

# TXAPA/TML AFFILIATE LEGISLATIVE COMMITTEE

## Planning/Development Legislation Update as of **August 16, 2017**

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

On July 18<sup>th</sup> the Special Session of the Texas Legislature began. Following are the bills that have been introduced as of **August 16<sup>th</sup> when the special session closed**. It should be noted that bills can be submitted at any time during special session, which can last a maximum of 30 days. It is our understanding that bills have to be considered individually by the House and the Senate but it is up to the individual committees whether they will have public testimony on bills or just a small committee meeting to expedite adoption. The official list of special session items as provided by the Office of the Governor are as follows and bills being considered (reconsidered) must fall under one of the following categories:

1. Sunset legislation
2. Teacher pay increase of \$1,000
3. Administrative flexibility in teacher hiring and retention practices
4. School finance reform commission
5. School choice for special needs students
6. Property tax reform
7. Caps on state and local spending
8. Preventing cities from regulating what property owners do with trees on private land
9. Preventing local governments from changing rules midway through construction projects (vesting)
10. Speeding up local government permitting process
11. Municipal annexation reform
12. Texting while driving preemption
13. Privacy
14. Prohibition of taxpayer dollars to collect union dues
15. Prohibition of taxpayer funding for abortion providers
16. Pro-life insurance reform
17. Strengthening abortion reporting requirements when health complications arise
18. Strengthening patient protections relating to do-not-resuscitate orders
19. Cracking down on mail-in ballot fraud
20. Extending maternal mortality task force

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

Following are the bills introduced (1HB ## or 1SB ##) in the Special Session. **Note, the 1 is our notation for 1<sup>st</sup> Special Session to avoid confusion and the R is for refiled from the regular legislative session. However, the 1 or R is not in the actual bill #.** We are now including links on many of the bills to the text of the bill at Texas Legislature Online to make it easier to look up the bill. Also included in the last section are the bills that were either vetoed by the Governor or became law. If sent to the Governor but unsigned they still become law 9.1.17. This document is the status of legislation affecting planning, development and growth of cities and comes mainly from Texas Municipal League information with periodic checks by TXAPA members on bill status.

**Red Highlighted wording are new bills added since last report. Bold red heading is a bill that has been determined by TXAPA or TML to be detrimental to cities in their regulation of development, has potential to make it out of committee and should be watched closely. Green heading is generally of benefit to cities and should be looked at to support. Other bills listed are still important to cities and should also be reviewed and monitored. For the status of any bill or to find the text go to the Texas Legislature Online Home Page <http://www.capitol.state.tx.us/Home.aspx>**

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### ALCOHOLIC BEVERAGES

**~~1HB 284 (Morrison) — Aleoholic Common Area Designation. (Died in committee)~~** Relating to the designation of a common area for on-premise consumption by a holder of certain alcoholic beverage permits and licenses.

<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB284>

### ANNEXATION, DEVELOPMENT, STRATEGIC PARTNERSHIP AGREEMENTS

**~~1HB 6 (Huberty) — Annexation. (8.2 Land & Resource Mgmt had hearing, left pending)~~** 57 pages of convoluted Chapter 43 amendments that labels counties with less than 500,000 population as “Tier 1” and counties with more than 500,000 population as “Tier 2” counties. Municipalities in “Tier counties are “Tier 1 Municipalities” and those in Tier 2 counties are “Tier 2” Municipalities. It deals with annexing by Tier 1, Tier 2 and general law cities with such diverse subjects as buildings with retail sales, military bases, solid waste facilities, navigable streams, etc., etc, etc. It expands the public hearings and annexation process for everyone. More importantly, Tier 2 cities, including cities annexing into a Tier 2 County, must not only obtain more than 50% of the property owners signatures requesting annexation but most also put it to a vote of the entire community. Net effect is to stop annexation in Tier 2 Counties and by Tier 2 Municipalities. However, this also has numerous provisions that apply to all cities including general law cities so the text should be examined at

<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB6> Identical ISB 6 below.

**1HB-57 (Schofield) Extraterritorial Jurisdiction**—requires the release of extraterritorial jurisdiction by certain populous municipalities (1.8 million) if a petition is submitted from a majority of property owners for certain purposes, including municipal incorporation.

<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB57>

**1HB-63 (Schofield) Annexation and Extraterritorial Jurisdiction**—(7.20 Sent to H Land & Resource Mgt) Relating to the extraterritorial jurisdiction of and municipal annexation by certain municipalities, apparently over 1.8 million but needs to be reviewed carefully because it does discuss cities under 1.8 million.

<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB63>

**1HB-69 (Schofield) Annexation and Extraterritorial Jurisdiction**—Relating to the extraterritorial jurisdiction of and municipal annexation by certain municipalities (1.8 million).

<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB69>

**1HB-93 (Rodriguez) — Annexation of Emergency Services District. (Land & Resource Management reported favorably, sent to calendars 8/8)** would modify the amount of compensation due to an emergency services district for territory removed by a city to be determined by multiplying the district's total indebtedness at the time of the annexation by a fraction: (1) the numerator of which is the assessed value of the property to be annexed based on the most recent certified county property tax rolls at the time of annexation plus the total amount of the district's sales and use tax revenue collected by businesses located in the property to be annexed in the 12 months preceding the date of annexation, as reported by the comptroller; and (2) the denominator of which is the total assessed value of the property of the district based on the most recent certified county property tax rolls at the time of annexation plus the total amount of the district's sales and use tax revenue collected by businesses located in the district in the 12 months preceding the date of annexation, as reported by the comptroller.

<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB93>

**1HB-187 (Oliveron) — Developer Agreements, ETJ and Annexation. (8/4 H Land and Resource Mgmt Reported favorably w/o amendment(s), sent to calendars)** Relating to certain development agreements that guarantee the continuation of the extraterritorial status of the area subject to the agreement for municipal annexation purposes. A development agreement (1) does not extend the extraterritorial jurisdiction of the city that is a party to the agreement. (2) An area subject to a development agreement may not be considered for the purposes of calculating the width of an area under Section 43.054 or municipal territory under Section 43.0545. Ed. Note—this is a huge problem, cities will be forced to annex additional areas and additional residential subdivisions if developer agreements cannot be counted in these calculations. The state law was amended to force cities to defer annexation of AG lands but now says they can't be counted.

<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB187>

**RHB-3495 (Schofield) Refiled bill from 85R Session re: Extraterritorial Jurisdiction**—requires the release of extraterritorial jurisdiction by certain populous municipalities (1.8 million) if a petition is submitted from a majority of property owners for certain purposes, including municipal incorporation. See 1HB-57.

**1SB 6 (Campbell/Buckingham/Schwertne) - Annexation. (Signed by Governor, effective December 1)**

**As passed, this bill would completely rewrite the Municipal Annexation Act to severely curtail the ability of cities to annex property** - 57 pages of convoluted Chapter 43 amendments that labels counties with less than 500,000 population as "Tier 1" and counties with more than 500,000 population as "Tier 2" counties. Cities in "Tier counties are "Tier 1 Municipalities" and those in Tier 2 counties are "Tier 2" Municipalities. **Last minute amendment allows the voters of a Tier 1 county to force it to become a Tier 2 county with no involuntary annexation by either a vote of more than 50% or by a petition of more than 10% of the registered county voters.** It deals with annexing by Tier 1, Tier 2 and general law cities with such diverse subjects as buildings with retail sales, military bases, solid waste facilities, navigable streams, etc., etc, etc. It expands the public hearings and annexation process for everyone. More importantly, Tier 2 cities, including cities annexing into a Tier 2 County, must not only obtain more than 50% of the property owners signatures requesting annexation but most also put it to a vote of the entire community. Net effect is to stop annexation in Tier 2 Counties and by Tier 2 Municipalities. However, this

also has numerous provisions, some of which apply to all cities including general law cities so the engrossed text sent to the house should be examined at

<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB6>

According to TML, the amended SB 6 version that was engrossed had the following changes:  
Generally, the bill would provide that:

1. A “Tier 1 county” means a county with a population of less than 500,000.
2. A “Tier 2 county” means a county with a population of 500,000 or more.
3. A “Tier 1 city” means a city wholly located in one or more tier 1 counties that proposes to annex an area wholly located in one or more tier 1 counties.
4. A “Tier 2 city” means a city: (a) wholly or partly located in a tier 2 county; or (b) wholly located in one or more tier 1 counties that proposes to annex an area wholly or partly located in a tier 2 county.
5. A tier 2 city is authorized to annex an area with a population of 200 or more only if the following conditions are met, as applicable: (a) the city holds an election in the area proposed to be annexed at which the qualified voters of the area may vote on the question of the annexation and a majority of the votes received at the election approve the annexation; and (b) if the registered voters of the area do not own more than 50 percent of the land in the area, the city obtains consent to annex the area through a petition signed by more than 50 percent of the owners of land in the area.
6. A tier 2 city may annex an area with a population of less than 200 only if the city obtains consent to annex the area through a petition signed by more than 50 percent of the registered voters of the area, or if the voters don’t own more than 50 percent of the land in the area, the petition must be signed by the owners of more than 50 percent of the land in the area.
7. A city may annex for full or limited purposes any part of the area located within one-half mile of the boundaries of a military base in which an active training program is conducted only if the city and the military base enter into a memorandum of agreement to establish provisions to maintain the compatibility of the city’s regulation of land in the area with the military base operations following the annexation.

All cities in the following counties, and cities located in adjacent tier 1 counties that have a portion of a tier 2 county will be required to have some type of petition or election process to annex property (residential, non-residential or developing raw land). Will directly

County population in order from 2010 census  
<https://www.tsl.texas.gov/ref/abouttx/popcnty32010.html>

Harris County	4,092,459
Dallas County	2,368,139
Tarrant County	1,809,034
Bexar County	1,714,773
Travis County	1,024,266
El Paso County	800,647
Collin County	782,341
Hidalgo County	774,769
Denton County	662,614
Fort Bend County	585,375

~~**1SB 104 (Menendez) – Annexation.** (Filed 7.22) Appears to be the same as SB 6 above with the 125,000 county population amendment removed so it applies to counties and cities within counties with the original 500,000 population.~~ <http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB104>

## **BUILDING, HEALTH AND FIRE CODES/INSPECTION**

~~**1HB 46 (Simmons) – City, County and other Local Government Public Bathrooms.** (7/20 H Referred to State Affairs) would: (1) prohibit a political subdivision from adopting or enforcing an order, ordinance, policy, or other measure to protect a class of persons from discrimination to the extent the order,~~

ordinance, policy or measure regulates access to multiple occupancy restrooms, showers, or changing facilities; and (2) provide that the prohibition in (1) may be enforced only through an action instituted by the attorney general for mandamus or injunctive relief, for which the attorney general may recover costs and attorney's fees  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB46>

**~~1HB-94 (Rodriguez) — Expedited School District Permits (also Zoning)~~** Zoning and Building Permits: would: (1) exempt all political subdivisions from city zoning regulations, except when the building, structure, or land are privately owned and leased to the political subdivision; and (2) require a city to adopt procedures to expedite the processing of an application submitted by an independent school district for a permit to erect or improve a building or other structure.  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB94>

**~~1HB-107 (Cyrrier) — Contractor Licensing. (7.20 Referred Urban Affairs)~~** Completely prohibits a political subdivision from adopting or enforcing a requirement that a builder or contractor obtain a license or other similar certification from the political subdivision.  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB107>

**~~1HB-164 (Workman) — Expedited Permitting, Automatic Approvals (Referred to H Committee on State Affairs, died in committee); extremely onerous amendments to permitting~~** process stating b) Not later than the 30th day after the date an application for a permit is submitted, the city must: (1) grant or make a preliminary determination to deny the permit; (2) provide written notice to the applicant stating the reasons why the city has been unable to act on the permit application; If a city fails to act on a permit application within [in] the period [time] required by Subsection (c) (15 days), the permit application is considered approved and the city (1) may not collect any permit fees associated with the application; and (2) shall refund to the applicant any permit fees associated with the application that have been collected.(e) If a city makes a preliminary determination to deny a permit application, the city must send written notice of the determination to the applicant not later than the first business day after the date the determination is made stating: (1) each application deficiency that is a reason for the determination, including a citation to the specific ordinance, order, regulation, or policy relevant to the determination; (2) the specific actions required by the applicant to remedy each specified deficiency. Companion bill is 1SB13. HB-164 text may be found at  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB164>

**~~1HB-170 (Dutton) — Public Bathrooms (7/20 Referred to State Affairs, died in committee).~~** Relating to single occupancy bathroom and changing facilities in public buildings....  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB170>

**~~RHB-3282 (Rodriguez) — Refiled from 85<sup>th</sup> Legislative Session re: Expedited School District Permits (also Zoning)~~** Zoning and Building Permits: would: (1) exempt all political subdivisions from city zoning regulations, except when the building, structure, or land are privately owned and leased to the political subdivision; and (2) require a city to adopt procedures to expedite the processing of an application submitted by an independent school district for a permit to erect or improve a building or other structure.

**~~RHB-4097 (Cain, Briscoe) — Government Bathrooms — Refiled from 85<sup>th</sup> Legislative Session See Companion Bill 1SB-23.~~**

**~~1SB-3 (Kolkhorst) Government Bathrooms. (Passed 7.27 and sent to House, not assigned to committee)~~** Relating to the regulation of certain facilities and activities of political subdivisions, including public school districts, and open enrollment charter schools. Prohibits adopting or enforcing an order, ordinance, policy, or other measure to protect a class of persons from discrimination to the extent the order, ordinance, policy or measure regulates access to multiple occupancy restrooms, showers, or changing facilities except under certain circumstances and (2) provide that the prohibition in (1) may be enforced only through an action instituted by the attorney general for mandamus or injunctive relief, for which the attorney general may recover costs and attorney's fees  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB3>

**~~1SB-13 (Burton) — Expedited Permitting, Automatic Approvals (7.27 Approved as amended by Senate, sent to House, referred to State Affairs, died in House Committee); extremely onerous amendments to LGC CH-214 Municipal Regulation of Housing and Other Structures, Sec. 214.904 Time for Issuance of Municipal Bldg Permit. (everyone should currently read, specifies time frame to issue permits or face penalties)~~**

~~including refunding of permit fees~~) b) Not later than the 45<sup>th</sup> 30th day after the date an application for a permit is submitted, the city must: (1) grant or make a preliminary determination to deny the permit; (2) provide written notice to the applicant stating detailed reasons why the city has been unable to act on the permit application, including citations and regulation references specific for each listed reason; If a city fails to act on a permit application within [in] the period [time] required by Subsection (c) (15 days), the permit application is considered approved and the city (1) may not collect any permit fees associated with the application; and (2) shall refund to the applicant any permit fees associated with the application that have been collected. (e) If a city makes a preliminary determination to deny a permit application, the city must send written notice of the determination to the applicant not later than the first business day after the date the determination is made stating: (1) each application deficiency that is a reason for the determination, including a citation to the specific ordinance, order, regulation, or policy relevant to the determination; (2) the specific actions required by the applicant to remedy each specified deficiency. ~~With regard to the issuance of any permit required by a city to construct or improve a building or other structure in the city or its extraterritorial jurisdiction, the bill would provide for detailed “shot clock” procedures. With regard to chapter 245 of the Local Government Code (the “permit vesting” statute), the bill would—among many other things—make engaging in an occupation subject to permit vesting. — Companion Bill is HB 164 (Workman) Senate Approved bill text at <http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB13>~~

**1SB 23 (Hall) — Government Bathrooms** ~~:(Filed 7.10)~~ would: (1) prohibit a political subdivision from adopting or enforcing an order, ordinance, policy, or other measure to protect a class of persons from discrimination to the extent the order, ordinance, policy or measure regulates access to multiple occupancy restrooms, showers, or changing facilities; and (2) provide that the prohibition in (1) may be enforced only through an action instituted by the attorney general for mandamus or injunctive relief, for which the attorney general may recover costs and attorney’s fees. Companion Bills are RHB 4097 and RSB

**1SB 55 (Huffines) — Model Building Codes** ~~:(Filed 7.17)~~ Applies to city with a population more than 40,000. On written request from five or more persons, city shall hold a public hearing on the proposed adoption of or amendment to a national model code. Hearing must be held before 14th day before governing body adopts or amends a national model code. 30 or more days before the hearing, a cost-benefit analysis must be published of code or amendment that including (1) estimations of code's or amendment's: (A) cost to local economy; (B) effect on tax revenue; (C) effect on net growth in new development in the city; and (D) additional cost per unit of development in each type of zoning use designated by the city; and (2) for an amendment that addresses existing or potential harm to health and safety: (A) scientific evidence supporting the probability or likelihood that the harm has occurred or will occur; and (B) scientific evidence supporting the probability or likelihood that the amendment will prevent or address the harm. Ed. Note — Similar to bills Senator Huffines introduced in the regular legislative session. Text can be found at <http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB55>

**1SB 65 (Garcia) — Government Bathrooms** ~~:(Filed 7.18)~~ — Relating to regulations and policies for entering or using a bathroom or changing facility in buildings operated by certain governmental entities and public schools; authorizing a civil penalty. <http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB65>

**1SB 91 (Kolkhurst) — Government Bathrooms (7/21 Left pending in committee)**: would: (1) prohibit a political subdivision from adopting or enforcing an order, ordinance, policy, or other measure to protect a class of persons from discrimination to the extent the order, ordinance, policy or measure regulates access to multiple-occupancy restrooms, showers, or changing facilities; and (2) provide that the prohibition in (1) may be enforced only through an action instituted by the attorney general for mandamus or injunctive relief, for which the attorney general may recover costs and attorney’s fees. <http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB91>

**RSB 92 (Hall) — Government Bathrooms — Refiled from 85<sup>th</sup> Legislative Session See Companion Bill 1SB 23.**

**1SB 98 (Taylor) — Chickens** ~~:(filed 7.21)~~ Relating to the regulation of raising or keeping six or fewer chickens by a political subdivision. ~~:(filed 7.21)~~ <http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB98>

## EMERGENCY SERVICE DISTRICTS (ESD’s)

See **1HB 93 (Rodriguez) — Annexation of Emergency Services District. — See Annexation**

## EMINENT DOMAIN

~~1HB 308 (Bell) Eminent Domain Acquisition. (Filed 7.24) Relating to the acquisition of property by an entity with eminent domain authority.~~  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB308>

## ENVIRONMENT

~~1HB 304 (Morrison) Land Application of Grease or Grit Trap Waste (7.25 referred to Environmental Regulation, died in committee): would regulate and prohibit land application of grease or grit trap waste.~~  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB304>

## EXTRATERRITORIAL JURISDICTION (Also see Annexation)

~~1SB 83 (Bettencourt) ETJ Digital Mapping and Notice. (Filed 7.19) Each city shall prepare a digital map that shows the boundaries of the city and of its extraterritorial jurisdiction, keep it in the office of the City Secretary, the City Engineer, on the website and in a location easily accessible to the public. It must provide a copy free of charge. If a home rule city (not a general law city????) does not have GIS software, it can use any other electronic format. A home rule city, before the 90th day after a city adopts or amends an **annexation plan** it must make publicly available a digital map of the area proposed for annexation and any area in the expanded ETJ. It must also provide written notice to the owner as identified in the tax records to every owner that would be included in the proposed annexation or ETJ. The notice must include among other things, a legal description and digital map of the annexed and ETJ area in the annexation plan, a statement of the purpose of extraterritorial jurisdiction, and a brief description of each municipal ordinance that would be applicable.~~  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB83>

~~1SB 89 (Bettencourt) ETJ of 1.8 Million Population Cities Relating to ETJ jurisdiction of Houston~~  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB89>

~~1SB 90 (Bettencourt) ETJ of 1.8 Million Population Cities Relating to ETJ jurisdiction of Houston~~  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB90> (Companion bill HB 63—See Annexation.)

## GROUP HOMES/HALFWAY HOUSES

~~1HB 293 (Johnson) Group Homes for Substance Abusers (Left pending in Human Services).~~  
Would provide for licensing and regulation of group homes including fees, minimum standards, background checks of operators, etc.  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB293>

## PRIVATE PROPERTY RIGHTS (Also Regulatory Takings, Vesting)

### PARKS AND OPEN SPACE

~~1HB 77 (Darby) Parkland Fees. (7.25 H Left pending in Urban Affairs) Would provide that a city that requires a dedication of parkland as a condition of approving an application for the development of or the use of real property must allow the applicant to pay an optional fee in lieu of the dedication.~~  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB77>

## SPECIAL DISTRICTS, MUNICIPAL MANAGEMENT DISTRICTS, TRUSTS

~~1HB 141 (Paul) Municipal Management Districts: (7.2 Left Pending in Urban Affairs) would impose various changes to governance and operation of municipal management districts. (Left in Special Purpose Districts in regular session 2/21)~~  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB141>

## TREES

TML has reported: “Government has a responsibility to protect the rights of its citizens,” said Governor Abbott. “Unfortunately, local governments throughout Texas are infringing on private property rights and prohibiting Texans from being able to do what they want with their own land.” “Local tree ordinances blatantly violate individual property rights by saying that you don’t actually own or control natural resources on property that you have purchased. . . It’s time to take a stand against government overreach and for liberty by defending property rights. This bill will put local control back in the hands of property owners,” said Sen. Bob Hall. Interestingly, cities, homebuilders, environmentalists, and others worked together during the regular session to pass agreed-upon, compromise legislation relating to city tree ordinances. The governor vetoed it. According to his veto message, “Senate Bill 744 appears to be a compromise bill that imposes a very minor restriction on some municipal tree ordinances. But in doing so, it gives the imprimatur of state law to the municipal micromanagement of private property, which should be abolished altogether. . .” In other words, compromise legislation that benefits everyone now appears to be a bad thing.

**1HB 7 (Phelan) Fee in Lieu of Tree Mitigation Fees. (Signed by Governor, effective 12.1) similar to (SB 744) vetoed by the Governor as not going far enough): Does not allow a mitigation fee against a residential property removing less than a 10 inch diameter tree.** A city that imposes a tree mitigation fee for tree removal that is necessary for development or construction on a person's property must allow that person to apply for a credit for tree planting under this section to offset the amount of the fee  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB7>  
(Ed. Note – The action history on this bill is incredible with numerous amendments and committee votes. See it at <http://www.capitol.state.tx.us/BillLookup/History.aspx?LegSess=851&Bill=HB7>)

**~~1HB 70 (Workman) – Tree Removal Regulations. (7/25/2017 H Left pending in Urban Affairs)~~** Totally eliminates city’s ability to require permits or regulate a property owner's removal of a tree or vegetation. would provide that: (1) a city, county, or other political subdivision may not enact or enforce any ordinance, rule, or other regulation that restricts the ability of a property owner to remove a tree or vegetation on the owner’s property, including a regulation that requires the owner to file an affidavit or notice before removing the tree or vegetation; and (2) the bill does not prevent the enforcement of an ordinance, rule, or other regulation designed to mitigate tree-borne diseases as recommended by the Texas A&M Forest Service. (Companion bill is 1S.B. 14 by Hall.)  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB70>

**~~1SB 14 (Hall) – Tree Removal Regulations. Same as HB 70, (7.25 Senate approved and sent to House, not assigned to committee)~~** Totally eliminates city’s ability to require permits or regulate a property owner's removal of a tree or vegetation. would provide that: (1) a city, county, or other political subdivision may not enact or enforce any ordinance, rule, or other regulation that restricts the ability of a property owner to remove a tree or vegetation on the owner’s property, including a regulation that requires the owner to file an affidavit or notice before removing the tree or vegetation; and (2) the bill does not prevent the enforcement of an ordinance, rule, or other regulation designed to mitigate tree-borne diseases as recommended by the Texas A&M Forest Service. (Companion bill is 1S.B. 14 by Hall.)  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB14>

**~~1SB 86 (Campbell) – ETJ Tree Removal Regulations (filed 7.19)~~** a city may not regulate the trimming or removal of trees or timber in the extraterritorial jurisdiction of the city. Counties are exempt.  
<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB86>

**SB 107 (Kolkhorst) – Tree Mitigation Fees** (Filed on 7.24 and is basically the bill (SB 744) vetoed by the Governor as not going far enough): would: (1) require a city that imposes a tree mitigation fee (a fee for tree removal necessary for development or construction on a person’s property) to allow that person to apply for a credit for tree planting to offset amount of fee; (2) provide that an application for a tree planting credit be in form and manner prescribed by city, and require that tree must be planted on property located in city either owned by person or mutually agreed upon by city and person; and (3) require that amount of a tree planting credit be applied in same manner as tree mitigation fee assessed against person and ,if amount of tree mitigation fee is based on size of tree being removed, amount of credit must be based on at least 60 percent of projected size of planted tree at full maturity. —<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB107>

## UNFUNDED MANDATES

~~1HJR 31 (Larson) — Unfunded Mandates: (State Affairs approved, not scheduled by calendars)~~ would amend the Texas Constitution to provide that a law enacted by the legislature on or after January 1, 2019, that requires a city or county to establish, expand, or modify a duty or activity that requires the expenditure of revenue by the city or county is not effective unless the legislature appropriates or otherwise provides, from a source other than the revenue of the city or county, for the payment or reimbursement of the costs incurred for the biennium by the city or county in complying with the requirement.

~~1HJR 34 (Burns) — Unfunded Mandates: (7.24 sent to H State Affairs)~~ Identical to 1HJR 31 above)

~~1HJR 73 (Burns) — Unfunded Mandates: (Refiled from 85R session)~~ Identical to 1HJR 31 above)

~~1SJR 8 (Buckingham) — Unfunded Mandates: (7.17 Filed)~~ Identical to 1HJR 31 above)

<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SJR8>

## UTILITIES

~~1HB 26 (Larson) — Groundwater (Passed by House on 8/4, not sent to Senate Committee)~~ Relating to the regulation of groundwater.

~~1HB 27 (Larson) — Brackish Groundwater. (Passed by House on 8/4, not sent to Senate Committee)~~ Relating to the development of brackish groundwater.

## VESTING

The following is from TML. –

“Local governments have gone well-beyond traditional land-use zoning ordinances and are now imposing rules on private property that severely limit a landowners’ property rights,” said Governor Abbott. “When new, stricter rules are enacted that limit the valuable development of land after the landowner has purchased the land, the new rules are nothing short of a taking of private property rights. I thank Sen. Buckingham and Rep. Bell for their commitment to file this commonsense legislation.” “I look forward to working on property rights legislation to defend Texans from governmental overreach,” said Sen. Buckingham. “I believe private property rights in Texas are sacred, and local governments should not be able to change the rules in the middle of the game. It’s time to return some common sense to government regulation.”

It appears that some state leaders are unaware of Chapter 245 of the Local Government. That chapter, referred to as the “permit vesting statute,” currently prohibits a city from “changing the rules in the middle of the game.” It also appears that these authors may be referring instead to a “super-vesting” bill (H.B. 3787) that was filed during the regular session. That bill would have allowed a property owner in a city to do virtually anything with his property, regardless of the effects on his neighbors.

~~1HB 188 (Bell) Property Rights/Vesting (7.24 Died in Land & Resource Mgmt) — Would significantly affect vesting in LGC CH 245 and exempt more projects from updated city regulation. Also see SB 12 below. (a) applies only to a municipal or county prohibition or restriction on the use or development of real property that is not subject to Chapter 245, including prohibitions or restrictions exempt from that chapter under Section 245.004. (b) A city or county may not enforce an ordinance, order, or other regulation adopted by the city or county, as applicable, that prohibits or restricts the use or development of real property that has been platted if the ordinance, order, or other regulation was not in effect on the date the owner of the property (amended to Jan 1, 201 acquired title to the property. Ed note: This is a variation on HB 3787 by Bell that died in the House last session. It is extremely onerous and applies to zoning, subdivision ordinances, building codes, fire codes, etc. A property bought and platted in the 1960’s has to use 1960’s building and fire codes, zoning, etc. Extremely onerous. Companion Bill is SB 12 (Buckingham) <http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB188>~~

~~**1SB 12 (Buckingham) — Property Rights/Vesting, (7.22 Left pending in S Business & Commerce)**~~ The committee received an amended version but it would still significantly affect vesting in LGC CH 245 and exempt more projects from updated city regulation. Also affects Counties and their permits. The amended bill appears to cure problems but in fact would take CH 245 exempt zoning, floodplain, drainage, building and fire code regulations and make them subject to vesting in CH 250 unless they are specifically related to prevention of imminent threat to life and property. Much larger definition of projects/regulations that CH 245 considers “vested.” See ~~**1HB 188 by Bell**~~ . <http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=SB12>

## **WIRELESS including CELLULAR FACILITIES -**

The legislature passed a compromise bill dealing with wireless providers using the ROW for “small network deployment,” SB 1004 that is effective 9.1.17. Despite the adopted compromise, there may still be some legislative efforts in the special session to make the statutes even more onerous to cities. However, TML reports there are court cases underway to determine that the fee amounts approved in SB 1004 are too low. At the same time, the FCC is going through the process to adopt even more wireless favorable regulations than the state has, including free use of the ROW. In addition, there are cases before the PUC that, outside the legislative process, would provide for expedited, free access to the ROW. For full information, please contact TML.

## **ZONING**

~~**1HB 85 (Lucio) — Medical Cannabis Preemption (Referred to Public Health)**~~: would provide: (1) authorization for the possession, use, cultivation, distribution, transportation, and delivery of medical cannabis for medical use by patients with certain debilitating medical condition and the licensing of dispensing organizations and cannabis testing facilities; and (2) that a city, county, or other political subdivision may not enact, adopt, or enforce a rule, ordinance, order, resolution, or other regulation that prohibits the cultivation, production, dispensing, testing, or possession of medical cannabis as authorized by the bill.

~~**1HB 94 (Rodriguez) — Political Subdivision Exemption from Zoning — (filed 7/10)**~~ Zoning and Building Permits: would: (1) exempt all political subdivisions from city zoning regulations, except when the building, structure, or land are privately owned and leased to the political subdivision; and (2) require a city to adopt procedures to expedite the processing of an application submitted by an independent school district for a permit to erect or improve a building or other structure.

<http://www.capitol.state.tx.us/BillLookup/Text.aspx?LegSess=851&Bill=HB94>

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