Legislative Issues Faced by Cities

86th Legislative Session

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FOREWORD

This packet is meant to provide a general (though not exhaustive) overview of the myriad legislative issues faced by cities. It lists the most significant bills that were proposed in the 84th and 85th legislative session to inform you about what bills may be filed this year, as well as TML's 2017 comprehensive position.

Appendix A lists all of the actions that were approved by the TML Resolutions Committee. The TML Municipal Policy Summit met on August 23-24 to brief participants on the legislative issues faced by cities. After each subject-matter briefing, the participants made recommendations that were sent to the 2018 TML Resolutions Committee for consideration. The Resolutions Committee met at the TML Annual Conference on October 11 to vote on whether to adopt the proposed resolutions.

The proposed resolution to adopt the City of Round Rock's Legislative Program for the 86th Legislative Session gives city staff the authority to introduce legislation that is deemed necessary by the City or oppose certain legislation that is deemed harmful to the City and its citizens. The legislative proposals remain broad to grant the City flexibility in the upcoming session.

HARMFUL LEGISLATION IN GENERAL

PREEMPTION

Preemption is the use of state law to nullify a municipal ordinance or authority.

Preemption Legislation Topics of the 85th and 86th Legislative Sessions

- Annexation reform *(preemption bill passed in the 85th legislative session)*
- City permit streamlining
- City permit vesting reform
- Cell phone/texting preemption
- Driver screening requirements for ride-sharing companies *(HB 100 passed in the 85th legislative session which preempts local regulations for ridesharing companies in Texas and replaces them with statewide driver screening requirements, i.e. yearly criminal background check, not be on the sex offender registry, and carry auto insurance)*
- Paid-sick leave *(Texas Public Policy Foundation (TPPF) sought a temporary injunction that would prevent Austin's Paid Sick Leave Ordinance from going into effect. July 2019, the district court denied their request for a temporary injunction. TPPF and the attorney general appealed the temporary injunction to the appeals court in Austin.)*
- Plastic grocery bag ban *(June 2018, the Texas Supreme Court ruled in City of Laredo v. Laredo Merchants Association that the ban is preempted by state law.)*
- Revenue caps
- Short-term rentals *(May 2018, the Texas Supreme Court ruled in Tarr v. Timberwood Park Owners Association that short-term rentals did constitute a residential purpose rather than a commercial purpose.)*
- Spending caps for both the state and cities equal to population growth plus inflation
- Tree ordinances
- Union dues check off prohibition

2017 TML Comprehensive Position

1. The 2017 TML Legislative Program provided that the League oppose legislation that would provide for state preemption of municipal authority in general.
2. The League oppose legislation that would preempt existing or suture bans on the use of plastic bags in a city.

MUNICIPAL REVENUE AND FINANCE

REVENUE CAPS

The most serious threat to city revenue in 2019 will be legislative attempts to limit the total amount of property revenue cities can generate from year-to-year.

Types of Revenue Limits or Caps Featured in Past Bills

- **Automatic rollback elections** – Typically combined with a lowered rollback rate, would require an automatic rollback election whenever a city proposes a tax rate that exceed the rollback rate.
- **Reduced rollback petition requirements** – One bill would have shrunk the number of petition signatures necessary to launch a rollback election.
- **Exclusion of the "new property" adjustment from effective and rollback rate calculations** – Cities are permitted under current law to exclude the taxes levied on new property when calculating their tax rates. Two bills proposed deleting this adjustment, which would ultimately punish Texas cities for new growth.
- **Reduced rollback rate** – Several bills would have reduced the rollback rate from either eight, five, or even four percent.
    - 85th Legislature S.B. 2 – five percent rollback rate combined with automatic ratification elections held on the November uniform election date. (Bill failed to get out of committee.)
    - 85th Legislature 1st Special Session, S.B. 1 – S.B. 1 was similar to S.B. 2 from the regular session with one major difference. The lowered rollback rate (4 percent this time) and automatic election requirement only applied to the largest cities and counties in the state – those that bring in more than $20 million in property tax and sales tax revenue combined. (The bill failed - the House version of S.B. 1 passed the House, but the Senate rejected the House's version of the bill as not stringent enough.)

January 2018, Governor Abbott released a property tax reform plan on his campaign website:

The governor proposed a 2.5 percent revenue cap on all cities, counties, special purpose districts, and school districts in the state. More specifically, the revenue cap would:

- Propose a property tax rollback rate of 2.5 percent;
- Provide that any proposed increases in excess of the cap may be only for certain purposes, like compensation for law enforcement personnel or critical infrastructure;
- Prohibit a local government from opposing any property tax increase, even for the purposes listed above, in excess of the statewide (not city-specific) increase in population plus inflation;
- Require that any proposed increase above the cap (but under the statewide population-plus inflation rate) be approved by two-thirds of the elected officials of the governing body proposing the increase and be approved by two-thirds of the voters at an election; and
- Include a "carry forward" provision so that taxing entities can offset the effects of declines in property appraisal values during economic downturns.

2017 TML Comprehensive Position

1. The 2017 TML Legislative Program provided that the League oppose legislation that would impose a revenue cap of any type, including a reduced rollback rate, mandatory tax rate ratification elections, lowered rollback petition requirements, limitations on overall city expenditures, exclusion of the new property adjustment in effective rate and rollback rate calculations, or legislation that lowers the rollback rate and gives a city council the option to re-raise the rollback rate.

APPRAISAL CAPS

Appraisal caps limit how much taxable property values can rise each year. In 1997, Texas limited assed value increases to 10 percent annually for residential homesteads.

Fortunately, appraisal caps are losing steam as a possible means of tax relief, only five appraisal cap bills were filed in 2015. The most notable of those bills was H.B. 2041.

Most Significant Appraisal Cap Bills in 2015 and 2017

- **2015 H.B. 2041 by Bell** – Would have lowered the appraisal cap to five percent and applied the five percent cap to all property. (failed)
- Several appraisal cap bills were filed during the 2017 regular and special sessions. However, none of the bills were heard in a committee.

2017 TML Comprehensive Position

1. The League will oppose legislation that would negatively expand appraisal caps but take no position on legislation that would authorize a council-option reduction in the current ten-percent cap on annual appraisal growth.

EFFECTIVE AND ROLLBACK RATE REFORM

Numerous bills have passed during the last several legislative sessions that would purportedly improve "truth-in-taxation" laws in relation to the property tax rate setting process.

Most Significant Effective and Rollback Rate Reform Bills in 2017

- **2017 S.B. 2239 by Bettencourt** – Would have changed the definition of "debt" for purposes of calculating property tax rates to only include debt that has been approved at an election.
    - Would have required certificates of obligation and other non-voter approved debt to be financed through a city's maintenance and operations rate instead of its debt service rate.
    - Would have repealed Sec. 26.03 of the Tax Code, which excludes money in a tax increment fund from the total property tax levy for purposes of calculating the effective and rollback tax rates.
- **In 2017, significant truth-in taxation reforms were packaged with revenue caps. These bills included changes like:**
    - Renaming the "effective tax rate" the "no-new-revenue tax rate";
    - Providing that a person who owns taxable property is entitled to an injunction restraining the collection of taxes by a taxing unit in which the property is taxable if the taxing unit has not complied with certain tax rate calculation, publication, and adoption requirements, without regard to whether the failure to comply was in good faith;
    - Requiring each taxing unit to maintain an Internet website; and
    - Requiring each taxing unit to calculate various rates and provide various taxpayers of financial information to the appraisal district for posting into an online property tax database.

2017 TML Comprehensive Position

1. The 2017 TML Legislative Program provided that the League support legislation that would simplify the effective tax rate calculation for notice purposes only, provided the legislation would have no effect on their the underlying effective tax rate and rollback tax rate calculations themselves, or upon the hold harmless exemptions to those rates.

PROPERTY TAX ABATEMENTS

TML opposes only those exemptions that substantially erode the property tax base. The rationale behind the approach is that the effective tax rate and rollback tax rate mechanisms provide dollar-for-dollar relief for small amounts of lost property tax base. The lost property tax base is simply shifted from exempt to non-exempt properties. Cities are still able to raise the same level of revenue without facing negative property tax consequences.

The downside of new property tax exemptions is that residential property tends to disproportionately bear the shifted burden.

Most Significant Property Tax Exemptions Bills in 2015 and 2017

- **2015 Session S.B. 516 by Bettencourt** – Would have expanded the Freeport property tax exemption. (failed)
- **2015 Legislative Session S.B. 758 and S.B. 763 by Bettencourt** – Would have enacted exemptions for business personal property. (failed)
- **2017 Legislative Session S.B. 15 by Huffines and the corresponding constitutional amendment, S.J.R. 1 by Campbell** – Exempts from property taxes the residence homestead of a surviving spouse of a first responder killed or fatally injured in the line of duty. (Passed - exemption will cost Texas cities roughly $350,000 in property tax revenue per year.)

2017 TML Comprehensive Position

1. The 2017 TML Legislative Program provided that the League oppose legislation that would impose new property tax exemptions that substantially erode the tax base.

EQUITY APPRAISALS

Since the passage of S.B. 841 in 1997, commercial property owners are filing lawsuits against appraisal districts on the grounds that the appraised value of their property exceeds the appraised value of similar properties.

- 1997 S.B. 841 – Required a district court to grant relief to a property owner on the grounds that a property is appraised unequally if the appraised value of the property exceeds the median appraised value of a reasonable number of comparable properties. *(The League supported H.B. 2083, though tax experts believe additional legislation may be necessary to have a meaningful impact on the equity appraisal issue.)*

Most Significant Equity Appraisal Bills in 2015 and 2017

- **2015 H.B. 2083 by Darby** - Requires the selection of comparable properties and the application of appropriate adjustments for the determination of an appraised value of property to be based upon the application of generally accepted methods and techniques.
- **In 2017, no legislation containing beneficial amendments to the equity appraisal issue was filed.** However, legislation was filed to prohibit taxing units from challenging the level of appraisals of any category of property in the district or in any territory in the district. This change was included in some of the major tax reform legislation – S.B. 2 and S.B. 669 during the regular session and S.B. 1 during the special session. (failed)

2017 TML Comprehensive Position

1. The 2017 TML Legislative Program provided that the League support legislation that would make beneficial amendments to the equity appraisal statute.

SALES PRICE DISCLOSURE

Appraisal Districts are prevented by current law from having easy access to sales price data. Various bills considered in the last five legislative sessions would have mandated sales price disclosure by the buyer and/or the seller to appraisal districts for taxing purposes. Sales price disclosure legislation is generally defeated because sales price disclosure is frequently opposed by real estate interests on various grounds.

No sales price disclosure legislation was filed in 2015.

Most Significant Sales Price Disclosure Bills in 2017

- **2017 H.B. 182 by Rep. Diego Bernal** – Would have required the legislature to study the impact of sales price disclosure on the property tax system. (failed)
- **2017 H.B. 379 by Rep. Diego Bernal** – Would have actually mandated sales price disclosure. (failed)

2017 TML Comprehensive Position

1. The League will support legislation that would require mandatory disclosure of real estate sales prices.

DARK STORE APPRAISAL

In recent years, big box retailers across the country have argued that their stores should be appraised based on the "dark store" theory of property valuation. Essentially the retailers argue that their commercial properties should be appraised and valued the same whether they are in operation or closed. If successful, the retailers would pay far less in property taxes than would otherwise be required based upon the current market value of their property, thus shifting the tax burden to residential taxpayers.

Most Significant Dark Store Bills in 2017

- **H.B. 27 by Rep. Drew Springer –** Would have eliminated the dark store appraisal loophole by requiring property to be appraised at its "highest and best use." (failed)

2017 TML Comprehensive Position

1. The League will support legislation that would close the "dark store" theory of appraisal loophole.

HOMESTEAD PROPERTY TAX EXEMPTION

Various legislative proposals over the last four legislative sessions would have increased the amount of mandatory and optional homestead exemptions.

Most Significant Homestead Property Tax Exemption Bills in 2015 and 2017

- **2015 S.B. 1 and S.J.R. 1 by Nelson** – Increased the mandatory school homestead exemption from $15,000 to $25,000. The bills contained language prohibiting the governing body of a city, school district, or county that adopted an optional homestead exemption or the 2014 tax year from voting to reduce or repeal that exemption until December 31, 2019. (passed)
- **2015 S.B. 279 by Watson** – Would have: (authorized any city council to take action to adopt a flat-dollar amount residence homestead property tax exemption of at least $5,000, unless a larger amount is specified by the council, before July 1st of any given year; (2) provided that a $5,000 residence homestead property tax exemption automatically goes into effect in any city that: (ad) does not take official action to opt-out of the flat-dollar amount exemption prior to July 1st of any given year; and (b) has not already adopted a percentage-based residence homestead property tax exemption under current law; and (3) provided that in any city where the city council has ceased to offer a percentage-based residence homestead property tax exemption and instead a flat-dollar amount property tax exemption, an individual may elect to rescind entitlement to the new flat-dollar amount exemption to continue to receive the percentage exemption that was previously available by filing written notice with the chief appraiser before July 15. (failed)
- **In 2017, due to the attention being paid to revenue cap legislation, no bills pertaining to homestead property tax exemptions received a committee hearing.**

2017 TML Comprehensive Position

1. The 2017 TML Legislative Program provided that the League would: (1) oppose legislation that would impose new mandatory homestead exemptions or exemption increases; and (2) support legislation that would allow a council-option city homestead exemption, expressed as a percentage or flat-dollar amount.

SALES TAX EXEMPTIONS

In 1987, the legislature adopted a massive tax bill that increased the state tax rate and broadened the sales tax base to include custom computer software, local telephone service, data processing, garbage collection, janitorial and cleaning services, non-residential repairs and remodeling, landscaping, lawn services, surveying, exterminating, security services, and a variety of additional services. Since then, more exemptions have been sought. During each session, some exemptions are passed while many more fail.

TML opposes legislation that lengthens the back-to-school sales tax holiday, as many bills have proposed in recent sessions, because it would likely result in a more substantial erosion of sales tax revenues.

Most Significant Sales Tax Exemption Bills in 2015 and 2017

- **2015 S.B. 1356 by Hinojosa –** Exempts the sale of a water-conserving or WaterSense product from sales and use taxes if the sale taxes place on Memorial Day weekend. According to the bill's fiscal note, the bill will cost cities a total of roughly $800,000 per year for the next five years. (passed)
- **No sales tax exemption bills of any significance passed in 2017.**

2017 TML Comprehensive Position

1. The 2017 TML Legislative Program provided that the League would oppose legislation that would: (1) impose any sales tax exemption that would substantially erode the tax base; and (2) lengthen or broaden the scope of the current sales tax holiday.

SALES TAXES ON REMOTE SALES

For over 25 years, the 1992 United States Supreme Court decision in Quill. v. North Dakota represented the law of the land regarding collection of state and local sales taxes on remote sales. Quill provided that a business could not be required to collect and remit sales taxes to a state if it had not established a physical presence there. State sales tax laws, Texas's included, were modified years ago to account for the Quill's physical presence test.

In June 2018, the United States Supreme Court in Wayfair v. South Dakota held that a South Dakota state law requiring certain remote sellers to collect sales taxes on goods shipped to customers living in South Dakota is constitutional. In doing so, the Court overturned decades of legal precedent and potentially set the stage for a significant sales tax debate during the upcoming 2019 session of the Texas Legislature. The Wayfair decision opens the door for states to model sales tax collection laws after South Dakota's law.

According to the Court, South Dakota's system maintains certain features that protect it from claims that it imposes "undue burdens" on interstate commerce. Other states, including Texas, might seek to harmonize state law and procedure with these features to put any potential state law on solid legal footing. These features include:

- A "safe harbor" for companies that transact only limited business in the state. South Dakota's law applies only to sellers that annually deliver more than $100,000 of goods or services into South Dakota or engage in 200 or more separate transactions for the delivery of goods in the state. According to the Court, this quantity of business could not occur unless the seller had an extensive virtual presence in the state.
- Expressly providing that no obligation to remit the sales tax may be applied retroactively.
- Adopting the "Streamlined Sales and Use Tax Agreement," which standardizes taxes to reduce administrative and compliance costs.

Of the above provisions, the prospect of Texas adopting the Streamlined Sales and Use Tax Agreement might present the biggest challenge. The national Streamlined Sales Tax Project is a decade-long effort to standardize all state sales tax codes in order to ease the transition to apply sales taxes to remote sales. Texas has not participated in the project. Though there are likely several reasons for this, one of the chief reasons had been an insistence by the project that states shift intrastate sales tax sourcing from the origin city to the destination city. TML has historically opposed this idea, and the comptroller's office has supported cities on the issue.

Given the Wayfair decision, legislators may feel the need to reevaluate the decision to sit on the sidelines with regard to the Streamlined Sales and Use Tax Agreement. Regardless of the decision to join the streamlining project, in all likelihood there will be legislation in 2019 that addresses remote sellers' responsibility to collect state and local sales taxes on all or most Texas sales.

2017 TML Comprehensive Position

1. The League will oppose legislation that would: (1) oppose legislation that would alter the city share or the calculation or sourcing of city sales taxes; (2) oppose legislation that would expand the sales tax base without fully benefitting the city tax base; and (3) support legislation that would expand the sales tax base, but only if the city tax base fully benefits from the expansion.

TYPE A/TYPE B ECONOMIC DEVELOPMENT SALES TAX

The Texas Legislature created economic development corporations (EDCs) in 1979. In 1989 and 1991, Legislation passed that strengthened EDCs by authorizing the Type A and Type B sales taxes. These sales taxes were initially envisioned by the legislators who created them as vehicles for fostering manufacturing and industrial jobs. However, each legislative session thereafter brought a gradual expansion of the permissible uses of Type A and Type B taxes.

Beginning in 2003, some of the legislators who had a hand in creating the initial EDC sales taxes began to revisit the issue, their focus being alleged "abuses" of the tax. In reality, it is more likely that these legislators were simply shocked by the broad, but legal, expansion of the two taxes over the previous decade. Since, legislators have introduced legislation designed to limit Type A and Type B taxes.

Most Significant Type A/Type B Economic Development Sales Tax Bills in 2015 and 2017

- **2015 H.B. 157 by Larson** – Provides that a city may hold an election to adopt an EDC sales tax in any increment of one eight of one percent (among many other things). (passed)
- **2015 H.B. 2772 by Martinez** – Authorized certain EDCs located near the border to spend EDC funds on specified transportation facilities. (passed)
- **2017 H.B. 3045 by Dale –** Authorized a city to hold an election to reduce or increase the rates of various city sales taxes. (passed)

2017 TML Comprehensive Position

1. The League will: (1) take no position on legislation that would broaden the authority of Type A or Type B sales tax corporations; and (2) oppose legislation that would limit the authority of Type A or Type B sales tax corporations statewide, but take no position on legislation that is regional in scope and that is supported by some cities in that region.

ISSUING CITY DEBT

Increased attention to cities ability to issue local debt reached a peak during the 2013 legislative session. Various legislative proposals over the last several sessions would have limited cities ability to issue debt.

Most Significant Bills that Relate to Cities Ability to Issue Debt in 2015 and 2017

- **2015 H.B. 1378 by Flynn –** Required every city to complete an annual report containing information about issued and outstanding debt. Additionally, the bill prohibits a city from issuing a CO for a project that was rejected by the voters at a bond election during the preceding three years. (passed)
- **2015 S.B. 310 by Campbell** – Would have added notice requirements and reduced the petition threshold to call elections on Cos. (failed)
- **2015 H.B. 1238 by Simmons** – Would have only allowed city debt elections to take place on the November uniform election date. (failed)
- **2017 S.B. 461 by Lucio** – Would have required a limited amount of new financial information on the ballot (just an estimated maximum annual increase of taxes that would be imposed on a $100,000 home in the political subdivision, if the local debt proposition were approved). The bill would have required additional information in the election order itself and on a voter information document to be posted at each polling place and on the political subdivision's website. Additionally, the bill would have added language to the notice required when issuing a CO, and expanded the duration of the notice of a CO from 30 to 45 days. (failed)
- **2017 S.B. 702 by Huffines** - Would have required turnout of 33 percent of the registered voters of a political subdivision in order for a bond election to take effect. The threshold was amended to 15 percent after the committee hearing. (failed)

Governor's 2018 Property Tax Reform Plan

1. Requiring additional financial information on local bond election ballots;
2. Restricting the use of COs to infrastructure projects relating to a natural disaster; and
3. Requiring a 2/3rds supermajority vote of the voters to approve the issuance of new local debt, along with establishing minimum turnout requirements for local debt elections.

2017 TML Comprehensive Position

1. The 2017 TML Legislative Program provided that the League oppose legislation that would expand election requirements for issuance of any city debt, impose a petition/election procedure where none currently exists, or that would otherwise erode the ability of a city to issue debt in any way.

REGULATION OF DEVELOPMENT

ANNEXATION

Up until 2017, Texas granted broad annexation power to all of its home rule cities.

Most Significant Annexation Bills in 2017

- **2017 S.B. 6 by Campbell and Huberty** - Requires landowner or voter approval of annexations in the state's largest counties (those with 500,000 population or more) and in counties that opt-in to the bill through a petition and election process. Those are called "Tier 2" annexations. Other "Tier 1" annexations are those in the remaining counties and those essentially follow the service plan, notice, and hearing law that was in place before S.B. 6. (passed – became effective on December 1, 2017)

Legislation Related to Annexation in 2018

For the 2018 interim, the Senate Intergovernmental Relations Committee was given a charge that relates to ETJ limitations and notice. Committee staff has told the League that the charge actually relates to annexation, and that it could be used as a backstop for bills that would "undo" annexations by cities during the period starting with the passage of S.B. 6 in August 2017 and the bill's effective date of December 1, 2017. Moreover, the charge may result in legislation that would allow any person to disannex their property from a city.

2017 TML Comprehensive Position

1. The League will oppose legislation that would erode municipal annexation authority.

EMINENT DOMAIN

Under current law, before a city condemns property, the city council must determine that the condemnation serves a public use. The council's decision has always been subject to judicial review, and local officials have always maintained that deciding what constitutes a public use should be done by the city council, the elected officials closest to the people, rather than by the state. Every session since the 2005 regular session, legislators have attempted to pass legislation that curtails cities ability to determine whether the condemnation serves a public use, as well as, prohibit condemnation for "economic development" purposes.

Most Significant Eminent Domain Bills in 2015 and 2017

- **2015 H.B. 3339 by Burkett, H.B. 3065 by Fallon, and S.B. 474 by Kolkhorst** – Would have provided that, if the amount of damages awarded by the special commissioners is at least 10 percent greater than the amount the condemnor offered to pay before the proceedings began or if the commissioners' award is appealed and a court awards damages in an amount that is at least 10 percent greater than the amount the condemnor offered to pay before the proceedings began, the condemnor shall pay: (1) all costs; and (2) any reasonable attorney's fees and other professional fees incurred by the property owner in connection with the eminent domain proceeding. (failed)
- **No significant eminent domain bills were proposed in 2017**.

2017 TML Comprehensive Position

1. The League oppose legislation that would further erode a city's ability to condemn property for a public use.

ZONING

Zoning grants a city the authority to prohibit detrimental uses and to promote beneficial uses. The legislature has considered bills over the past several sessions that would have overturned the zoning decisions of individual cities.

For the 2014 interim, the House Land and Resource Management Committee received an interim charge regarding zoning.

The committee's interim report concluded that:

Zoning exists to support development and to ensure compatible uses occur in proximity to one another. Zoning does not exist to deny altogether the ability of a landowner to develop his or her property. Unfortunately, the committee finds a handful of city councils have misused the zoning and comprehensive planning processes to stymie development by imposing on a particular area or specific tracts uses which are not attainable under real-world marketplace conditions, even in the long-term. This misuse of powers has imposed uncompensated burdens and financial hardships on private landowners for the sake of preserving theoretical long-term future public benefits. In the worst instances, these cities use the requirement set forth in Section 211.004(a) in combination with an unrealistic and aspirational comprehensive plan to create a "planning trap" that makes near-term development impossible and can force a private landowner to hold his or her land in an undeveloped state for years.

Based on that conclusion, H.B. 3701 (the legislation discussed above that would give zoning authority to county commissioner appointees) was filed and heard, but never made it out of committee.

Several zoning bills were filed in 2017, but all failed to make it out of committee.

2017 TML Comprehensive Position

1. The League opposes legislation that would erode municipal zoning authority; restrict cities' ability to adopt or amend zoning regulations, or vest or otherwise create a property right in a zoning classification.

PERMIT VESTING

In 1987, the legislature enacted a statute that governed the application of state and local permits. The law generally required that approval or disapproval of a permit for a project be based on the requirements that were in effect when the original permit application was filed. Also, if a series of permits had to be filed for a project, the applicable requirements would be those in effect when the first permit application was filed. This "freeze" in regulations is known as "permit vesting."

Most Significant Permit Vesting Bills in 2017

- **2017 H.B. 3787 by Cecil Bell** - Would provide that a city may not enforce an ordinance related to land use or business regulation if the ordinance was not in effect on the date the property owner acquired title to the property. This is often referred to as super-vesting. (failed)
- **2017 H.B. 898 by Paul Workman** - Would provide, among other things, that a political subdivision that has been found by a court to have violated the permit vesting statute is liable for actual damages, reasonable attorney's fees, administrative and court costs, and the applicant's portion of the cost of any mediation that did not result in an agreement. (failed)

2017 TML Comprehensive Position

1. The League should oppose legislation that would enact adverse amendments to the permit vesting statute (Chapter 245 of the Local Government Code).

BUILDING CODES/PERMIT FEES

TML membership usually insists that each city be allowed to amend any mandatory codes to meet that city's needs.

In 2001, the Texas Legislature adopted S.B. 365, now codified as Section 214.211 et seq. of the Texas Local Government Code. S.B. 365 adopted the International Residential Code (IRC) and the National Electrical Code as the standard building codes for residential construction in Texas cities starting January 1, 2002. Under the statutes, cities are authorized to make amendments to these codes to meet local concerns.

Lately, a city's ability to amend any mandatory codes to meet the city's needs has been under fire. The legislature has considered bills over the past several sessions that would restrict cities' authority to govern their own affairs relating to building codes and permit fees. Furthermore, the Texas Association of Builders continues to claim that out-of-control city fees are responsible for the rising costs of housing in Texas. In spite of a survey commissioned by TML shows that building and inspection fees constitute only a tiny fraction of a homebuyer's mortgage payment.

Most Significant Building Code Bills in 2015 and 2017

- **2015 S.B. 1679 by Huffines** - would have provided that, when a city adopts procedures to adopt amendments to the International Building Code or any other building code, those procedures must include: (1) the preparation of a cost-benefit analysis of each amendment; and (2) two public hearings on each amendment. The bill would also provide that (1) and (2) must be completed prior to any building code or building code amendment being adopted. (failed)
- **2017 S.B. 636 by Huffines** - would have: (1) lowered the population threshold in current law from 100,000 to 40,000 to invoke certain notice and hearing procedures for changes in a city's building code; and (2) imposed new requirements: (a) that a city publish a detailed cost-benefit analysis of a building code or code amendments; and (b) that would mandate, for an amendment that addresses existing or potential harm to health and safety: (i) scientific evidence supporting the probability or likelihood that the harm has occurred or will occur; and (ii) scientific evidence supporting the probability or likelihood that the amendment will prevent or address the harm. (failed)

<u>2017 TML Comprehensive Position</u>

1. The 2017 TML Legislative Program provided that the League would: (1) oppose legislation that would erode a city's ability to make amendments to model building codes; (2) support legislation that would authorize a city council to opt-in to requiring residential fire sprinklers in newly constructed single-family dwellings; and (3) oppose legislation that would further restrict a city's ability to impose building permit fees.

TREE PRESERVATION

Many Texas cities have enacted tree preservation ordinances. The legislature has considered bills over the past several sessions that would preempt city tree preservation ordinances. The 2017 regular session of the legislature saw a number of bills designed to preempt city tree preservation ordinances. None of those passed, but the governor added the issue to his special session agenda (H.B. 87 by Phelan and Kolkhorst). H.B. 87 by Phelan and Kolkhorst passed. It was a compromise between home builders, cities, environmentalist, and others.

2017 H.B. 87 by Phelan and Kolkhorst provided that:

1. “Tree mitigation fee” means a fee or charge imposed by a city in connection with the removal of a tree from private property.

2. A city may not prohibit the removal of or impose a tree mitigation fee for the removal of a tree that: (a) is diseased or dead; or (b) poses an imminent or immediate threat to persons or property.

3. A city may not require a person to pay a tree mitigation fee for the removed tree if the tree: (a) is located on a property that is an existing one-family or two-family dwelling that is the person's residence; and (b) is less than 10 inches in diameter at the point on the trunk 4.5 feet above the ground.

4. "Residential structure" means: (a) a manufactured home as that term is defined by the Texas Manufactured Housing Standards Act; (b) a detached one-family or two-family dwelling, including the accessory structures of the dwelling; (c) a multiple single-family dwelling that is not more than three stories in height with a separate means of entry for each dwelling, including the accessory structures of the dwelling; or (d) any other multifamily structure.

5. A city that imposes a tree mitigation fee for tree removal on a person’s property must allow that person to apply for a credit for tree planting to offset the amount of the fee.

6. An application for a credit under (5), above, must be in the form and manner prescribed by the city.

7. To qualify for a credit, a tree must be: (a) planted on property: (i) for which the tree mitigation fee was assessed; or (ii) mutually agreed upon by the city and the person; and (b) at least two inches in diameter at the point on the trunk 4.5 feet above ground.

8. For purposes of determining where an off-site tree must be planted, the city and the person may consult with an academic organization, state agency, or nonprofit organization to identify an area for which tree planting will best address the science based benefits of trees and other reforestation needs of the city.

9. The amount of a credit provided to a person must be applied in the same manner as the tree mitigation fee assessed against the person and: (a) equal to the amount of the tree mitigation fee assessed against the person if the property is an existing one-family or two-family dwelling that is the person ’s residence; (b) at least 50 percent of the amount of the tree mitigation fee assessed against the person if: (i) the property is a residential structure or pertains to the development, construction, or renovation of a residential structure; and (ii) the person is developing, constructing or renovating the property not for use as the person’s residence; or (c) at least 40 percent of the amount of the tree mitigation fee assessed against the person if: (i) the property is not a residential structure; or (ii) the

person is constructing or intends to construct a structure on the property that is not a residential structure.

10. As long as the city meets the requirement to provide a person a credit under (8), above, the bill does not affect the ability of or require a city to determine: (a) the type of trees that must be planted to receive a credit, except as provided by (7), above; (b) the requirements for tree removal and corresponding tree mitigation fees, if applicable; (c) the requirements for tree-planting methods and best management practices to ensure that the tree grows to the anticipated height at maturity; or (d) the amount of a tree mitigation fee.

11. The bill does not apply to property within five miles of a federal military base in active use as of December 1, 2017.

It is highly likely that bills to completely preempt municipal tree authority will be filed in 2019.

2017 TML Comprehensive Position

1. The 2017 TML Legislative Program provided that the League oppose legislation that would erode municipal authority in relation to tree preservation requirements.

SHORT-TERM RENTALS

Some cities have experienced problems with short-term home rentals recently, largely due to the proliferation of websites such as AirBNB and VRBO. Those problems range from uncollected hotel taxes to out of control parties. Some cities have enacted ordinances in an attempt to address these problems.

The City of Austin, in particular, has been at the forefront of short term rental regulations. After revamping its STR ordinance in February 2016, a number of short term rental owners, represented by attorneys from the Texas Public Policy Foundation (TPPF), sued the City of Austin. The attorney general issued a press release when he decided to intervene in the Austin lawsuit stating that he is seeking to protect the property rights of STR owners in Austin.

An STR ordinance is a perfect example of a local decision that is best made at the local level. Not every city has an issue with STRs. But in high-tourist areas and neighborhoods, city councils are the first ones to hear about it.

2017 TML Comprehensive Position

1. The League should oppose legislation that would erode municipal authority to regulate short-term rentals.

UTILITIES AND TRANSPORTATION

MUNICIPAL RIGHT-OF-WAY AUTHORITY/COMPENSATION

In the past several sessions, legislation has been proposed that would erode the authority of a city to be adequately compensated for the use of its right-of-way, erode municipal authority over the management and control of rights-of-way, and erode the provision of Chapter 66 of the Texas Utilities Code.

Telecommunications: Access Line Fees

Chapter 283 of the Texas Local Government Code, enacted in 1999, significantly altered the procedures under which cities collect compensation from telecommunications providers that use city rights-of-way (ROWs). Chapter 283 replaced telecommunications franchise agreements with a new system of compensation based on "access lines." However, new technologies have placed a strain on the language and led to many disagreements about which providers and what types of lines are subject to the compensation requirements. In addition, the continuing migration to cell phones has reduced the number of land lines on which the fee can be collected.

Some have incorrectly argued that the compensation for the use of a city's rights-of-way is a "tax" on telecommunications providers or consumers. Any characterization of right-of-way compensation as a "tax" is wrong. The compensation that telecommunications providers pay is simply a cost of doing business, just like leasing property for an office or other facility. In fact, the Texas Constitution prohibits a city from allowing the private use of its property for free, and to reduce the fee would provide an unconstitutional public subsidy to private business.

The issue did not come up in 2011, 2013, 2015, or 2017, but it is always possible that legislation that limits cities' ability to collect compensation from telecommunications providers that use city rights-of-way will be proposed.

Electric: Franchise Fees

S.B. 7, passed in 1999, deregulated the Texas electric power market. The legislation, which went into full effect in 2002, made changes that not only deregulated most electric utilities in Texas, but also changed the way in which municipal electric franchise fees are charged and collected.

Since January 1, 2002 (the date deregulation was implemented), a city's electric franchise fee has been – with some exceptions – based on the number of kilowatt-hours (kwh) that a utility delivered to customers located within the city's boundaries in 1998. The total franchise fees for 1998 were divided by the total kwhs for that year to arrive at a "per kwh rate." That rate is multiplied by the current kilowatt hours used by all customers within the city to arrive at the franchise fee amount due to the city.

Cable/Video: State Issued Certificate of Franchise Authority

Federal law requires a local authority (e.g., a state or local government) to issue a franchise agreement, and Texas law provides that compensation for the use of a city's rights-of-way is required.

Because of ever-growing technological capabilities, telecommunications companies now also have the ability to provide video programming. Therefore, these companies wanted the local franchise system reformed so that they would not have to obtain hundreds of franchises, which they felt would be an impediment to installing the infrastructure necessary to implement their new technology.

In 2005, the legislature asked cities, cable providers, and telecommunications companies to reach a compromise on issues related to the right-of-way compensation system for companies that provide video services to city residents. The end result, after several failed bills, much negotiation, one regular session, and two special sessions, was Senate Bill 5, which created a new Chapter 66 of the Texas Utilities Code. It represented a compromise that was acceptable to cities. The cable industry was opposed to the bill.

H.B. 3675 (and H.B. 259, a similar bill) was filed in 2011, ostensibly as a way to address the inequities between cable and satellite providers. The bill would have: (1) imposed on each video provider (e.g., cable television services and similar services, as well as satellite service) a state "assessment" of 6-1/4 percent of gross revenues derived from the provision of subscription video services in this state (but excluding Internet service); (2) provided that each video provider is entitled to a credit against the assessment imposed under this bill for state or local franchise fees paid to cities; (4) provided that, effective on January 1, 2012, not later than the last day of the second month following a calendar quarter, the comptroller shall calculate the pro rata share of total subscription video service subscribers for each city and the unincorporated area of each county according to the most recent subscription report filed by each provider; and (5) required the comptroller to distribute the balance of the amount in the subscription video assessment clearance fund, less up to a five percent administrative fee in certain circumstances, by issuing a warrant drawn on the fund to each city with subscription video service subscribers in an amount equal to the city's pro rata share of the amount in the fund as of the date the warrant is issued and each county with subscription video service subscribers outside of an incorporated area in an amount equal to the county's pro rata share of the amount in the fund as of the date the warrant is issued.

The bill did not pass, nor did anything similar pass in 2013, 2015, or 2017.

Small Cell Nodes

Senate Bill 1004, passed during the 2017 regular session and effective September 1, requires a city to allow access for cellular antennae and related equipment ("small cell nodes") in city rights-of-way, and it also entitles cell companies and others to place equipment on city light poles, traffic poles, street signs, and other poles. Negotiations during the legislative session led to concessions giving some city authority over placement and design.

Following the bill's passage, the City of McAllen is leading a coalition of around twenty cities that filed a lawsuit to challenge the unconstitutionally low right-of-way rental fees in it. The bill caps a city's right-of-way rental fee at around $250 per small cell node. The price per node in the current bill is a taxpayer subsidy to the cellular industry because it allows nearly free use of taxpayer-owned rights-of-way and facilities. The lawsuit also claims that S.B. 1004 unconstitutionally delegates a city's legislative authority to control its rights-of-way to private businesses. The City of Austin has also filed a lawsuit challenging S.B. 1004. Both lawsuits are pending.

In 2018, Senators John Thune (R- South Dakota) and Brian Schatz (D – Hawaii) introduced the Streamlining The Rapid Evolution And Modernization of Leading-edge Infrastructure Necessary to Enhance (STREAMLINE) Small Cell Deployment Act. The bill would federalize municipal right-of-way authority and compensation.

The bill would make major changes to federal requirements for small cell siting by imposing new requirements, such as:

- Providing that fees must be "competitively neutral, technology neutral, and nondiscriminatory; publicly disclosed; and based on actual and direct costs." This provision would eliminate market-based rents for small cell nodes. (Editor's note: The fee currently in place under Texas law limits a rental fee to $250 per node annually. A lawsuit has been filed by numerous Texas cities to challenge the state cap.)
- Limiting local authority over "small personal wireless facilities (e.g. small cell nodes)" to "objective and reasonable…structural engineering standards based on generally applicable codes; safety requirements; or aesthetic or concealment requirements."
- Imposing federal "shot clock" requirements for approval of small cell nodes, including a deemed granted provision for applications not acted upon by the local government in the stated period.

<u>2017 TML Comprehensive Position</u>

1. The League oppose legislation that would: (1) erode the authority of a city to be adequately compensated for the use of its rights-of-way; (2) erode municipal authority over the management and control of rights-of-way; and (3) erode the provisions of Chapter 66 of the Texas Utilities Code.

LOCAL TRANSPORTATION FUNDING

For more than three decades, TML has attempted to obtain access to new revenue sources so that the backlog of spending on infrastructure (and streets in particular) can be addressed, and so that some pressure can be taken off the property tax. Examples of these efforts include raising the automobile registration fee, raising the state gasoline tax, authorizing a sales tax to repair and maintain city streets, etc.

No legislation related to city transportation funding sources passed in 2015 and 2017 because funding at the state level had passed in 2013 (see next section).

STATE AND FEDERAL TRANSPORTATION FUNDING

State Funding

In the 2013 third special session, two bills - S.J.R. 2 and H.B. 1 - passed and both chambers promptly adjourned sine die. Here are summaries of the two bills:

- **S.J.R 1 (Nichols/Pickett) – Transportation Funding**: amended the Texas Constitution to provide that: (1) if, in the preceding year, the state received from oil and gas taxes a net amount greater than that received in 1987, the comptroller shall transfer an amount equal to 75 percent of the difference between those amounts (25 percent continues to go to general revenue), with one-half to the rainy day fund and the remainder to the state highway fund; (2) the legislature by general law shall provide for a procedure by which the allocation of the amount transferred may be adjusted if revenue is less or greater than expected; and (3) revenue transferred to the state highway fund may be used only for constructing, maintaining, and acquiring rights-of-way for public roadways, other than toll roads. (Effective when approved by the voters on November 5, 2014.)

- **H.B. 1 (Pickett/Nichols) – Transportation Funding:** provided that: (1) not later than September 1 of each even-numbered year until 2024, the speaker and the lieutenant governor shall appoint a select committee to ensure that the state's rainy day fund has an appropriate balance, based on several criteria; (2) the select committee shall determine and adopt for the next state fiscal biennium a sufficient balance of the fund; (3) when the select committee has adopted the amount of the sufficient balance of the fund for a state fiscal biennium, the matter of approving that amount shall be presented to each house of the legislature in a concurrent resolution during the next succeeding regular legislative session; (4) the amount must be approved by a vote of a majority of the members of each house, and must be finally approved by each house not later than the 45th day of that legislative session; (5) before the comptroller makes transfers for a state fiscal year in accordance with S.J.R. 1 (above), the comptroller shall ensure that the balance in the rainy day fund meets the minimum amount, or adjust any transfers accordingly; (6) amounts transferred to the state highway fund under S.J.R. 1 (above) must be used and allocated throughout the state by the Texas Department of Transportation consistent with existing formulas adopted by the Texas Transportation Commission; (7) on or before August 31, 2015, the department shall identify and implement savings and efficiencies that result in a total savings of at least $100 million in state funds appropriated to the department, to be used for reducing the principal of and interest on bonds and other public securities issued and bond enhancement agreements; (8) the commission may use money from the Texas Mobility Fund to provide funding, including through a loan, for certain port security projects, port transportation projects, or similar projects; (9) to serve as a transition committee, the speaker and the lieutenant governor shall appoint a select committee to determine the appropriate rainy day fund balance for the next biennium; (10) by November 30, 2013, the speaker shall appoint nine members to a House Select Committee on Transportation Funding, Expenditures, and Finance and the lieutenant governor shall appoint nine members to a Senate Select Committee on Transportation Funding, Expenditures, and Finance; and (11) the two committees appointed under (10) shall separately or jointly, review, study, and evaluate the future reliability of all

current state transportation funding sources and similar criteria. (Effective immediately after S.J.R. 1 was approved by the voters in November 2014.)

Most Significant State Funding Bills in 2015 and 2017

- **2015 S.J.R. 5 by Nichols and Pickett** - The constitutional amendment was approved by the voters on November 3, 2015, and provides that the comptroller direct some of the state's motor vehicle sales tax to the State Highway Fund, but can't be used to fund toll roads. Essentially, if the state sales and use tax revenue reaches $28 billion in a given year starting in 2017, the additional money – up to $2.5 billion – would go to the highway fund. In addition, starting in 2019, 35 percent of state motor vehicle sales and rental tax revenue that exceeds $5 billion would go to the fund.
- **The main news of the 2017 session was the passage of the TxDOT "sunset bill." That bill continued the agency until 2029 and made various administrative improvements to the agency.**

<u>2017 TML Comprehensive Position</u>

1. The League's 2017 Legislation Program provides that the League support legislation that would (1) discontinue the diversion of transportation revenues to non-transportation purposes; (2) provide additional funding to the Texas Department of Transportation for transportation projects that would benefit cities, so long as existing funding formulas are followed; and (3) provide local, state, and federal transportation funding for rail as one component of transportation infrastructure.

MISCELLANIOUS

ELECTIONS: PARTISAN CITY ELECTIONS

2017 saw the beginnings of a new effort to politicize the successfully non-partisan nature of city government in Texas. This trend toward trying to politicize our least political governing bodies may be one of the biggest challenges the League faces in the coming years.

Most Significant Bills that Relate to Partisan City Elections in 2017

- 2017 H.B. 2919 by Sanford - Would have required candidates for mayor and city council to declare party affiliation and run as partisans in their elections.

ELECTIONS: UNIFORM ELECTION DATES

Prior to 2005, most city elections had to be held on one of four uniform election dates. In 2005, the legislature passed H.B. 57, which deleted the February and September election dates, leaving only two uniform election dates: (1) the second Saturday in May and (2) the first Tuesday after the first Monday in November. H.B. 57 also gave cities the ability to change the date on which they held a general election to another authorized uniform election date, so long as the action was taken prior to December 31, 2005.

Most Significant Uniform Election Date Bills Between 2012-2017

- **2011 S.B. 100 by Van de Putte** - Extended the deadline to December 31, 2012, for cities with May elections to switch to the November uniform election date. That statutory deadline expired, but still remained in place until 2015, thus precluding a city from changing its election date for three years. (passed)
- **2015 H.B. 2354 by Farney** – Changed the May uniform election date from the second Saturday in May to the first Saturday in May to give more time between the election and primary election run offs. (passed – became effective on 9/1/15)
- **2015 S.B. 733 by Fraser** - Extended the deadline to December 31, 2016, for cities with May elections to switch to the November uniform election date. By the time the 2017 legislative session began, Texas cities once again had no statutory authority to move their general election to another uniform election date. (passed)
- **A number of bills were filed in 2017 that would have eliminated the May uniform election date, though none of them gained much traction.**

Entering the 2019 session, cities still have two uniform election dates, and still cannot take action, without special city-specific legislation, to switch their general election date from May to November, or vice versa.

Some theorize that certain legislators want all elections to be held on one date, such as the November uniform election date. A joint election makes city officials uncomfortable. City officer elections and propositions, including important bond issues, could be shunted to the end of the ballot, and city issues could be drowned-out under huge national and state campaigns.

<u>2017 TML Comprehensive Position</u>

1. The 2017 TML Legislative Program provided that the League: (1) oppose legislation that would eliminate any of the current uniform election dates; and (2) support legislation that would extend the deadline for cities to change the date of their general elections to another uniform election date.

ADMINISTRATION: RESTRICTIONS ON LOBBYING

TML's success in defeating numerous bad ideas such as harmful appraisal caps and revenue caps led legislators to call into question so-called "taxpayer-funded lobbying." Legislators introduced various bills in attempt to prohibit cities from spending public money to attempt to influence the outcome of any legislation pending before the legislature, as well as expressly prohibiting cities from being members of a nonprofit association that attempts to influence the outcome of any pending legislation. Such bills would prevent the League from speaking out against the dozens of unfunded state mandates that are proposed each legislative session. They would also prohibit the League from speaking in opposition to legislation that increases the liability of city officials and endangers their personal resources. They would, most importantly, prevent the League from promoting the authority of local officials to respond to the needs and desires of local citizens.

Most Significant Restrictions on Lobbying Bills in 2015 and 2017

- **2015 H.B. 1257 by Shaheen, S.B. 711 and S.B. 1862 by Burton** - Would have prohibited cities from spending public money to attempt to influence the outcome of any legislation pending before the legislature, as well as expressly prohibiting cities from being members of a nonprofit association that attempts to influence the outcome of any pending legislation. (failed)
- **2017 H.B. 1316 by Swanson/Hall and H.B. 2553 by Shaheen** - Would have prohibited lobbying by cities. (failed)
- **2017 S.B. 445 by Burton** - Would have, in regard to a city that imposes a tax or has the authority to issue bonds: (1) authorized the city to spend money directly or indirectly to influence or attempt to influence the outcome of any legislation pending before the legislature only if the expenditure is authorized by a majority vote of the city council in an open meeting as a stand-alone item on the agenda; (2) required the city to report to the Texas Ethics Commission (TEC) and publish on the city's website: (a) the amount of money authorized for the purpose of directly or indirectly influencing or attempting to influence the outcome of any legislation pending before the legislature; (b) the name of any person retained or employed by the city who must register as a lobbyist; and (c) an electronic copy of any contract for services entered into by the city with a person retained or employed by the city who must register as a lobbyist; (3) required the city to report to the TEC and publish on the city's website the amount of public money spent for membership fees and dues of any nonprofit state association or organization of similarly situated political subdivisions or entities that directly or indirectly influence or attempt to influence the outcome of any legislation pending before the legislature; (4) required the TEC to make available to the public an online searchable database containing the reports submitted under (2); and (5) authorized a taxpayer of the city or a person who is served by or receives services from the city to seek injunctive relief. (failed)

2017 TML Comprehensive Position

1. The TML Legislative Program for 2017 included a provision that the League oppose legislation that would: (1) require the reporting of lobbying activities beyond the requirements in current law; (2) limit or prohibit the authority of city officials to use municipal funds to communicate with legislators; and (3) limit or prohibit the authority of the Texas Municipal League to use any revenue, however derived, to communicate with legislators.

APPENDIX A

Municipal Policy Summit – Summary of Actions

All actions were approved at the 2018 TML Resolutions Committee on 10/11/18

Harmful Legislation in General/Preemption

The Summit delegates voted to recommend that the League:

1. oppose legislation that would erode municipal authority in any way, would impose an unfunded mandate, or would otherwise be detrimental to cities.
2. oppose legislation that would provide for state preemption of municipal authority in general.

Revenue and Finance

The Summit delegates voted to recommend that the League:

1. oppose legislation that would impose a revenue and/or tax cap of any type, including a reduced rollback rate, mandatory tax rate ratification elections, lowered rollback petition requirements, limitations on overall city expenditures, exclusion of the new property adjustment in effective rate and rollback rate calculations, or legislation that lowers the rollback rate and gives a city council the option to re-raise the rollback rate.

2. oppose legislation that would negatively expand appraisal caps but take no position on legislation that would authorize a council-option reduction in the current ten-percent cap on annual appraisal growth.

3. support legislation that would simplify the effective tax rate calculation for notice purposes only, provided the legislation would have no effect on either the underlying effective tax rate and rollback tax rate calculations themselves, or upon the hold harmless exemptions to those rates.

4. support legislation extending the sunset date for Chapter 312 tax abatement authority only if the business lobby groups whose members benefit from tax abatement agreements refrain from any support for harmful revenue and expenditure caps.

5. oppose legislation that would impose new property tax or sales tax exemptions that substantially erode the tax base.

6. support: (1) legislation that would make beneficial amendments to the equity appraisal statute; (2) legislation that would close the “dark store” theory of appraisal loophole; and (3) legislation that would require mandatory disclosure of real estate sales prices.

7. support: (1) legislation that would authorize a council-option property tax exemption of a portion of the appraised value of property damaged by a disaster; and (2) legislation that would

authorize a council-option city homestead exemption expressed as a percentage or flat-dollar amount.

8. support legislation that would convert the sales tax reallocation process from a ministerial process into a more formalized administrative process.

9. with regard to economic development: (1) take no position on legislation that would broaden the authority of Type A or Type B economic development corporations; and (2) oppose legislation that would limit the authority of Type A or Type B economic development corporations statewide, but take no position on legislation that is regional in scope and that is supported by some cities in that region.

10. oppose legislation that would erode the ability of a city to issue debt.

Regulation of Development

The Summit delegates voted to recommend that the League:

1. oppose legislation that would erode municipal authority related to development matters, including with respect to the following issues: (1) annexation, (2) eminent domain, (3) zoning, (4) regulatory takings; (5) building codes, (6) tree preservation, and (7) short-term rentals.

2. support legislation that would expand municipal annexation authority.

3. support legislation that would authorize a city council to opt-in to requiring residential fire sprinklers in newly constructed single-family dwellings.

Utilities and Transportation

The Summit delegates voted to recommend that the League:

1. oppose state or federal legislation or rules that would erode the authority of a city to be adequately compensated for the use of its rights-of-way and/or erode municipal authority over the management and control of rights-of-way.

2. support legislation that would: (1) allow for greater flexibility by cities to fund local transportation projects; (2) amend or otherwise modify state law to help cities fund transportation projects; or (3) provide cities with additional funding options and resources to address transportation needs that the state and federal governments are unable or unwilling to address.

3. support legislation that would: (1) provide additional funding to the Texas Department of Transportation for transportation projects that would benefit cities; and (2) provide local, state, and federal transportation funding for rail as one component of transportation infrastructure.

Miscellaneous

The Summit delegates voted to recommend that the League:

1. The Summit delegates voted to recommend that the League:

2. oppose legislation that would require candidates for city office to declare party affiliation in order to run for office.

3. oppose legislation that would eliminate any of the current uniform election dates.

Other

The Summit delegates directed League staff to seek the guidance of the TML executive committee in relation to tax abatement agreements should the "support" position included elsewhere in this program no longer encompass evolving scenarios.

The Summit delegates directed League staff to seek the guidance of the TML board of directors on issues related to sales taxes on remote sales.

The Summit delegates requested that, after the 2019 legislative session, the TML President appoint a committee to study seeking additional local option transportation funding mechanisms.

The Summit delegates requested that the TML President appoint a committee to study and make recommendations to the TML board of directors on issues related to initiative and referendum.
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