

# 81<sup>st</sup> TEXAS LEGISLATIVE SESSION (Just a Few Bills of Interest)

## FINANCE AND ADMINISTRATION

### Property Tax

**H.B. 3612 – Property Taxes:** creates a pilot program under which property tax disputes may be appealed to the State Office of Administrative Hearings (SOAH) in lieu of district court in the following counties: Bexar, Cameron, El Paso, Harris, Tarrant, and Travis. Appeals could be taken to SOAH for any property category other than industrial or mineral.

**H.B. 3613 – Property Taxes:** does the following: (1) exempts from property taxes the total value of the homesteads of totally disabled military veterans; (2) grants a partial property tax exemption for a partially-disabled veteran based on the percentage of the veteran's disability; and (3) provides that the market value of any residential homestead is determined solely on the basis of the property's value as a residence homestead, regardless of the otherwise "highest and best use" of the property. (Part of this bill will take effect only if voters approve a proposed constitutional amendment at the November 3, 2009, election. Please see **H.J.R. 36**, below.)

**\*Constitutional amendment authorizing disability exemption passed in November 2007.**

**H.J.R. 36 – Property Taxes:** proposes an amendment to the Texas Constitution which, if approved by voters on November 3, 2009, will authorize the legislature to do the following: (1) permit the boards of directors of two or more adjoining appraisal districts to consolidate appraisal review board operations; and (2) provide that the market value of any residential homestead is determined solely on the basis of the property's value as a residence homestead, regardless of the otherwise "highest and best use" of the property. (Please see **H.B. 3611** and **H.B. 3613**, above.)

### Sales Tax

**H.B. 1801 – Sales Taxes:** does the following: (1) adds school supplies (as they are defined by the federal Streamlined Sales and Use Tax Agreement) to the list of exempt items during the August sales tax holiday; and (2) redefines "backpacks" that are currently exempt during the August sales tax holiday to include a backpack with wheels (provided it can also be worn on the back), but excluding luggage, briefcases, athletic bags, duffle bags, gym bags, computer bags, purses, or framed backpacks.

**\*Excerpt from TML Legislative Update No. 21 dated June 11, 2009. Total report is 28 pages.**

## **Purchasing**

**H.B. 2082 – Purchasing:** provides that the current local preference law relating to the purchase of any real property, personal property that is not affixed to real property, or services, is limited to a contract for an expenditure of less than \$100,000. **Tex Loc Gov't 271.9051 – if bid within 5% of lowest bid – can go with local guy.**

**H.B. 2515 – Purchasing:** this bill requires that a governmental entity that makes a public works contract with a prime contractor shall require the contractor, before beginning the work, to execute to the governmental entity: a payment bond if the contract is in excess of \$50,000 (old law was \$25K) and the governmental entity is a city or a joint airport board. The bill also provides that a person who furnishes material or labor to a contractor under a prime contract with a city that does not exceed \$50,000 and that is for public improvements in this state and who gives notice required by law has a lien on the money, bonds, or warrants due the contractor for the improvements. **(Performance Bond required for contracts in excess of 100K – Tex Loc Gov't Code 2253.021.)**

**H.B. 3668 – Purchasing:** provides that if a contract is made without compliance with competitive procurement laws, it is void, and the performance of the contract, including the payment of any money under the contract, may be enjoined by: (1) any property tax-paying resident of the city; or (2) a person who submitted a bid for a contract to which the competitive sealed bidding requirement applies, regardless of residency, if the contract is for the construction of public works. **Enforced by injunction.**

**S.B. 229 – Design-Build:** provides that a city over 100,000 in population may use the design-build procurement method for a certain number of civil works projects in each fiscal year.

## **Elections**

**H.B. 1720 – Political Advertising:** provides that: (1) an officer or employee of a political subdivision may not knowingly spend or authorize the spending of public funds for political advertising; (2) that prohibition does not apply to a communication that factually describes the purposes of a ballot measure if the communication does not advocate passage or defeat of the measure; (3) an officer or employee of a political subdivision may not spend or authorize the spending of public funds for a communication describing a measure if the communication contains information that the officer or employee knows is false and is sufficiently substantial and important as to be reasonably likely to influence a voter to vote for or against the measure. The bill also provides that it is an affirmative defense to criminal prosecution for an offense described above that an officer or employee of a political subdivision reasonably relied on a court order or an interpretation in a written opinion issued by a court of record, the attorney general, or the Texas Ethics Commission. Finally, the bill provides that on written request of the governing body of a political subdivision that has ordered an election on a measure, the Texas Ethics Commission shall prepare an advance written advisory opinion as to whether a particular communication relating to the measure does or does not comply with the law. **[The City of Haltom City.]**

**S.B. 1970 – Elections:** (4) allows a city that orders an election on a measure to declare the measure moot and remove it from the ballot if the city determines that the action to be authorized by the voters may not be taken regardless of the outcome of the election; (8) provides that a person who changes residence to another county may cast a vote during the early voting period if the person is registered to vote in the county of former residence at the time the person offers to vote in the new county; (10) requires a city to post notice of the dates of the filing period for an application for a place on the ballot in a public place within the main city office building not later than the 30th day before the first day on which the application may be submitted; (11) requires a recount deposit to be \$60 for each precinct in which paper ballots were used and \$100 for each precinct where an electronic voting system was used.

## **Open Government**

**S.B. 375 – Accident Report Information:** this bill provides for the confidentiality of certain types of accident reports and allows TxDOT to release aggregated or statistical information relating to motor vehicle accidents, subject to certain exceptions.

**S.B. 1068 – Public Information:** this bill: (1) allows a city to redact certain personal information relating to a current or former city employee, official, or peace officer under the Public Information Act without first requesting a decision from the attorney general; (2) allows a city to redact certain personal information relating to a volunteer worker or member of the board of directors of a family violence shelter center or sexual assault program under the Public Information Act without first requesting a decision from the attorney general; (3) provides that a requestor of information may seek a decision from the attorney general’s office regarding information that was redacted by the city without first seeking a decision from the attorney general; (4) requires a city that redacts information without seeking a decision from the attorney general to provide certain information to the requestor on a form prescribed by the attorney general; and (5) creates an exception to disclosure that protects information in the custody of a city if that information relates to an employee or officer of the city and disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

**S.B. 1182 – Open Government:** this bill: (1) provides that a quorum of the city council may receive from municipal staff, and a member of the governing body may make, a report regarding items of community interest during a council meeting without having given notice of the subject of the report, provided no action is taken or discussed; (2) provides that an “item of community interest” includes expressions of thanks, congratulations, or condolence; information regarding holiday schedules; honorary recognitions of city officials, employees, or other citizens; reminders about upcoming events sponsored by the city or other entity that is scheduled to be attended by a city official or city employee; and announcements involving imminent threats to the public health and safety of the city. [AG Opinion regarding Corpus Christi – GA – 668.]

## MUNICIPAL COURTS

**H.B. 1060 – Warrants:** allows arrest warrants or criminal complaints to be forwarded via secure fax or other secure electronic means.

**S.B. 410 – Statute of Limitations:** requires a complaint in municipal court to be presented within two years of the date of the offense.

## COMMUNITY AND ECONOMIC DEVELOPMENT

**H.B. 773 – Tax Abatement:** extends the authority of cities to enter into new tax abatement agreements until September 1, 2019. (Note: The current statutory authority was due to expire on September 1, 2009.)

**H.B. 1633 – Graffiti:** requires a court, including a juvenile court or a court granting community supervision, to require a defendant convicted of a graffiti offense to: (1) pay restitution or personally restore or replace the property; and, (2) if a juvenile, or if placed on community supervision, perform a certain number of hours of community service depending on the amount of pecuniary loss resulting from the commission of the offense.

**H.B. 2685 – Eminent Domain:** provides that not later than the seventh day before the date a governmental or private entity with eminent domain authority makes a final offer to a property owner to acquire real property, the entity must send by first-class mail (or otherwise provide) a landowner's bill of rights statement. In addition, the bill requires an entity with eminent domain authority to provide a copy of the landowner's bill of rights statement to a landowner before or at the same time as the entity first represents in any manner to the landowner that the entity possesses eminent domain authority.

**H.J.R. 14 – Eminent Domain:** proposes an amendment to the Texas Constitution which, if approved by the voters on November 3, 2009, will provide that no person's property shall be taken, damaged, or destroyed for or applied to a “public use” without adequate compensation being made, unless by the consent of such person, and only if the taking, damage, or destruction is necessary for: (1) the ownership, use, and enjoyment of the property, notwithstanding an incidental use, by the state, a political subdivision of the state, or the public at large or an entity granted the power of eminent domain under law; or (2) the elimination of urban blight on a particular parcel of property. The resolution also provides that a “public use” does not include the taking of property for transfer to a private entity for the primary purpose of economic development or the enhancement of tax revenues, and that on or after January 1, 2010, the legislature may enact a law granting the power of eminent domain to an entity only with a two-thirds vote of all members elected to each house.

**S.B. 1952 – Educational Facilities:** provides that a home rule city with a population of 25,000 or more that has an institution of higher education located within its boundaries or has entered into an agreement with an institution of higher education relating to the provision of educational services within the city by the institution of higher education may issue public securities, including certificates of obligation, to acquire, construct, or improve land, buildings, or other permanent improvements for use by the institution of higher education.

## **PERSONNEL**

**H.B. 360 – Texas Municipal Retirement System (TMRS):** makes the following changes to the TMRS statute: (1) guarantees an annual interest credit of at least five percent to member accounts; (2) sets the annuity purchase rate for retirees at a minimum of five percent; (3) requires the crediting or charging of income or loss; (4) requires the interest fund to accurately reflect the determination and allocation of net investment income or loss; (4) requires annual determination of net investment income or loss based on generally accepted accounting principles; (5) changes the way money from the interest fund is allocated to other TMRS funds, including giving priority to allocating interest to the current service annuity reserve fund, the supplemental disability benefits fund, the supplemental death benefits fund, and the employee savings fund; (6) provides for adequate reserves to provide reasonable rate stabilization to cities; and (7) deletes the provision allowing for the treatment of certain stock gains as investment income that is added to the interest fund.

**H.B. 451 – Mandatory Health Benefit:** requires health benefit plans to cover autism in a child up to age nine. (Note: current law requires coverage up to age six.)

**H.B. 1177 – Legislative Leave:** expands the number of cities—from cities of 200,000 or more in population to cities of 50,000 or more in population—in which peace officers and firefighters are eligible for legislative leave under subchapter A of Chapter 614 of the Government Code.

**H.B. 2113 – Firefighters:** requires a city to “designate” September 11 as a holiday for its firefighters. **(Can select as a holiday.)**

**S.B. 420 – Judge Evaluations:** prohibits a city from taking into account the source and amount of municipal court revenue when evaluating a municipal judge’s job performance

**S.B. 935 – Marriages:** Municipal Court Judges can now perform marriages.

**S.B. 872 – Health Coverage for Survivors:** does the following: (1) requires a city to provide health benefit coverage to the surviving spouse of a peace officer or firefighter killed in the line of duty at the same rate paid by current employees (meaning that if the city pays the entire premium, the surviving spouse would pay nothing); (2) allows an eligible survivor up to 180 days to apply for health coverage; (3) requires a city to provide an eligible surviving spouse coverage until the surviving spouse becomes eligible for federal Medicare benefits; (4) requires a city to provide an eligible minor coverage until the minor turns 18; (5) requires the city to provide two notices of eligibility for coverage; (6) includes trainees and training routines to the

list of covered “line of duty” deaths that trigger required health benefit coverage for eligible survivors; and (7) gives eligible survivors who did not originally apply for coverage until March 1, 2010, to reapply for coverage.

## **PUBLIC SAFETY**

**H.B. 55 – Cell Phones:** this bill: (1) makes the use of a wireless communication device while operating a motor vehicle within a school crossing zone a class C misdemeanor, unless the vehicle is stopped or the device is being used in a hands-free mode; (2) requires a city that enforces the prohibition to post a sign that complies with standards adopted by the Texas Department of Transportation at each school crossing zone in the city in order to inform an operator of a motor vehicle of the prohibition (the standards must provide that the sign can be attached to an existing sign); (3) provides that the prohibition does not apply to either an operator of an authorized emergency vehicle if the operator is using the device in an official capacity, or an operator of a radio frequency device who is licensed by the Federal Communications Commission; and (4) provides for the preemption of all city ordinances that are inconsistent with specific provisions of the bill.

**H.B. 2086 – Gang Activity/Graffiti - other provisions -** (7) authorizes a city to pass an ordinance requiring a business to lock up aerosol paint behind a counter; (8) allows a city to pass an ordinance requiring removal of graffiti by a property owner if the city offers to remove the graffiti free of charge and the owner refuses; (9) allows a city to remove graffiti from a property if a property owner fails to remove graffiti on or before the fifteenth day after the city gives the owner sufficient notice; (10) allows a city to assess expenses against a property owner on whose property the city had to remove graffiti after the owner refused to do so.

**H.B. 2571 – Tow Trucks:** Of special interest to cities is the provision that the governing body of a political subdivision may regulate the fees that may be charged or collected in connection with a nonconsent tow originating in the territory of the political subdivision if the private property tow fees are authorized by the Texas Commission on Licensing and Regulation commission rule and do not exceed the maximum amount authorized by commission rule.

**H.B. 2682 – Speed Limits:** amends the current statute permitting a city to reduce the speed limit on a city street from 30 m.p.h. to 25 m.p.h. absent an engineering study as follows: (1) removes the current-law requirement that a street must be 35 feet or less in width to qualify for a reduction; (2) removes the current-law requirement that parking be allowed on the street to qualify for a reduction; (3) requires that a street must have two lanes and be undivided to qualify for a reduction; (4) requires a city that reduces a speed limit under the statute on any street after June 2009, to publish on its Internet Web site and submit to TxDOT a report that compares for each of the two previous calendar years the following: (a) the number of traffic citations issued by peace officers for speeding violations on the street; (b) the number of warning citations issued by peace officers on the street; and (c) the number of accidents resulting in injury or death that were attributable to speed limit violations on that street.

**H.B. 3389 – Law Enforcement – other provisions** - (8) requires a police department to include handling of individuals of Middle Eastern descent in their racial profiling policies; (9) expands the required contents of a police officer’s report on motor vehicle stops to include whether the officer knew the race of the individual detained before detaining the individual; (10) requires an annual report on racial profiling to be filed with TCLEOSE; (11) provides that if a police department intentionally fails to submit a required racial profiling report, TCLEOSE shall initiate disciplinary action against that agency’s chief administrator.

**S.B. 254 – Volunteer Fire Departments/Motor Fuel Taxes:** exempts volunteer fire departments from the payment of motor fuel taxes.

**S.B. 418 – Street Gangs:** requires a city police department in a city with a population of 50,000 or more or in a county with a population of 100,000 or more to compile and maintain in a local or regional intelligence database criminal information relating to criminal street gangs.

**S.B. 1011 – Texas Commission on Fire Protection – other provisions** - (4) allows the commission to perform risk-based assessments on fire departments that can lead to fines, default judgments, and suspension of fire department certificates; (5) creates a grant program for firefighter training and firefighter equipment to be used by city fire departments and volunteer fire departments.

## **UTILITIES, TRANSPORTATION, AND ENVIRONMENT**

**H.B. 1174 – Sewer Backups:** provides that: (1) a city may pay actual property damages caused by the backup of the city's sanitary sewer system regardless of whether the city would be liable for the damages under the Texas Tort Claims Act; and (2) the bill does not waive governmental immunity from suit or liability.

**H.B. 1433 – TCEQ Water Quality Fee:** increases from \$75,000 to \$100,000 the maximum amount of the annual fee imposed by the TCEQ on wastewater discharge permit holders and water users, and requires an annual adjustment reflecting the change in the consumer price index (CPI), up to a maximum of \$150,000.

**S.B. 926 – Red Light Cameras:** prohibits a city from imposing a civil penalty on an emergency vehicle for running a red light that is monitored by a red light camera, but clarifies that a city may take disciplinary action against an employee that operates an emergency vehicle in violation of city policy.