



Memorandum

Memorandum No: 23-114

Date: March 3, 2023
To: Honorable Mayor and City Council
From: Ryan Henderson, Interim City Manager
Re: State of Texas 88th Legislative Session Update

Background

The 88th Legislature's regular session is in full swing as the bill filing deadline occurs next week on March 10. Historically, legislators file close to 7,000 bills each session, with more than 2,000 of them substantially affecting Texas cities. As a member of the Texas Municipal League, the City of Anna is represented by the League's lobbyists, in accordance with the League's Legislative Program. The League reviews each bill filed and summarizes all city-related bills. Weekly updates, including city-related bills filed, are posted on tml.org on the page titled "Legislative Information."

Assistant City Manager Taylor Lough is working with the League and city staff to track and review legislation that may substantially affect the City of Anna. Should the City of Anna need to take a position on a particular bill, the City Council will be contacted to sign onto a letter or contact our representatives. Staff, through the City Manager's Office, will provide members of the 88th Legislature information about the City of Anna and its operations that may assist in the drafting, review, or action during the session.

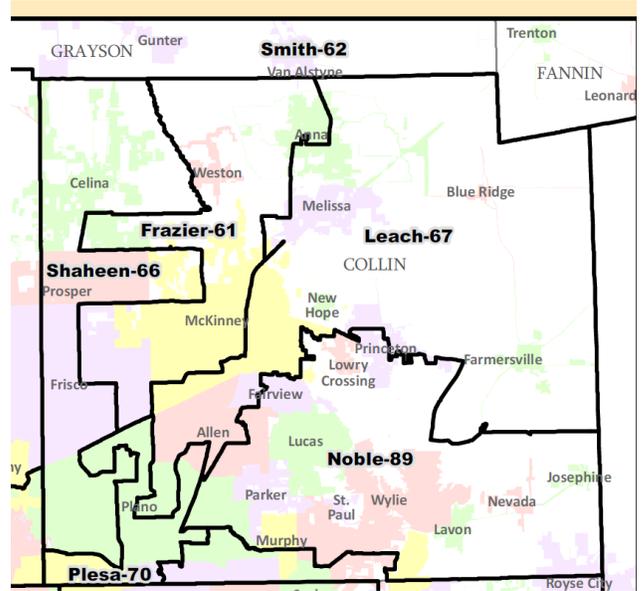
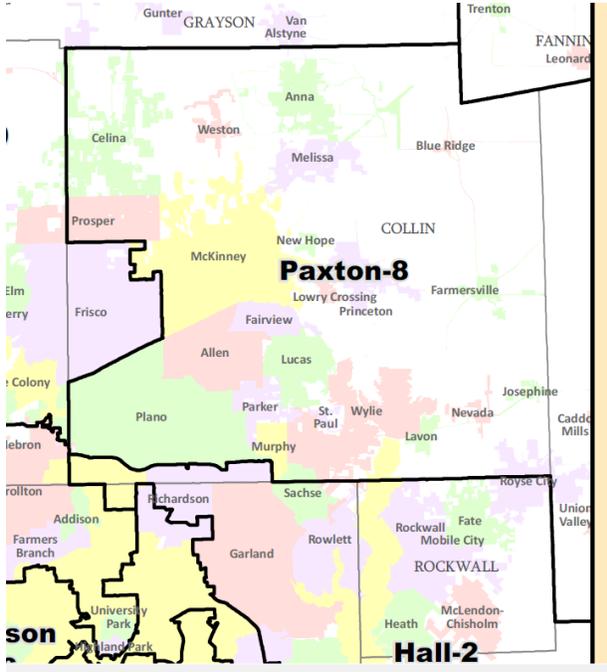
Session Update

Governor Greg Abbott announced his emergency items during the State of the State address, allowing the Legislature to pass legislation related to those items during the first 60 days of the regular session. Lieutenant Governor Dan Patrick and Speaker Dade Phelan have made Senate and House committee assignments and the committees have started their work.

Comptroller Glen Hegar released the Biennial Revenue Estimate in January, projecting the State to have \$188.2 billion in revenue for general-purpose spending during the 2024-25 biennium – a historic \$32.7 billion budget surplus. As the projected revenue is more than the Texas Constitution and state law legally allows the Legislature to spend, the Legislative Budget Board adopted a 12.3% spending limit which allows for \$12.5 billion more in general revenue spending.

Effective January 2023, the City of Anna is represented by the following State of Texas elected officials:

- **Senator Angela Paxton, District 8**
(O: 512-463-0108)
- **House Representative Jeff Leach, District 67**
(O: 512-463-0544)
- **House Representative Frederick Frazier, District 61**
(O: 512-463-0738)



Attachments:

Exhibits 1 – The Texas Municipal League Legislative Program (2023-2024)

- c. Taylor Lough, Assistant City Manager
Greg Peters, Interim Assistant City Manager
Clark McCoy, City Attorney
Carrie Land, City Secretary
Management Team

THE TEXAS MUNICIPAL LEAGUE LEGISLATIVE PROGRAM

(2023 – 2024)

Introduction

City officials across the state are well aware of the fact that many significant decisions affecting Texas cities are made by the Texas Legislature, not by municipal officials.

During the 2021 session, nearly 7,000 bills or significant resolutions were introduced; more than 2,000 of them would have affected Texas cities in some substantial way. In the end, over 1,000 bills or resolutions passed and were signed into law; more than 240 of them impacted cities in some way.

The number of city related bills as a percentage of total bills filed rises every year. Twenty years ago, around 17 percent of bills filed affected cities in some way. By 2021, that percentage had increased to 31 percent. In other words, a quarter of the legislature's work is directed at cities, and much of that work aims to limit municipal authority.

There is no reason to believe that the workload of the 2023 session will be any lighter; it will probably be greater. And for better or worse, city officials will have to live with all the laws that may be approved by the legislature. Thus, the League must make every effort to assure that detrimental bills are defeated and beneficial bills are passed.

The TML approach to the 2023 session is guided by principles that spring from a deeply rooted TML legislative philosophy:

- The League will vigorously oppose any legislation that would erode the authority of Texas cities to govern their own local affairs.
- Cities represent the level of government closest to the people. They bear primary responsibility for provision of capital infrastructure and for ensuring our citizens' health and safety. Thus, cities must be assured of a predictable and sufficient level of revenue and must resist efforts to diminish their revenue.
- The League will oppose the imposition of any state mandates that do not provide for a commensurate level of compensation.

In setting the TML program, the Board recognizes that there is a practical limit to what the League can accomplish during the legislative session. Because the League (like all associations) has finite resources and because vast amounts of those resources are necessarily expended in defeating bad legislation, the Board recognizes that the League must very carefully select the bills for which it will attempt to find sponsors and seek passage.

Each initiative is subjected to several tests:

- Does the initiative have wide applicability to a broad range of cities of various sizes (both large and small) and in various parts of the state?
- Does the initiative address a central municipal value, or is it only indirectly related to municipal government?
- Is this initiative, when compared to others, important enough to be part of TML’s list of priorities?
- Will the initiative be vigorously opposed by strong interest groups and, if so, will member cities commit to contributing the time and effort necessary to overcome that opposition?
- Is this initiative one that city officials, more than any other group, should and do care about?

The Board places each legislative issue into one of four categories of effort. Those four categories are:

- **Seek Introduction and Passage** – the League will attempt to find a sponsor, will provide testimony, and will otherwise actively pursue passage. Bills in this category are known as “TML Priority bills.”
- **Support** – the League will attempt to obtain passage of the initiative if it is introduced by some other entity.
- **Oppose** – the League will actively and vigorously attempt to defeat the initiative because it is detrimental to member cities.
- **No Position** – the League will take no action.

Our Highest Priority: Oppose Bad Bills

The Board determined that TML’s highest priority goal is the defeat of legislation deemed detrimental to cities. As a practical matter, adoption of this position means that the beneficial bills will be sacrificed, as necessary, in order to kill detrimental bills.

The TML Priority Package

The TML Priority Package includes the following items in no particular order:

1. Defeat any legislation that would erode municipal authority in any way, impose an unfunded mandate, or otherwise be detrimental to cities, especially legislation that would:
 - a. provide for state preemption of municipal authority in general.
 - b. impose further revenue and/or tax caps of any type.

- c. erode the ability of a city to issue debt.
 - d. 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, (7) short-term rentals, and (8) the extraterritorial jurisdiction (ETJ).
 - e. 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, including by state or federal rules or federal legislation.
 - f. limit or prohibit the authority of city officials to use municipal funds to communicate with legislators; or limit or prohibit the authority of the Texas Municipal League to use any revenue, however derived, to communicate with legislators.
 - g. abolish the concept of the ETJ.
2. Seek introduction and passage of any legislation that would:
- a. (1) eliminate reauthorization provisions for the collection and use of street maintenance sales and use tax; (2) authorize cities to reimburse themselves from sales and use tax collections for actual election costs required for tax implementation; and (3) clarify that cities may use street maintenance sales tax revenue for all streets and sidewalks in the city.
 - b. allow cities alternate methods for publications of legal notices.
 - c. promote pay as you go financing for capital projects by authorizing a dedicated property tax rate that is classified similarly to the debt service tax rate in property tax rate calculations.
 - d. (1) allow cities to remove themselves from an emergency services district (ESD) if the city is capable of providing services to the area; (2) expressly authorize ESDs to expand into a city's corporate limits or ETJ only with city council approval; and (3) require an ESD to enter into a sales and use tax sharing agreement with a city when a city annexes territory located in an ESD and, should negotiations fail, enter into binding arbitration and/or mediation.
 - e. increase the competitive bidding threshold to account for increased costs to cities.

Support

The Board supports legislation that would:

1. make beneficial amendments to the equity appraisal statute; close the "dark store" theory of appraisal loophole; and require mandatory disclosure of real estate sales prices.

2. authorize a council-option city homestead exemption expressed as a percentage or flat-dollar amount.
3. convert the sales tax reallocation process from a ministerial process into a more formalized and transparent administrative process.
4. authorize a city council to opt-in to requiring residential fire sprinklers in newly constructed single-family dwellings.
5. make beneficial amendments to H.B. 3167 (2019), the subdivision platting shot clock bill.
6. allow for greater flexibility by cities to fund local transportation projects; amend or otherwise modify state law to help cities fund transportation projects; or provide cities with additional funding options and resources to address transportation needs that the state and federal governments fail to address.
7. provide additional funding to the Texas Department of Transportation for equitable transportation projects that would benefit cities and provide local, state, and federal transportation funding of transportation infrastructure, including rail.
8. allow a city to lower the prima facie speed limit from 30 to 25 miles per hour without the need for a traffic study.
9. in relation to federal transit funding: (1) clarify federal congressional intent of federal transit law to protect cities across the United States from being penalized due to a population drop suffered as a direct result of a natural disaster; (2) explicitly state that only presidentially declared major disasters are covered, in accordance with the Robert T. Stafford Disaster Relief and Emergency Assistance Act (P.L. 100-707); and (3) protect federal transit funding streams for urbanized areas until the execution of the next decennial census.
10. in relation to federal legislation, provide states greater authority over management of train delays in conjunction with affected cities.
11. provide greater authority to the Texas Department of Transportation to improve city railroad crossings and install signal lights where there are safety concerns.
12. establish that expenditures of Community Development Block Grant funds by cities are a governmental function.
13. require city consent before the Texas Commission on Environmental Quality (TCEQ) is authorized to issue a standard permit for a rock crushing operation, cement crushing operation, or any similar activity that may be authorized under a standard air permit from TCEQ within the corporate limits or ETJ of a city. Alternatively, or in addition, such legislation may: (a) authorize a city to restrict, prevent, or regulate the locating of such activities in the city's corporate limits or ETJ in other manners, such as imposing minimum

distance from such operations and schools, hospitals, churches, and residences; (b) require TCEQ to provide notice of applications for standard permits to cities for activities proposed in the city's corporate limits or ETJ and require TCEQ to address any and all comments received from the City as required by Sec. 382.112 of the Texas Health & Safety Code; or (c) prohibit TCEQ from issuing a standard permit for activities proposed in the city's corporate limits or ETJ unless the city verifies that the proposed activity is authorized under the city's zoning ordinance or comprehensive plan to locate at the proposed location.

14. provide consistency and uniformity in the compliance deadlines and fees for compliance dismissals of Class "C" misdemeanors.
15. rectify the wording of Texas Government Code Section 29.013 to eliminate the requirement that a city secretary notify the Office of Court Administration of elected or appointed mayors or municipal court clerks.
16. protect from disclosure the list of applicants for a mail in ballot up until the time ballots are sent for those applications, regardless of whether a request is made for the applications.
17. allow for the expenditure of municipal hotel occupancy for construction of improvements in municipal parks and trails/sidewalks that connect parks, lodging establishments, and other tourist attractions, and related public facilities.
18. require equitable treatment of local governments by preventing a state official or state agency from placing additional restrictions on a city's use of federal funds from future stimulus legislation related to a health pandemic, in contravention of congressional intent.
19. require counties to share timely information on health emergencies with cities.
20. treat broadband service similar to other critical utility infrastructure to ensure statewide availability, equity, and affordability for citizens and businesses.
21. modernize the Texas Universal Fund through revenue sources that ensure long-term sustainability for the provision of broadband services.
22. require the State of Texas to create a state regulatory process for oil and gas and CO2 pipeline routing that:
 - i. enables affected communities and landowners to provide input prior to establishment and publication of routes.
 - ii. provides for negotiation on routes when municipalities believe that substantial threats to economic development, natural resources, or standard of living are potential outcomes.
 - iii. intrastate pipelines will comply with environmental and economic impact study standards, including the participation of local governmental entities and public participation.

- iv. pipeline operators shall have in place performance bonds like those the state has in its own contracts.
23. increase existing or create new grant program funding that provides financial assistance to local governmental public safety agencies for public safety resources, including legislation that supports the use and the purchase of body cameras and associated data storage costs.
24. harden the state's electric grid against blackouts, especially those caused by extreme weather events.
25. provide additional tools for municipally owned electric utilities to harden their systems against blackouts, especially those caused by extreme weather events.
26. mitigate the cost and liabilities of the outage event caused by Winter Storm Uri from being passed on to cities and city residents.
27. provide stabilization and funding for the electric grid in response to increased demand.
28. ensure that each city gets at least one vote on appraisal district board members.
29. strengthen current law as it relates to catalytic convertor theft and prevention, including increasing penalties for auto repair facilities and individual sellers who resell or are in possession of stolen catalytic converters.
30. promote increased flexibility under the Texas Open Meetings Act, including flexibility for public participation, so long as the legislation doesn't mandate any new costs on local governments.
31. give cities more input in the municipal utility district development process within the city limits and ETJ, including legislation that promotes additional transparency in the process for cities and city residents.
32. raise the threshold for the $\frac{3}{4}$ super majority requirements triggered by the opposition of landowners close to proposed zoning changes from 20% of property ownership interest within the notification area, to 50%.
33. add safeguards to the formation of new municipal utility districts (MUDs) through the Texas Commission on Environmental Quality process, limit MUDs administrative costs, require MUDs to meet in the cities they tax from, coordinate with local cities or counties on MUD board elections, and provide additional financial information to citizens in an open and transparent manner.
34. allow for competitive procurement of the professional services enumerated in the Professional Services Procurement Act by home rule and general law municipalities.
35. allow for the expansion and preservation of diverse, affordable housing in cities, including additional appropriations.

36. allow a city official to submit a request for an attorney general letter ruling under the Public Information Act by email at no charge.
37. increase the maximum hiring age for firefighters in a civil service city from age 35 to 45, or to eliminate the maximum hiring age altogether.
38. make beneficial amendments to H.B. 2439 (2019), the building materials bill.
39. amend Sec. 52.095, Election Code, related to the requirement that cities are only able to assign a letter of the alphabet to the measure that corresponds to its order on the ballot.

Oppose

The Board opposes legislation that would:

1. 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.
2. impose new property tax or sales tax exemptions that substantially erode the tax base.
3. limit or eliminate the current flexibility of the Major Events Reimbursement Program as a tool for cities to attract or host major events and conventions.
4. limit the type of incentives available to the city or that would limit any use of incentives by a city.
5. further erode local control as it pertains to retirement issues.
6. substantively change or expand the scope of the current disease presumption law, unless doing so is supported by reputable, independent scientific research.
7. require candidates for city office to declare party affiliation in order to run for office.
8. eliminate any of the current uniform election dates.
9. impose additional state fees or costs on municipal court convictions or require municipal courts to collect fine revenue for the state.
10. restrict city authority to draft ballot propositions in such a way that reflects the full fiscal impact of the proposition.
11. require preclearance of city ballot propositions by a state agency.
12. erode city solid waste franchise fee authority.

No Position

The Board takes no position on legislation that would relate to immigration matters, so long as it does not impose new and substantial unfunded mandates or unavoidable liabilities on cities.

The Board takes no position on legislation that would impact local sourcing of sales and use taxes.

The Board takes no position on legislation that would authorize a city to annex out a roadway to bring a voluntarily-requested area into the city limits.

Other

The Board takes the following additional actions:

1. 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.