not adopt or enforce a rule, charter provision, ordinance, order, or other regulation that prohibits, directly or indirectly, the use of a building product, material, or method in the construction, renovation, maintenance, or other alteration of a residential or commercial structure if the building product, material, or method is approved for use by a national model code that: (a) is adopted by the governmental entity; and (b) governs the construction, renovation, use, or maintenance of buildings and building systems; (2) a rule, charter provision, ordinance, order, or other regulation adopted by a governmental entity that conflicts with the bill is void; (3) the attorney general may bring an action in the name of the state to enjoin a violation of the bill; and (4) the attorney general may recover reasonable attorney’s fees and costs incurred in bringing an action under the bill. (Companion bill is SB 1266 by Buckingham)  (Ed Note – After review, it appears the intent is to have a broad sweeping bill that will preempt city development ordinances. The wording is broad enough, the bill DOES appear to stop cities from using zoning, subdivisions and building codes. Local amendments just went out the window. Form based codes and planned developments are not listed in CH 211 so can’t do them because they’ll affect builders and developers who do business in more than one city. They want to have state law preempt city ordinances so they don’t have to fight the individual ordinance each session. For example, this prohibits masonry requirements if various types of wood siding meet national codes. Precludes design standards such as historic guidelines, planned development or overlay districts with agreed upon architecture, etc.) https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2439

**IMPACT FEES**

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

HB 1385 (T. King) – Industrialized Housing:  (Signed by the Governor on 5.24.19, effective immediately) would expand the maximum allowable height of industrialized housing and buildings.  https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB1385

**OIL, GAS AND PIPELINES, GAS WELLS**

**OPEN MEETINGS/PUBLIC INFORMATION/NOTICE**

**PAYDAY/AUTO TITLE LENDING (see Credit Access Business)**

**ROUGH PROPORTIONALITY**

SB 1510 (Schwertner) – Rough Proportionality:  (05/25/2019 E Sent to the Governor) would provide that the rough proportionality requirement for development exactions in current law applies to, in addition to a city action, a requirement under a city/county subdivision agreement for regulation in the extraterritorial jurisdiction.  https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB1510

**REVENUE CAPS**

Ed. Note – This is being added at the request of the TXAPA Board that feels revenue caps will have a significant negative impact on financing the planning, growth and development of cities.

SB 2 – Property Tax Revenue Caps:  (05/28/2019 E Sent to the Governor) A conference committee negotiated the differences. Both chambers imposed a revenue cap of 3.5 percent, meaning the final version would most likely pass at that figure. Lowering the current 8% revenue cap (rollback rate) — limiting increases in a city or county’s overall property tax levy — will restrict city and counties’ ability to
provide the efficient and effective government services taxpayers demand. SB 2 contains many beneficial provisions, so the message isn’t that the bills shouldn’t pass. As one senator recently put it, the problem with both bills is that it is just 2.5 percent

**SEXUALLY ORIENTED BUSINESSES**

**SHORT TERM RENTALS**

**SOLID WASTE FACILITIES**

HB 1435 (E. Thompson) – Solid Waste Permitting: (05/22/2019 E Sent to the Governor) would provide that: (1) before a permit for a proposed municipal solid waste management facility is issued, amended, extended, or renewed, the Texas Commission on Environmental Quality shall inspect the facility or site to confirm information included in the permit application; and (2) TCEQ shall prescribe the types of information to be confirmed in the permit by rule. https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB1435

**SIGNS**

SB 357 (Nichols) – Billboards: (05/25/2019 E Sent to the Governor) would amend the transportation code to provide that a billboard: (1) may not be higher than 42 ½ feet, excluding a cutout that extends above the rectangular border of the sign; and (2) a person may not rebuild a billboard at a height that exceeds 42 ½ feet. (Companion bill is HB 789) https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB357

**SPECIAL DISTRICTS, TRUSTS**

HB 304 (Paul) – Municipal Management Districts: (05/24/2019 E Sent to the Governor) would make various changes to the governance and operation of municipal management districts. https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB304

HB 1136 (Price) – Tourism Public Improvement Districts: (05/24/2019 E Sent to the Governor) would authorize any city to establish a tourism public improvement district composed of territory in which the only businesses are one or more hotels https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB1136

HB 2018 (Thierry) – Municipal Management Districts: (05/26/2019 E Sent to the Governor) would provide that, not later than the 90th day after the date a district annexes or excludes land, the district shall provide a description of the metes and bounds of the district, as of the date the annexation takes effect, to each city that, on the date the annexation takes effect: (1) has territory that overlaps with the district’s territory; or (2) is adjacent to the district. https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB2018

**STORMWATER, FLOODING, FLOODPLAINS AND DRAINAGE**

HB 1059 (Lucio) – Stormwater Infrastructure Reporting: (05/26/2019 E Sent to the Governor) would: (1) define “green stormwater infrastructure” and “low impact development;” (2) create a Green Stormwater Infrastructure and Low Impact Development Report Group to be appointed by the Texas Commission on Environmental Quality, including one member from a city; and (3) require the Group to prepare a biennial report on the use of green stormwater infrastructure and low impact development in the state to be submitted to the members of the Texas Commission on Environmental Quality, the governor, the lieutenant governor, the speaker of the house, and each member of the legislature Companion Bill is SB 1381 by Rodriguez

**SUBDIVISION PLATTING, RELATED DEVELOPMENT STANDARDS**

HB 3167 (Oliverson) – Plat/Plan Approval Shot Clock: (05/24/2019 E Sent to the Governor) Changes 30 day requirement from “act on” to must approve or disapprove within 30 days. Also requires written statement of notice of disapproval listing all reasons for disapproval and limiting required amendments on subsequent
submissions to those listed in the notice. Bill was amended to include “approval with conditions” which would have been a serious problem for everyone. Ed. Note – Intended to limit delays when actual result will be additional delays with cities reluctant to accept or process plats with minor problems. (Companion bill is SB 2370 by Bettencourt) https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB3167

HB 3314 (Romero) - Replats: (05/28/2019 E Sent to the Governor) Relating to certain requirements to replat certain municipal subdivision plats including changes to the public hearing addition of notice of approval requirements. Supported by TXAPA
https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB3314

TAX ABATEMENT

TAX INCREMENT FINANCING

TRANSPORTATION

HB 1548 (Springer) – Golf Carts, Neighborhood Electric Vehicles, and Off-Highway Vehicles: (05/29/2019 E Sent to the Governor) would: (1) for purposes of the Recreational Use Statute, remove all-terrain vehicles and recreational off-highway vehicles from the definition of “recreation” and streamline the definition to reference “off-highway vehicles”; (2) for purposes of the Texas Clean Fleet Program and certain state law related to public beaches, define “golf cart” to mean a motor vehicle designed by the manufacturer primarily for use on a golf course; (3) include “all-terrain vehicle” and “recreational off-highway vehicle” in the definition of “off-highway vehicle” and make conforming amendments to various state laws; (4) provide that a golf cart, neighborhood electric vehicle (NEV), or off-highway vehicle (OHV) operated at a speed of not more than 25 miles per hour is required to display a slow-moving-vehicle emblem when operated on a highway; and (5) provide that an OHV that is registered under certain law is not subject to compulsory inspection.

With regard to Neighborhood Electric Vehicles, the bill: 22 1. provides that the Texas Department of Motor Vehicles (DMV) may not register a NEV for operation on a highway, but may issue a license plate and charge a related fee; 2. allows a NEV to be operated on a highway only if the vehicle displays a license plate; 3. provides that a city may allow an operator to operate a NEV on all or part of highway that is in the corporate boundaries of the city and has a posted speed limit of not more than 35 miles per hour; 4. allows a NEV to cross a highway at an intersection, including an intersection with a highway with a speed limit of more than 35 miles per hour; 5. authorizes a city to prohibit the operation of a NEV in a master planned community, on a public or private beach, or on a highway for which the posted speed is not more than 35 miles per hour if it is necessary in the interest of safety; and 6. exempts the operation of a NEV from the Motor Vehicle Safety Responsibility Act in some instances.

With regard to Golf Carts, the bill: 1. defines the term “golf cart” to mean a motor vehicle designed by the manufacturer primarily for use on a golf course; 2. provides that the DMV may not register a golf cart for operation on a highway, but may issue a license plate and charge a related fee; 3. allows a golf cart to be operated on a highway only if the vehicle displays a license plate; 4. removes a city’s authority to prohibit the operation of a golf cart in a master planned community and on a public or private beach, or on a highway for which the posted speed is not more than 35 miles per hour when operated within 2 miles of a golf course; 5. authorizes a city to either allow or prohibit the operation of a golf cart on a highway that is in the city limits and has a posted speed of not more than 35 miles per hour; 6. allows a golf cart to cross a highway at an intersection, including an intersection with a highway with a speed limit of more than 35 miles per hour; and 7. exempts the operation of a golf cart from the Motor Vehicle Safety Responsibility Act in some instances.


TRANSPORTATION FUNDING

HB 71 (Martinez) – Creation/Funding of Regional Transportation Authorities: (Signed by the Governor 05/24/2019 E Effective immediately) Relating to the creation of regional transit authorities; granting the power of eminent domain; providing authority to issue bonds and charge fees; creating a criminal offense. https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=HB71
SB 282 (Buckingham) – Transportation Funding: (05/21/2019 E Sent to the Governor) would authorize the Texas Department of Transportation to reallocate liquidated damages money associated with delays of transportation projects. https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB282

SB 962 (Nichols) – State Transportation Funding: (05/21/2019 E Sent to the Governor) would eliminate the expiration date relating to the determination of the fund balances in the state’s “Rainy Day” and State Highway Funds. https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB962

TREES

UNFUNDED MANDATES

UTILITIES

HB 721 (Larson) – Aquifer Storage and Recovery: (5/29/2019 E Sent to the Governor) would require the Texas Water Development Board to work with river authorities, major water providers and water utilities, regional water planning groups, and potential sponsors of aquifer storage and recovery projects identified in the state water plan to: (1) conduct a study to identify the relative suitability of various major and minor aquifers for use in aquifer storage and recovery projects based on certain considerations; and (2) prepare a report that includes an overview of the study to be submitted to the governor, lieutenant governor, and speaker of the house.

HB 1052 (Larson) – Financial Assistance: (05/26/2019 E Sent to the Governor) would allow the Texas Water Development Board to use the state participation account of the water development fund to provide financial assistance for desalination or aquifer storage and recovery facilities.

HB 1059 (Lucio) – Stormwater Infrastructure Reporting: (05/26/2019 E Sent to the Governor) would: (1) define “green stormwater infrastructure” and “low impact development;” (2) create a Green Stormwater Infrastructure and Low Impact Development Report Group to be appointed by the Texas Commission on Environmental Quality, including one member from a city; and (3) require the Group to prepare a biennial report on the use of green stormwater infrastructure and low impact development in the state to be submitted to the members of TCEQ, the governor, the lieutenant governor, speaker of the house, and each member of legislature.

SB 1512 (Flores) – Utility Relocation: (Signed by the Governor 05/28/2019 E Effective immediately) a utility, including any type of municipal utility, shall make a relocation of a utility facility required by improvement of the state highway system at the expense of this state if the Transportation Commission determines: (1) the utility is a political subdivision or is owned or operated by a political subdivision; (2) a financial condition would prevent the utility from being able to pay cost of relocation in full or in part at the time of relocation or, if paid at that time, the payment would adversely affect utility’s ability to operate or provide essential services to its customers; and (3) the utility is ineligible for a state infrastructure bank loan or is otherwise unable to finance the cost of the relocation. (companion bill HB 3089 by Martinez.

VESTING

WATER/UNDERGROUND DISTRICTS

HB 722 (Larson) – Brackish Groundwater Development: (05/29/2019 E Sent to the Governor) would: (1) require groundwater conservation districts to adopt rules for the issuance of permits to withdraw brackish groundwater for public drinking water or an electric generation project if the district receives a petition from a person with a legally-defined interest in groundwater in the district; (2) provide for a minimum term of 30 years for a permit issued for a well the produces brackish groundwater from a designated brackish groundwater production zone; (3) require implementation of a monitoring system to monitor water levels and water quality of the source or adjacent source of the brackish water; (4) require the holder of a permit to report to the groundwater conservation district on the amount of brackish groundwater withdrawn, the average monthly water quality, and
aquifer levels; (5) require that the district submit the application for permit to the Water Development Board for technical review; and (6) require that the Water Development Board submit a report of the review of the application before the district can schedule a hearing on the application.


**SB 483 (Campbell) - Permits for Injection Wells in Edwards Aquifer. (05/26/2019 E Sent to the Governor)** Relating to permits for certain injection wells that transsect a portion of the Edwards Aquifer.

Companion bill is SB 483 by Campbell. Ed Note- provides for improved ability to have aquifer storage and recovery. This is being coordinated with the Barton Springs Edwards Aquifer Conservation District, a few cities, and the Texas Water Development Board. Everybody is on-board with it including environmental groups. And it promotes water conservation See companion bill HB 1044 (Zweiner)


**WIRELESS including CELLULAR FACILITIES**

Ed. Note - NEW FCC ORDERS – Check with your cellular expert.

**January 25 - Good Small Cell Bill** - Introduced in Congress Congresswoman Anna Eshoo (D – California) has introduced legislation to overturn the Federal Communications Commission’s preemptive “small cell order.” The “Accelerating Wireless Broadband Deployment by Empowering Local Communities Act of 2019” (H.R. 530), was endorsed on introduction by the City of San Jose, the National League of Cities, the National Association of Counties, and the National Association of Telecommunications Officers and Advisors. More details will follow.

See the January 18 TML Small Cell Lawsuit Update https://www.tml.org/p/LU2019-03.pdf (page 3)

S.B. 1152 – Hancock - Right-of-Way Franchise Fees (05/25/2019 E Sent to the Governor) would provide that: (1) an “affiliated group” means a group of one or more entities in which a controlling interest is owned by a common owner or owners, either corporate or noncorporate, or by one or more of the member entities; (2) provide that a certificated telecommunications provider is not required to pay any right-of-way access line fee compensation for a given year if the provider determines that the sum of the access line compensation due from the provider and any member of the provider’s affiliated group to all cities in this state is less than the sum of the fees due from the provider and any member of the provider’s affiliated group to all cities in this state under the state cable franchise law; (3) the determination under (2) for a given year must be based on amounts actually paid, or amounts that would have been paid, during the immediately preceding calendar year by the provider and any member of the provider’s affiliated group; (4) the holder of a state issued certificate of franchise authority to provide video service is not subject to the right-of-way rental fee for a given year if the holder determines that the sum of fees due from the holder and any member of the holder’s affiliated group to all cities in this state is less than the sum of the compensation due from the holder and any member of the holder’s affiliated group to all cities in this state under the telecommunications access line fee law; (5) the determination under (4) for a given year must be based on amounts actually paid, or amounts that would have been paid, 361 during the immediately preceding calendar year by the provider and any member of the provider’s affiliated group. (Note: this bill would essentially allow a company to elect to pay either access line fees or state cable franchise fees.) (companion bill HB3535 by Phelan) https://capitol.texas.gov/BillLookup/Text.aspx?LegSess=86R&Bill=SB1152

**ZONING**

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