



MEMORANDUM

TO: Mayor and Council

FROM: Sylvia Borunda Firth
Director of Governmental Affairs *SBF*

SUBJECT: 82nd Legislative Session Wrap up

DATE: July 6, 2011

During the City Council meeting on Tuesday July 12th the City's State Legislative Consultants and I will be providing a "Legislative Wrap-Up" to summarize for you the outcome of the 82d Legislative Session. Despite the fact the session was a very contentious and difficult one, I am happy to report that many of the items you identified as legislative priorities last December and as the session developed, were favorably addressed by the legislature. As a quick reference I have attached a copy of the legislative priority document you approved as "**Attachment A**" to this memorandum. I have made notations on the document so that you might know the outcome of the items that were identified as most important to you. The consultants and I will be prepared to elaborate and answer questions when we make our presentation.

The legislative agenda adopted by City Council for the 82d Legislature was the most ambitious agenda ever approved by an El Paso City Council. Originally, it contained 18 action items that were in the "seek legislation" category and was expanded in the waning days of the session to include the solar energy bill which was a major challenge to the legislative team, the delegation, stake holders and El Paso Electric Company.

Obviously, we did not prevail and accomplish all the priority goals that were set for us, but we able to deliver at the following:

1. S.B. 1910 – Net metering for the El Paso Electric Company service area in Texas
2. S.J.R. 28 - Proposed constitutional amendment for Regional Park District
3. H.B. 205 - Sales tax on Ft. Bliss
4. H.B. 1899 - Signs in school zones regarding cell phone ban

OFFICE OF THE CITY ATTORNEY

Mayor
John F. Cook

City Council

District 1
Ann Morgan Lilly

District 2
Susannah M. Byrd

District 3
Emma Acosta

District 4
Carl L. Robinson

District 5
Dr. Michiel R. Noe

District 6
Eddie Holguin Jr.

District 7
Steve Ortega

District 8
Cortney Carlisle Niland

City Manager
Joyce A. Wilson



5. H.B. 3831 - Authority to create Montecillo Municipal Management District
6. H.B. 2592 & H.B. 2594 - Regulation of credit services organizations
7. H.B. 630 - Increased flexibility for TRZ's

Additionally, we did work with the delegation and in coordination with other cities and stakeholders to support the passage of the following:

1. H.B. 1866 - Designation of Highway 20 as a state historic highway
2. H.B. 1112 - Greater flexibility for RMA's
3. S.B. 173 - Receiverships for substandard buildings
4. H.B. 1090 - Interest rates for tax refunds
5. H.B. 1451 - Anti-puppy mill legislation

Finally, as is usually the case, a majority of our time and resources were expended trying to keep legislation from passing that would result in harm to municipalities, their ability to raise revenue and erode local control of development, etc. Working in collaboration with Texas Municipal League and our sister cities across the state, we were able to prevent legislation from passing that would:

1. Create revenue caps/ appraisal caps or lower rollback rates
2. Allow for digital messaging signs on state highways
3. Eliminate annexation authority
4. Increase state fees on municipal tickets
5. Diminish sovereign immunity protections for cities
6. Eliminate sales tax revenues for ATVs, and other off road vehicles
7. Limit nuisance regulations

Our most notable failures include:

1. Inability to restore gaming for the Tigua Tribe
2. Lack of funding for Paul Foster Medical School
3. Failure to pass legislation that would allow for local option for transportation funding
4. Unavailability of funding for expansion of Franklin Mountain State Park
5. Failure to pass legislation for sales price disclosure.

During the interim we will continue to work with members of the delegation and legislative committees to pick up where we left off on matters we were unable to deliver this session and to put the City in the best position possible for the 83d Legislative Session.

The City Attorney's Office has already begun work with administrative staff to implement changes in order to bring the City of El Paso into compliance

Mayor and Council

July 6, 2011

Page 3 of 3

with the new laws that will affect our operations and policies. In the near future, you will begin to be presented with ordinance amendments, etc. that are necessitated by changes in State law.

I have attached a copy of the Power Point presentation I will be using to make the presentation as “**Attachment B**” and also the most recent legislative update provided by Texas Municipal League as “**Attachment C**”. As always, if you have any questions or need additional information do not hesitate to call me.

cc: Joyce Wilson, City Manager
Charlie McNabb, City Attorney
State Delegation
Legislative Consultants

SESSION WRAP UP – 7/12/2011
CITY OF EL PASO
STATE LEGISLATIVE PRIORITIES FOR
82ND LEGISLATIVE SESSION



MAYOR AND CITY COUNCIL

JOHN F. COOK
MAYOR

ANN MORGAN LILLY
EMMA ACOSTA
RACHEL QUINTANA
STEVE ORTEGA

SUSIE BYRD
CARL ROBINSON
EDDIE HOLGUIN, JR.
BETO O'ROURKE

JOYCE A. WILSON
CITY MANAGER

EXHIBIT A

CITY OF EL PASO

2010 State Legislative Priorities

Strategic Policy Statements: The City Council of the City of El Paso has met to formulate strategic policies to serve as guiding principles for the governance of the City of El Paso. Decision regarding City of El Paso positions regarding legislative matters will be weighed against these guiding principles when formulating positions.

1. **FISCAL:** The City of El Paso will seek to ensure long-term fiscal stability and sustainability of the City government.
2. **CUSTOMER SERVICE:** The City of El Paso will be a high performance, customer focused organization.
3. **CITIZEN INVOLVEMENT:** The City of El Paso will facilitate opportunities for citizens to be involved in local government.
4. **TRANSPORTATION:** The City of El Paso has a goal of becoming the least car dependent City in the Southwest.
5. **COMMUNITY DEVELOPMENT:** The City of El Paso shall become the most livable city in the United States and be recognized as an international city.
6. **ECONOMIC DEVELOPMENT:** The City of El Paso will help business create quality jobs in El Paso and revitalize targeted areas of town, thereby adding to the tax base and fostering a healthy economy.

General Principles: The City of El Paso supports legislation that enhances the City's ability to solve problems and improve the quality of life for its citizens. The City of El Paso opposes legislation that reduces the City's authority or increases the City's costs. We will work with other Cities to enhance and protect the authority of municipalities and to ensure that City taxpayers are not burdened with additional unfunded mandates.

The City of El Paso will also support legislative initiatives of community partners that enhance the educational, cultural, and infrastructure resources in our region.

This document reflects the City's adopted legislative policy as approved by City Council. The City's legislative program is organized into three categories:

- I. **Priority Legislative Initiatives** - The City will actively seek to secure legislators to author bills for these initiatives, unless otherwise noted. The City will support and provide positive testimony for these initiatives and actively pursue passage of the bill.

- II. **Statement of Support or Opposition** – City staff and authorized representatives will make known the City’s position on these issues. Depending on the issue, staff will work to either assist in the passage of the bill or work against passage to preserve the City’s interests. The important distinction between this category and the earlier category is that the City will not seek introduction of any legislation, but will vocalize the City’s position in support or opposition.

- III. **Issues to Monitor** – City staff and authorized representatives will monitor and track the development of any related legislation. Staff will seek advice and direction from the Mayor before taking an official position or taking any action to influence an outcome.

For more information, please feel free to contact:

**Sylvia Borunda Firth
Senior Assistant City Attorney
Director of Governmental Affairs
Chief of Staff Office of the Mayor
2 Civic Center Plaza, 10th Floor
El Paso, Texas 79901-1029
Phone: 915-541-4656
Fax: 915-541-5401**

I. PRIORITY LEGISLATIVE INITIATIVES

1. TRANSPORTATION

The City of El Paso supports a State Transportation Funding System that:

- Creates local options for voter approved road, rail and transit projects through funding mechanisms such as new resident impact fees, mobility improvement fees, drivers license fees, local option gas taxes, parking fees, emissions fees.

HB 1988 – PASSED HOUSE

- Eliminates the diversions of State transportation revenue to non-transportation uses.

HJR64 (PICKETT)

HJR66 (PICKETT)

HJR78 (HARPER-BROWN)

- Expands the ability of local governments to use transportation reinvestment zones to capture growth increment in local property taxes and sales taxes for surface transportation, mobility and transit projects. ✓

HB 630 (PICKETT-NICHOLS)

- Creates a sustainable and predictable funding source.

- Allows for more flexibility to use funds for different modes of transportation and mobility to reduce congestion.

- Expedites project delivery. ✓

HB 630 (PICKETT-NICHOLS)

- Allows for public/private partnerships. ✓

SB 1420 (HINOJOSA/HARPER-BROWN)

2. TRANSIT

Increase local funding options for transit projects and support legislation that would require that all expenditures for highway construction in the State of Texas

allow for funding dedicated transit lanes, bike paths and pedestrian friendly complements and rail projects.

HB 1105 (HARPER-BROWN) DIED IN COMMITTEE

Support transit exemptions for transit equipment from motor fuel tax.

Endorse the resolution passed by the El Paso MPO on October 24, 2008 to encourage funding of transit and alternative modes of transportation from Category 2 funds.

3. MOBILITY

Secure funding to study the feasibility of relocating or depressing the railroad tracks in the area of the Texas Tech/Thomason Medical Center of the Americas area and the creation of quiet zones.

Support efforts to expedite commercial truck safety inspections at international ports of entry by coordinating efforts between the Texas Department of Public Safety (DPS) and the Federal Motor Carrier Safety Administration (FMCSA) to create one-stop safety inspection facility for commercial trucks at the land ports of entry in the El Paso region.

Secure funding for infrastructure improvements and traffic control and assistance at the international ports of entry to address the problems arising from southbound inspections.

4. PARKS AND OPEN SPACE

Seek enactment of legislation that will allow for the creation of a Regional Park District with the ability to levy taxes upon the approval of voters residing within the district. ✓

SJR 28 (RODRIGUEZ/MARQUEZ)

Seek \$5 million in appropriations for the acquisition of twelve parcels of approximately 623 acres located just south of Castner range, east of Mountain Park and Sunrise Acres neighborhood and west of Franklin Mountains State Park as well as two parcels of approximately 23 acres (1,007,020 square feet) located just east of the Manhattan Heights neighborhood and Scenic Drive. Both land acquisitions would be incorporated into the expansion of the Franklin Mountain State Park.

Seek funding for creation of new trails to enhance accessibility to the Franklin Mountains State Park.

Seek funding for construction of a visitor's center in the Franklin Mountains State Park to be located in the Northeast part of El Paso.

5. TRIBAL RIGHTS

Support the efforts of the Ysleta del Sur Pueblos to restore gaming rights on tribal land.

HB3576, HB3575, HB2424, SB1212, SJR34, HJR112, HB382, HJR119, SJR35, HJR152, HJR151, HJR28, SB1118, HB2111, HJR43, HJR147, HJ4133, SJR33, HJR111, HJR41

6. HIGHER EDUCATION

Support efforts of UTEP to achieve Tier I status through development of additional research and doctoral programs.

Support the efforts of the Paul L. Foster School of Medicine to 1) Protect current appropriations including special items; 2) seek \$60 million in funding for Medical Education Building II; and 3) seek \$45 million for a new Clinical Education Building.

*BUDGET AMENDMENT FOR TUITION REVENUE BONDS
FAILED*

7. TAX CODE

Seek enactment of legislation that will allow the City of El Paso to receive its proportionate share of tax revenue from non tax-exempt commercial operations which take place on Ft. Bliss and are subject to taxation by either the State of Texas, County of El Paso or local school district and would be subject to City of El Paso taxation authority if they were located within the limits of the City of El Paso. ✓

HB 205 (PICKETT/RODRIGUEZ)

Seek passage of legislation that will allow for sales price disclosure to provide for more fair taxation.

SB 299; HB 666

Seek enactment of legislation requiring Central Appraisal Districts to grant a full tax exemption to nature preserves that are owned by non-profit land trusts and are open for public use and enjoyment

Support enactment of legislation to allow for tax exemptions to be granted at a specified dollar amount in lieu of a percentage of taxable value.

Support enactment to increase penalties for chronic delinquent taxpayers.

8. DOWNTOWN REVITALIZATION

Seek enactment of legislation to allow for incentives to assist with the implementation of the El Paso Downtown Revitalization Plan such as mixed income housing tax credits, State historic tax credits and renewable energy tax credits and incentives.

Seek funding for restoration of historically significant buildings and simplification of process at the SHPO to remove barriers to redevelopment.

9. ENVIRONMENTAL

Seek enactment of legislation to require renewable energy “buy back” programs in the State of Texas. ✓

SB 1910 (RODRIGUEZ/MARGO)

Support renewable energy tax credits that complement federal renewable energy tax credits.

SB492, HB2961, HB3532, HB3254, HB211, SB619, SB618, HB3395, SB1125, SB15, HB3260, SB1340, SB1031, HB774, SB330, SB15, SB1501, HB2709, HB1629, HB2287, HB2428

Support changes in the Public Utility Commission requirements to simplify the procedure for El Paso Electric to pay Renewable Energy Credits to individuals who are pushing power back onto the grid with renewable energy projects. ✓

SB1910 (RODRIGUEZ/MARGO)

Support measures to enhance the use of solar energy “buy back” programs in the State of Texas. ✓

SB1910 (RODRIGUEZ/MARGO)

Support measures to continue to increase the use of crumb rubber and shredded tire pieces in highway construction.

Support legislation that allows a deposit/refund to be collected for the purposes of recycling glass bottles.

SB1119, HB2114

Support measures in the legislature that will advance clean energy solutions by creating incentives and rebates to encourage installation of solar panels and energy efficiency measures in Texas homes and businesses. ✓

SB1910 (RODRIGUEZ/MARGO)

Support the Texas Solar Roadmap attached as **Exhibit "A"** and recommendations made to further the solar industry in Texas.

10. HEALTHCARE AND PUBLIC HEALTH

Seek legislation that would permit local communities to utilize up to 50% of confiscated funds to fund drug education, prevention and rehabilitation programs approved by City Council. ✓

SB316 (WHITMIRE/GALLEGO)

Support increased State funding for Medicaid and CHIP.

Support the creation of statewide policies to facilitate coordination between health, judicial and law enforcement professionals to develop a jail decision program to keep mentally ill persons out of the jail system.

Support El Paso MHMR's efforts to prevent the State mental health system from suffering significant general revenue cuts, increased targets and unfunded mandates. Among the areas that must be protected are:

- Adult and children mental health services
- Crisis services
- Psychiatric inpatient beds
- Services for persons with developmental disabilities

Support continued funding for Veterans outreach and peer services to address the mental health needs of Texas veterans and their families.

Support funding for treatment programs aimed at addressing the needs of Texas residents dealing with mental health issues such as PTSD due to unprecedented violence along the US-Mexico border.

Introduce legislation to identify and incentivize best practices within the healthcare delivery system to integrate physical and mental healthcare services.

Seek enactment of legislation to require businesses with more than 50 employees that receive state contracts provide health insurance to their employees.

Seek an amendment to state law to allow a lien to be placed on a homestead property with mosquito control chemicals to protect the public health and safety.

11. DEVELOPMENT

Seek passage of legislation to require notice and coordination with municipalities by the Government Land Office prior to selling or leasing property located within the limits of the municipality and the ETJ.

12. PREDATORY LENDING

Seek passage of legislation to regulate Credit Service Organizations and eliminate predatory practices. ✓

HB2592 & HB2594 (TRUITT/CARONA)

13. GENERAL

Seek passage of legislation that would remove the requirement that signs prohibiting use of cell phones be installed in school zones in cities that have banned the use of hand-held cell phones while driving. ✓

HB1899 (PICKETT/RODRIGUEZ)

Support the passage of legislation that would allow for non-peace officer employees to issue citations for municipal code violations.

HB2736 (GONZALEZ)

II. STATEMENTS OF SUPPORT AND OPPOSITION

1. ECONOMIC DEVELOPMENT

The City of El Paso will not support passage of legislation that will complicate the sales tax reimbursement program for goods exported from the United States and discourage foreign relations. ✓

SB776 (ZAFFIRINI/GUILLEN)

2. MILITARY AFFAIRS

Support funding to workforce development to create programs to assist in job placement of accompanying military spouses.

Seek additional resources dedicated to military installations, soldiers and their dependents residing in the State of Texas. These resources should also include incentives for those who wish to purchase homes, through tax breaks or other means.

Support funding to help protect areas around military installations across the state from encroachment by incompatible uses.

3. WATER AND WASTEWATER

Support the legislative agenda adopted by the Public Service Board's request for funds and attached as **Exhibit "B"**.

4. DEVELOPMENT

Support the restriction and limitation of the creation of Municipal Utility Districts within the County limits.

Support legislation to allow counties additional development authority, provided that such legislation does not erode city authority in the ETJ or conflict with development regulations enacted by cities with authority over the ETJ.

5. IMMIGRATION AND BORDER SECURITY

Oppose legislation not in keeping with the resolution calling for comprehensive immigration reform as part of the City's state and federal agendas approved by City Council on January 13, 2009 attached as **Exhibit "C"**. ✓

OVER 157 BILLS

Oppose the use of Section 287(g) of the Immigration and Nationality Act agreements with local law enforcement to grant the authority to state and local law enforcement officers to perform the function of an immigration officer. Such agreements can result in a decrease in the reporting of crime and result in a less secure population.

Oppose any mandate upon employers to the the Department of Homeland Security's E-verify database unless employers are provided assurances that their use of the program in good faith will protect them from liability related to I-9 completion. In addition, the City of El Paso supports a mandated reduction in penalties related to I-9 completion for those employers voluntarily using the E-verify database in good faith.

6. REVENUE AND TAXATION

Support the efforts of appraisal districts across the State of Texas to seek legislation requiring the mandatory disclosure of real property sales prices to appraisal districts.

Oppose legislation that would mandate a reduction in the current appraisal growth cap. ✓

Oppose legislation that would impose revenue caps of any type, including a lowered rollback rate, mandatory tax rate ratification elections or lowered rollback petition requirements. ✓

Support legislation that would create further protection from predatory lending practices and close the "loophole" that allows payday lenders to use Credit Service Organizations to avoid usury laws in Texas while at the same time capping fees on any loans brokered by Credit Service Organizations so that the fees plus the interest paid are not higher than Texas usury limits. ✓

Oppose legislation that would erode the protections currently in place in existing laws.

7. EDUCATION

Support funding for recruiting additional teachers.

Support the enhancement of the educational pipeline from Head Start through the college level.

Support public school finance solutions that give equitable funding to all public schools in the State of Texas and improve quality and results for each of those schools.

Support additional resources and flexibility to be given to school districts to allow for necessary expansion of services due to rapid military base expansion.

8. HEALTHCARE AND PUBLIC HEALTH

Support funding for supportive housing programs for the mentally ill and the regulation of lodging facilities that serve that population.

Support funding for educational institutions to increase the number of admissions of healthcare professionals.

Support legislation to continue streamlining and simplifying eligibility processes for Medicaid that will encourage more eligible but non-covered individuals to take advantage of this program.

Support legislation that increases funding to Title 5 services (coverage for children's dental and immunization services; and public education for prevention of diabetes, cardiovascular disease and cancer).

Support legislation that eliminates the disparity in border Medicaid capitation rates and per capita expenditures.

Support continued funding for the Texas Area Information and Referral Networks.

Support legislation that reverses the reduction in funding for public health activities to include, but not limited to, children's health, women's health services, child and adult immunizations, family planning, tuberculosis, and services related to sexually transmitted diseases, and vector/mosquito control and general environmental enforcement activities.

Support legislation that allows for appropriate and responsive mental health and mental retardation services in our community as well as provides adequate resources to avert a waiting list. Instituting a waiting list would result in fewer people being treated and more people seeking care in emergency rooms and through the jail system.

Support legislation that ensures accountability and performance from the Adult and Child Protective Services Agency.

Support efforts to advocate for health care financing that will improve coverage, eliminate disparities in rates, and provide incentives for employers to insure employees.

Support legislation that will aid in licensing physicians and medical personnel in this region to address health care professional shortages.

9. PARKS AND RECREATION

Support passage of legislation maximizing the use of revenue from the sporting goods sales tax to increase funding for parks and recreation programs for both Local and State parks and that all TRPA funded park projects be subject to the established TPWD competitive scoring system.

Support legislation that increases funding for the Texas State Park System and for the Texas Recreation and Parks Account Local Park Grant Program.

10. QUALITY OF LIFE - LIBRARIES

Support increased state aid for public libraries through the Lone Star Libraries program.

11. WORKFORCE DEVELOPMENT

Support the continuation and enhancement of the Skills Development Fund job-training program.

Support Project ARRIBA in securing and obtaining state funds that provide workforce training in demand occupations.

12. GENERAL GOVERNMENT

Support funding and programs to support local efforts to address the homelessness issue which exists within our Texas cities. Specifically creating strategic partnerships with the Texas Department of Criminal Justice to better link the re-entry population from our prisons, and the operational and service subsidies that come with them, to supportive housing projects; and seek from the Texas Department of Criminal Justice or Department of Public Safety the pre-release issuance of a Texas ID Certificate for everyone discharged from a Texas jail or prison.

Support legislation that would require electronic reporting of pawnshop data to local law enforcement agencies.

Support El Paso County's Anti-Graffiti Community Task Force's efforts to amend Texas Penal Code in order to enforce harsher penalties for repeat graffiti offenders.

HB38 – PASSED HOUSE

Support the El Paso delegation's efforts to reform Central Appraisal District governance structure, appraisal process, appeal process, accountability and transparency to the public.

Support the passage of legislation that would enhance the ability of cities to expeditiously enforce and collect on liens for work done in connection with the demolition of unsafe structures, environmental clean-up and other expenses incurred to remedy nuisances or to safeguard the health and safety of the public. ✓

SB173 (WEST/DUTTON)

13. GENERAL MUNICIPAL INTERESTS

The City will support legislation and administrative actions that:

- a. Will protect and enhance City revenues.
- b. Reduce costs to the City.
- c. Provide for more local control.
- d. Protect those policies previously established through the Charter, ordinances, resolutions, and master plans.

The City will oppose legislation or administrative actions that:

- a. Undermines the principle of home rule and local self-government.
- b. Results in loss of revenue or revenue growth to cities.
- c. Diminishes the current authority of cities to regulate and manage their growth and development.
- d. Nullifies or undermines the City's policies contained in existing provision of the Charter, ordinances, resolutions and master plans, unless such changes expand the City's ability to manage its own affairs.
- e. Diminishes any existing authority of cities.
- f. Imposes mandates that require any expenditure by the City unless all costs of same, including administrative as well as direct out-of-pocket costs, are fully reimbursed by the mandating government.

III. ISSUES TO MONITOR

1. Legislation that affects international trade.
2. Legislation that affects public pension funds.
3. Legislation affecting red light cameras.
4. Legislation affecting eminent domain.

Additional legislative developments will be brought to the attention of Mayor, Council, and the City Manager throughout the session.

**AMENDMENTS
TO
CITY OF EL PASO
STATE LEGISLATIVE PRIORITIES FOR
82ND LEGISLATIVE SESSION**

The City of El Paso State Legislative Agenda was amended by a Motion of the City Council on March 29, 2011 to add **SUPPORT** for the following bills:

1. **H.B. 1866 Gonzalez** - Designation of the Highway 20 (Alameda) as a state historic highway. ✓
2. **H.B. 2566 Gonzalez** - Penalties for displaying vehicles for sale on public rights of way
LEFT PENDING IN COMMITTEE
3. **H.B. 2567 Gonzalez** - Public notice procedures for submitting complaints about motor vehicle dealers.
LEFT PENDING IN COMMITTEE
3. **H.B. 616 Quintanilla** – Amendment of the Alcoholic Beverage Code to permit the commissioners court of a county or the governing board of an incorporated city or town to enact regulations prohibiting the possession or consumption of an alcoholic beverage at a previously licensed or permitted establishment for on-premises consumption for not more than three years from the date of the canceled or expired permit or license.
LEFT PENDING IN COMMITTEE
4. **H.B 1287 Villarreal** - Interest rate on refunds would be based upon the t-bill rate at the time of the refund with an 8% cap.
HB1090 – PASSED
5. **H.B. 2903 Zerwas** – Care for elderly PACE. ✓
6. **H.B. 407 Quintanilla** - Amendment of the Alcoholic Beverage Code to refer certain hearings to the State Office of Administrative Hearings following the receipt of either a petition signed by surrounding property owners.
SENT TO CALENDARS
7. **H.B. 1112 Nichols** - Greater flexibility for RMA's to enter into agreements with other entities, including TxDOT, to finance projects. ✓

The City of El Paso State Legislative Agenda was amended by a Motion of the City Council on March 29, 2011 to add **OPPOSITION** for the following bills:

1. **S.B. 435 Nelson and H.B. 1015 Harper-Brown** - Consolidation the current six regional poison control centers into the Texas Poison Control Center. ✓
2. **S.B. 971 Hinojosa & H.B. 1765 Miller**: Establishment of an emergency information network of digital display. ✓
3. **H.B. 1903 Keffer & S.B. 1122 Estes**: Allows taxing entities to sell the right to receive delinquent receivables at a reduced rate through a competitive bidding process or a negotiated sale. ✓
4. **H.B. 2435 Deshotel**: Legalizes Cost of service Adjustment Clauses the City rejected in the last Texas Gas Rate Case. ✓

The City of El Paso State Legislative Agenda was amended by a Motion of the City Council on March 29, 2011 to adopt the Texas Municipal League policy position on cable franchise reform and video assessment proposals to: Support legislation that would allow cable and video providers to opt out of all "grandfathered" local cable or video franchise agreements under Chapter 66 of the Texas Utilities Code (S.B. 5, 2005 Second Special Session) only if such legislation: ✓

(a) provides for standard and consistent termination of all grandfathered agreements and requires that a cable or video service provider immediately seek a state-issued certificate of franchise authority;

(b) allows for expansion of the permissible uses of the one-percent fee paid by cable and video providers to support municipal public, educational, and governmental programming (PEG);

(c) allows all cities to obtain two or three PEG channels based on population;

(d) expressly reaffirms cities rights to collect rental fees for use of public rights-of ways; and

(e) is made contingent upon the passage of additional legislation imposing on each video provider (e.g., cable television 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, with cities being entitled to one-quarter of the revenue generated by the assessment.

Support legislation that would impose on each video provider (e.g., cable television 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 only if such legislation:

(a) entitles cities to one-quarter of the revenue generated by the assessment;

(b) expressly reaffirms cities rights to collect rental fees for use of public rights-of-way; and

(c) does not interfere with the collection or payment of rental fees paid to cities for use of public rights-of-way.

On April 12, 2011, the City Council of the City of El Paso passed a Motion ✓
authorizing City staff to pursue legislation to allow net metering in the El Paso
Electric Company (EPEC) service area within the State of Texas and setting forth
the following major points:

- a. EPEC and the City will jointly support an additional subchapter to Chapter 39 of the Utilities Code that will contain provisions for net metering that apply only to EPEC service area in the State of Texas:
- b. The net metering provisions will be:
 - i. Net metering will be on a monthly basis, no carry forward.
 - ii. The size of the installation will be no greater than a size sufficient to generate 100% of the customer's actual or expected annual energy usage.
 - iii. The maximum size of any installation will be 50 KW.
 - iv. Provisions will be inserted which will define a low income master metering exception which is intended to address the expected Housing Authority of the City of El Paso installation, and make it eligible.
 - v. Any net energy sold to EPEC is sold at "Avoided Cost."
 - vi. EPEC will be permitted to engage in direct marketing of solar energy and energy efficiency and provide incentive funds directly to its customers.
- c. The bill will also codify provisions relating to transition to competition in the EPEC service area located in the State of Texas.



City of El Paso

Session Wrap Up
82nd Legislative Session

Presentation to City Council
July 12, 2011

EXHIBIT B



S E R V I C E S O L U T I O N S S U C C E S S



General Information





The Numbers

- In the 2011 session, lawmakers filed fewer bills than in recent previous sessions.
- 6,303 bills and proposed constitutional amendments were filed.
- Compare to 7,609 bills in 2009, and it's a decrease of more than 20 percent.
- Even so, the volume of bills remained dizzying.

Source: TML





The Numbers

- Working with Texas Municipal League (TML), we tracked almost 1,600 bills that could have affected city authority.
- November 8 – March 11: 50 bills per calendar day.
- Last two weeks: almost 3,000 bills filed, with almost 1,000 city-related bills.
- Last two weeks: 214 per calendar day.



Special Session

House Bills Filed: 383

Senate Bills Filed: 191

Bills Passed: HB1 + 145 House, Senate and Concurrent Resolutions



The Cutting Room Floor

- TML's main job is to defeat harmful legislation:
 - Appraisal caps/revenue caps.
 - Elimination of local sales tax on the purchase of ATVs, off-road motorcycles, and golf carts.
 - Limit nuisance regulations.
 - Sanctuary cities.
 - Tree mitigation.
 - Digital messaging signs.
 - Additional court fees - \$5 court fee for indigent defense and legislation that would have increased the state traffic fine from \$30 to \$45.
 - Broad form indemnity in municipal public works contracts.
 - Elimination of annexation authority.

Source: TML



SERVICE SOLUTIONS SUCCESS



Source: TML





State Budget/HB 1

- Cities can expect approximately \$154 million less than they received in the 2010-2011 biennium.
- The following appropriations were reduced for the 2012-2013 biennium.
 - Mixed Beverage Tax: (\$52 million less)
 - Cuts to Local Parks Grants (\$35 million less)
 - Major Events Trust Fund (\$25 million less)
 - Cuts to Local Libraries (\$30 million less)
 - Homeless Grants: (\$20 million less)
 - TCEQ Solid Waste Grants: (\$6 million less)
 - Automobile Theft Prevention: (\$15 million MORE)

Source: TML

S E R V I C E S O L U T I O N S S U C C E S S



**CITY OF EL PASO
STATE LEGISLATIVE PRIORITIES FOR
82ND LEGISLATIVE SESSION**



**MAYOR AND CITY COUNCIL
JOHN F. COOK
MAYOR**

**ANN MORGAN LILLY
EMMA ACOSTA
RACHEL QUINTANA
STEVE ORTEGA**

**JOYCE A. WILSON
CITY MANAGER**

**SUSIE BYRD
CARL ROBINSON
EDDIE HOLGUIN, JR.
BETO O'ROURKE**





Three Major Categories:

Seek: The City will seek legislators to author bill, will provide testimony, and actively pursue passage.

Support: Work with community partners, coalitions and members of the legislature to voice support, testify, etc.

Oppose: Advise members of our delegation of the City's opposition and provide testimony, etc.



18 action items that were in **SEEK** category

1. Seek enactment of legislation that will allow for the creation of a Regional Park District
2. Seek \$5 million in appropriations for the acquisition of twelve parcels of approximately 623 acres for the expansion of the Franklin Mountain State Park
3. Seek funding for creation of new trails to enhance accessibility to the Franklin Mountains State Park
4. Seek funding for construction of a visitor's center in the Franklin Mountains State Park to be located in the Northeast part of El Paso
5. Seek enactment of legislation that will allow the City of El Paso to receive its proportionate share of tax revenue from non tax-exempt commercial operations which take place on Ft. Bliss
6. Seek passage of legislation that will allow for sales price disclosure to provide for more fair taxation



18 action items that were in **SEEK** category

7. Seek enactment of legislation requiring Central Appraisal Districts to grant a full tax exemption to nature preserves that are owned by non-profit land trusts and are open for public use and enjoyment
8. Seek enactment of legislation to allow for incentives to assist with the implementation of the El Paso Downtown Revitalization Plan such as mixed income housing tax credits, State historic tax credits and renewable energy tax credits and incentives
9. Seek funding for restoration of historically significant buildings and simplification of process at the SHPO to remove barriers to redevelopment
10. Seek enactment of legislation to require renewable energy “buy back” programs in the State of Texas
11. Seek legislation that would permit local communities to utilize up to 50% of confiscated funds to fund drug education, prevention and rehabilitation programs approved by City Council



18 action items that were in **SEEK** category

12. Seek enactment of legislation to require businesses with more than 50 employees that receive state contracts provide health insurance to their employees
13. Seek an amendment to state law to allow a lien to be placed on a homestead property with mosquito control chemicals to protect the public health and safety
14. Seek passage of legislation to require notice and coordination with municipalities by the Government Land Office prior to selling or leasing property located within the limits of the municipality and the ETJ
15. Seek passage of legislation to regulate Credit Service Organizations and eliminate predatory practices



18 action items that were in **SEEK** category

16. Seek passage of legislation that would remove the requirement that signs prohibiting use of cell phones be installed in school zones in cities that have banned the use of hand-held cell phones while driving
17. Seek additional resources dedicated to military installations, soldiers and their dependents residing in the State of Texas. These resources should also include incentives for those who wish to purchase homes, through tax breaks or other means
18. Seek passage of legislation to allow for creation of Montecillo Management District



Limitations and Reality

- State of Texas budget \$27 Billion deficit
- No bills with a negative fiscal note
- Work load of the delegation
- Overwhelming opposition
- Risk of bad results



18 Priority Items reduced to 11

1. Seek enactment of legislation that will allow for the creation of a Regional Park District
2. Seek enactment of legislation that will allow the City of El Paso to receive its proportionate share of tax revenue from non tax-exempt commercial operations which take place on Ft. Bliss
3. Seek passage of legislation that will allow for sales price disclosure to provide for more fair taxation
4. Seek enactment of legislation to require renewable energy “buy back” programs in the State of Texas
5. Seek legislation that would permit local communities to utilize up to 50% of confiscated funds to fund drug education, prevention and rehabilitation programs approved by City Council



18 Priority Items reduced to 11

6. Seek an amendment to state law to allow a lien to be placed on a homestead property with mosquito control chemicals to protect the public health and safety
7. Seek passage of legislation to require notice and coordination with municipalities by the Government Land Office prior to selling or leasing property located within the limits of the municipality and the ETJ
8. Seek passage of legislation to regulate Credit Service Organizations and eliminate predatory practices
9. Seek passage of legislation that would remove the requirement that signs prohibiting use of cell phones be installed in school zones in cities that have banned the use of hand-held cell phones while driving



18 Priority Items reduced to 11

10. Seek passage of legislation that will allow for creating of Montecillo Management District

11. Increased flexibility for TRZ's



Major Priorities Met

1. Regional Park District: S.J.R. 28
2. Sales tax on Ft. Bliss: H.B. 205
Signed by Governor Perry – Effective July 1, 1022
3. Solar Energy Bill: S.B. 1910
4. Signs in School Zones: H.B. 1899
5. Creation of Montecillo MMD: H.B. 3831
6. Credit Services Organizations: H.B. 2592, H.B 2594
7. Transportation Reinvestment Zones: H.B. 630



What about the other 4?

1. Sales price disclosure – Bills filed but died in committee
2. Confiscated Funds
 - Some modification
 - Opposition from law enforcement
 - Lack of records to support request
3. Liens on Homesteads for vector control – No traction
4. General Land Office – Enhanced communication from GLO



Most Noteworthy Support Measures: there were about 50

1. Support the efforts of the Ysleta del Sur Pueblos to restore gaming rights on tribal land.
2. Support efforts of UTEP to achieve Tier I status through development of additional research and doctoral programs.
3. Support the efforts of the Paul L. Foster School of Medicine to 1) Protect current appropriations including special items; 2) seek \$60 million in funding for Medical Education Building II; and 3) seek \$45 million for a new Clinical Education Building.
4. Support measures in the legislature that will advance clean energy solutions by creating incentives and rebates to encourage installation of solar panels and energy efficiency measures in Texas homes and businesses.



Most Noteworthy Support Measures: there were about 50

5. Support the passage of legislation that would allow for non-peace officer employees to issue citations for municipal code violations.
6. Support legislation to allow counties additional development authority, provided that such legislation does not erode city authority in the ETJ or conflict with development regulations enacted by cities with authority over the ETJ.
7. Support the passage of legislation that would enhance the ability of cities to expeditiously enforce and collect on liens for work done in connection with the demolition of unsafe structures, environmental clean-up and other expenses incurred to remedy nuisances or to safeguard the health and safety of the public.



Additional Major Issues Which Came Up and Required Attention

1. Sanctuary City Legislation - Opposition
2. Public Utility Legislation – Monitoring/Engagement
3. Change in election dates
4. Governor’s Task Force on Unfunded Mandates – Participation
5. Potential closure of Wyler Aerial Tramway
6. Loss of mixed beverage tax revenues



Next Steps

During the interim:

- **Regional Park District**
 - Passage of Constitutional Amendment
 - If approved preparation of enabling legislation
- **Montecillo MMD**
 - Preparation of the interlocal agreement to create the District.
- **General Adjustments**
 - City attorneys office has reviewed new legislation to identify changes to operations, policies, ordinances, and the Charter the City must make in order to comply with newly enacted laws.



Next Steps

- Work with administrative staff to effectuate changes.
- More work on transportation financing with the delegation and other stakeholders.
- Vacant building initiative – Work with staff to identify potential amendments to State law.
- Code enforcement/peace officers - Work with delegation and stakeholders to see if compromise is possible.
- Solar energy deployment
- Work with Delegation – Visits by committees
 - Their priority legislation
 - Continuation of unfinished business



Legislative UPDATE

June 3, 2011
Number 21

EIGHTY-SECOND TEXAS LEGISLATURE: BUDGET DOMINATES ALL

The Eighty-Second Legislature faced such a massive, unprecedented budget deficit – some \$27 billion – that making cuts and passing a balanced budget took nearly all its energy. How to apportion those cuts across school districts – and other important issues like congressional redistricting and hurricane insurance – got postponed until the last moment and simply died. As a result, the Governor called a special session the very next day after *sine die*. That special session is underway as this edition goes to print.

Understanding how cities fared this recent regular session begins and ends with the state budget. What relatively little (compared to nearly every other state) funding Texas cities receive from the state, a bit over \$200 million per year, was cut by approximately 35 percent. (See description of H.B. 1 in the Finance and Administration section.) While those cuts are painful, there is a bright side. So much attention was focused on the budget that legislators either had little desire to pass otherwise harmful city legislation, or else they felt that the budget cuts were enough punishment to mete out for one biennium. Either way, the fact remains: cities dodged most of the harmful bills thrown our way.

To begin with, no bills passed that would have imposed harmful revenue caps or appraisal caps, though many such bills were filed. Further, the heavy budget deficit made this the ideal session for the state to raise the \$82 state traffic tax on municipal court convictions, yet that didn't happen. No seriously harmful statewide land use bills passed, though a significant eminent domain reform bill did pass (see S.B. 18 in the Community and Economic Development section). Other harmful legislation relating to tree mitigation, digital billboards, and sales tax on off-road vehicles died as well. These issues will be back; some may return during special sessions.

A bill relating to election dates, S.B. 100 (see the Elections section), deserves special mention, as it could affect the May city election date. The bill preserves the May election date for cities in all years, but compressed primary deadlines during even-numbered years may make cooperation with county election

officials difficult. The League is planning two webinars devoted solely to understanding and adjusting to this bill.

So, how to assess this latest session? Many cities would accept some cuts in what little state funding they receive in exchange for minimal harm done to the principle they hold most dear: local control. That's exactly what we got. Difficult funding cuts, yes, but a relatively clean bill of health when it comes to municipal authority.

The Important Numbers

In the 2011 session, lawmakers filed fewer bills than in previous sessions. All told, 6,303 bills and proposed constitutional amendments were filed. Compare that to 7,609 bills in 2009, and it's a decrease of more than 20 percent. Even with that decrease, the volume of bills remained dizzying. (At one point in the session, the League was tracking almost 1,600 bills that could have affected city authority.)

In 2009, lawmakers passed 19.3 percent of bills filed; this year, 22.4 percent made the cut. Fewer bills were filed, but – percentage-wise – more bills passed.

<u>Year</u>	<u>Total Bills Introduced*</u>	<u>Total Bills Passed</u>	<u>City-Related Bills Introduced</u>	<u>City-Related Bills Passed</u>
1993	4,560	1,089	800+	140+
1995	5,147	1,101	800+	140+
1997	5,741	1,502	1,100+	130+
1999	5,908	1,638	1,230+	130+
2001	5,712	1,621	1,200+	150+
2003	5,754	1,403	1,200+	110+
2005	5,369	1,397	1,200+	105+
2007	6,374	1,495	1,200+	120+
2009	7,609	1,468	1,500+	120+
2011	6,303	1,410	1,500+	160+

*Includes bills and proposed Constitutional amendments; regular session only.

For city-related bills, the success rate was slightly higher than last session: roughly 11 percent. That sometimes means bad news for cities, since the lion's share of the city-related bills would have harmed municipal authority in some way. In this session, however, cities remained relatively unscathed.

Looking Ahead

The following sections contain summaries of the major city-related bills passed by the Eighty-Second Legislature. The governor has until June 19 to sign bills, veto them, or let them become law without his signature. The effective date of the bill is noted in a parenthetical following each bill described below. Some of the bills will become effective as soon as they are signed (e.g., "effective immediately"); others (unless vetoed) will become effective on September 1.

Future issues of the *TML Legislative Update* or *Texas Town & City* magazine will provide additional details on some of the bills described here, may include summaries of "straggler" bills that for various reasons weren't summarized at the time of printing, and will provide other updates as appropriate.

FINANCE AND ADMINISTRATION

Property Tax

H.B. 499 (Rodriguez/Watson) – Property Tax: allows the governing body of a taxing unit or appraisal district to collect an additional penalty on a corrected or supplemental tax bill that becomes delinquent on or after June 1. (Effective immediately.)

H.B. 843 (Geren/Davis) – Property Tax: requires the assessor for a taxing unit to deliver a tax bill by electronic means to a person listed on the tax roll and that person's authorized agent if: (1) on or before September 15, the assessor and an individual or entity enter into an agreement for the delivery of the tax bill by electronic means; and (2) the agreement meets the following specifications: (a) is in writing or an electronic format; (b) is signed by the assessor and individual or entity entitled to receive the tax bill; (c) is in a format acceptable to the assessor; (d) specifies the electronic means by which the tax bill is to be delivered; and (e) specifies the e-mail address to which the tax bill is to be delivered. An assessor who delivers a tax bill electronically under the bill is not required to mail the same bill. (Effective January 1, 2012.)

H.B. 1090 (N. Gonzalez/Seliger) – Property Tax: changes the amount of interest that a city making a refund of property taxes following a judicial proceeding must pay from eight percent to an annual rate that is equal to the sum of two percent plus the most recent prime rate quoted and published by the Federal Reserve Board as of the first day of the month in which the refund is made, but not more than a total of eight percent. (Effective September 1, 2011.)

H.B. 2169 (Aycock/Shapiro) – Property Tax: provides that: (1) a city council may rescind a property tax discount previously adopted by the city council; and (2) the rescission takes effect beginning in the year following the year in which the discount is rescinded. (Effective immediately.)

H.B. 3133 (Rodriguez/Hinojosa) – Property Tax: among other things, this bill: (1) provides that property transferred by an organization that received a property tax exemption as an organization constructing or rehabilitating low-income housing to a charitable organization may not be exempted as property of the charitable organization after the fifth anniversary of the date the transferring organization acquired the property; (2) provides that property is exempt from property taxes if an organization owns the property for the purpose of constructing or rehabilitating a housing project on the property and renting the housing, regardless of whether the housing project consists of multifamily or single-family dwellings, to low-income individuals or families; (3) provides that the transfer of property by an organization constructing or rehabilitating low-income housing to a nonprofit organization that claims a property tax

exemption is a proper use and purpose for owning the property under this section and does not affect the eligibility of the property for a property tax exemption; and (4) requires the chief appraiser to take into account how any limitations and/or resale restrictions on property sold to a low-income individual or family reduce the overall market value of the property. (Effective September 1, 2011.)

S.B. 201 (Uresti/Callegari) – Property Tax: establishes a formula to calculate the tax due on a residence homestead of a totally disabled veteran for the tax year when an individual either qualifies for, or terminates, a residence homestead exemption. (Effective January 1, 2012.)

S.B. 432 (Jackson/Bonnen) – Property Tax: reduces the penalty for failure to make a timely installment payment of ad valorem taxes on property in a disaster area from twelve percent for each month the tax remains unpaid, to six percent for each month the tax remains unpaid, plus interest. (Effective September 1, 2011.)

S.B. 449 (Watson/Ritter) – Property Tax: provides that: (1) the Parks and Wildlife Department, with the assistance of the comptroller, shall develop standards for determining whether land qualifies for appraisal based on water-stewardship use; (2) the chief appraiser and appraisal review board shall apply the standards adopted by the Parks and Wildlife Department and comptroller; and (3) land is not eligible for appraisal on the basis of use for water stewardship if: (a) the land was appraised as qualified open-space land or qualified timber land at the time the water-stewardship use began; or (b) the land was developed to a degree that precludes the land from eligibility for appraisal on a basis other than use for water stewardship or under the subchapter relating to qualified timber land. (Effective January 1, 2012, if approved by voters.)

S.B. 516 (Patrick/Fletcher) – Property Tax: provides a complete residence homestead property tax exemption for the surviving spouse of a totally disabled veteran if: (1) the surviving spouse has not remarried; (2) the property was the residence homestead of the surviving spouse when the disabled veteran died; and (3) the property remains the residence homestead of the surviving spouse. The bill also implements an amendment to the Texas Constitution (if voters approve the amendment in an election held pursuant to **S.J.R. 14**, below) to permit the legislature to provide that, if a surviving spouse who qualifies for an exemption subsequently qualifies a different property as a residence homestead, the surviving spouse is entitled to a property tax exemption of the new homestead in an amount equal to the dollar amount of the previous exemption from the previous year, so long as the surviving spouse has not remarried. (Effective January 1, 2012.)

S.B. 551 (Williams/Otto) – Property Tax: provides that back taxes assessed on an improvement to real property do not incur interest if: (1) the property on which the improvement is located did not escape taxation in the year the improvement escaped taxation; (2) the appraisal district had actual or constructive notice of the presence of the improvement the year the improvement escaped taxation (constructive notice can be acquired if building permit is issued for an improvement); and (3) the property owner pays all back taxes on the improvement within 120 days of when the tax bill for back taxes on improvement is sent to property owner. (Effective September 1, 2011.)

S.B. 1341 (Seliger/Elkins) – Property Tax: provides that: (1) a taxing unit may not be made a party to a suit to compel the appraisal review board to order a change in an appraisal roll; (2) the movant in a suit to compel an appraisal review board to order a change in an appraisal roll must mail notice of a hearing to the collector for each taxing unit that imposes taxes on the property at issue; and (3) a taxing unit that imposes taxes on the property at issue may intervene in a suit filed to compel an appraisal review board to order a change in an appraisal roll for the limited purpose of determining whether the property owner has forfeited a remedy due to the nonpayment of taxes. (Effective immediately.)

S.B. 1441 (Ellis/Y.Davis) – Property Tax: allows an appraisal review board to change the appraisal roll for any of the five preceding years to correct an error in which property is shown as owned by a person who did not own the property on January 1 of that tax year. (Effective September 1, 2011.)

S.B. 1505 (Uresti/Lewis) – Property Tax: changes the method by which a real property interest in oil and gas in place is appraised by: (1) using the average price of the oil or gas interest for the preceding calendar year; and (2) eliminating the comptroller-computed market condition factor multiplier and instead using a price adjustment factor. (Effective January 1, 2012.)

S.J.R. 14 (Van de Putte/C. Anderson) – Property Tax: would amend the Texas Constitution to permit the legislature to provide a complete residence homestead property tax exemption for the surviving spouse of a totally disabled veteran if: (1) the surviving spouse has not remarried; (2) the property was the residence homestead of the surviving spouse when the disabled veteran died; and (3) the property remains the residence homestead of the surviving spouse. The bill would also amend the Texas Constitution to permit the Legislature to provide that if a surviving spouse who qualifies for an exemption subsequently qualifies a different property as a residence homestead, the surviving spouse is entitled to a property tax exemption of the new homestead in an amount equal to the dollar amount of the previous exemption from the previous year, so long as the surviving spouse has not remarried. (Effective if approved at the election on November 8, 2011.)

S.J.R. 16 (Estes/Ritter) – Property Tax: would amend the Texas Constitution to include water stewardship as a category of open-space land to be taxed on the basis of its productive capacity. (Effective if approved at the election on November 8, 2011.)

Sales Tax

H.B. 590 (Thompson/Patrick) – Sales Tax: does the following regarding the reallocation or refund of city sales tax revenues due to a mistake: (1) allows a city to request a review of all available sales tax returns and reports in the comptroller's possession filed by not more than five individual taxpayers doing business in the city that are identified by the city if the amount the comptroller reallocates or refunds is at least equal to the lesser of: (a) \$200,000; (b) ten percent of the revenue received by the city during the preceding calendar year; or (c) an amount that increases or decreases the amount of revenue the city receives during a calendar month by more than 15 percent as compared to the same month in a previous year; (2) allows cities to view sales tax information concerning the pending reallocation or refund, regardless of whether the information is confidential; (3) requires a city to submit the request for information to the comptroller within 90 days of discovering the reallocation or refund; (4) requires the comptroller to provide the requested returns and reports to the city not earlier than the 30th day after receiving a request, or later than the 90th day after receiving a request; and (5) allows the comptroller to collect a reasonable fee from a city to cover the expense of compiling and providing the requested sales tax information. (Effective September 1, 2011.)

H.B. 654 (Solomons/Shapiro) – Sales Tax: requires the comptroller to report to the legislature and governor on the amount of revenue remitted to the comptroller for each tax collected in each city and county. (Effective September 1, 2011.)

VETOED H.B. 2403 (Otto/Ogden) – Sales Tax: provides that a retailer is engaged in business in this state if the retailer: (1) holds a substantial ownership interest in, or is owned in whole or in substantial part by, a person who maintains a location in this state from which business is conducted if: (a) the retailer sells a substantially similar product as the related retailer and does so under a substantially similar name; and (b) the facilities or employees of the related retailer are used to advertise, promote, facilitate, or perform any other activity on behalf of the retailer; or (2) holds a substantial ownership interest in, or is

owned in whole or in substantial part by, a person that maintains a distribution center, warehouse, or similar location in the state that delivers property sold by the retailer. (Vetoed by the governor on May 31, 2011.)

VETOED H.B. 2972 (T. Smith/Wentworth) – Street Maintenance Sales Tax: provides that: (1) a city in which at least 66 percent or more of the voters in the previous two consecutive elections regarding the adoption or reallocation of the tax favored the adoption or reallocation of the tax may call an election to reauthorize the street maintenance sales tax for eight years; and (2) revenue from the street maintenance sales tax may be used to maintain and repair sidewalks. (Effective immediately.)

S.B. 758 (Deuell/Hildenbran) – Sales Tax: requires the state comptroller, upon request, to provide to a city information relating to the amount of sales tax paid to the city during the preceding calendar year by each entity doing business in the city who remits annual sales tax payments of more than \$5,000 to the comptroller. (Effective September 1, 2011.)

Purchasing

H.B. 345 (Kleinschmidt/Wentworth) – Breach of Contract Damages: provides that, in a suit for breach of contract against a city for goods or services, the total amount of money awarded in an adjudication includes interest as allowed by law, including interest as calculated under the Prompt Payment Act. (Effective September 1, 2011.)

H.B. 628 (Callegari/Jackson) – Construction Procurement: this bill, among other things: (1) prohibits a reverse auction procedure for a public works contract for which a performance or payment bond is required; (2) provides that the board of trustees of a school district may enter into an agreement for the design, construction, or renovation of improvements to real property not owned or leased by the district if the improvements benefit real property owned or leased by the district, such as the design, construction, or renovation of highways, roads, streets, sidewalks, crosswalks, utilities, and drainage improvements; (3) consolidates the provisions of current law relating to alternative delivery systems for construction projects (e.g., competitive sealed proposals, construction manager-agent, construction manager at-risk, design-build, job order contracting for buildings) by most governmental entities, including cities, into a new chapter 2267 of the Government Code; (4) provides procedures and criteria for a governmental entity to use when selected a construction contractor using a method other than competitive bidding; (5) authorizes the use of any alternative delivery method, except for design-build (which is authorized for most projects but with various limitations), for any improvement to real property; and (6) limits the use of design-build in various ways, and in some instances provide that an unsuccessful design-build offeror owns the information submitted unless the governmental entity pays a stipend to the offeror; (7) provides that, if a change order for a public works contract in a city with a population of 500,000 or more involves a decrease or an increase of \$100,000 or less, or a lesser amount as provided by ordinance, the governing body may grant general authority to an administrative official of to approve the change order; (8) provides that a contract with an original contract price of \$1 million or more may not be increased by more than 25 percent; and (9) provides that, if a change order for a contract with an original contract price of less than \$1 million increases the contract amount to \$1 million or more, subsequent change orders may not increase the revised contract amount by more than 25 percent. (Effective September 1, 2011.)

H.B. 679 (Button/Carona) – Change Orders: provides that the governing body of a city or a municipal civic center authority may grant authority to an official or employee responsible for purchasing or for administering a contract to approve a change order that involves an increase or decrease of \$50,000 or less. (Effective immediately.)

H.B. 782 (Y. Davis/Hinojosa) – Municipal Bonds: provides that neither a city nor a Type B economic development corporation may purchase property with bond proceeds unless the city or corporation first obtains an independent appraisal of the property's market value. (Effective September 1, 2011.)

H.B. 1869 (Giddings/West) – Local Preference: removes the population brackets in current law relating to the Local Government Code provisions that allow the consideration of location of a bidder's principal place of business when awarding certain contracts, allowing any city to use those provisions. (Effective immediately.)

H.B. 2729 (Callegari/Watson) – Civil Works Projects: provides that: (1) a city may contract with a private entity to act as the city's agent in the design, development, financing, maintenance, operation, or construction, including oversight and inspection, of a civil works project or an improvement to real property; (2) a city contracting under the bill shall: (a) select the private entity based on the private entity's qualifications and experience; and (b) enter into a project development agreement with the private entity; (3) the selected private entity shall comply with laws relating to engineering, architecture, the Professional Services Procurement Act and all procurement laws relating to procurement that apply to the city that selected the private entity. (Effective immediately.)

S.B. 1048 (Jackson/J. Davis) – Public/Private Partnerships: encourages the use of public private partnerships to develop "qualifying projects," which include various infrastructure projects as defined by the bill (essentially any improvements necessary or desirable to unimproved real estate owned by a governmental entity). The bill requires an opt-in by resolution of the governing body of a political subdivision, including a city, to elect to operate under its terms. It provides detailed procedures for the procurement and implementation of a qualifying project. Specifically, the bill provides – among many other things – that:

1. before requesting or considering a proposal for a qualifying project, a governmental entity must adopt and make publicly available guidelines, which must be reasonable, encourage competition, and guide the selection of project, that enable the governmental entity to comply with detailed procedures in the bill.
2. a person may not develop or operate a qualifying project unless the person obtains the approval of and contracts with the governmental entity under the bill.
3. a person may initiate the approval process by submitting a proposal requesting approval or the responsible governmental entity may request proposals or invite bids.
4. before entering into the negotiation of an interim or comprehensive agreement for a qualifying project, a governmental entity must submit copies of detailed proposals to the newly-created state Partnership Advisory Commission (commission).
5. the Partnership Advisory Commission is an advisory commission in the legislative branch that advises governmental entities on proposals received under the bill.
6. before beginning to negotiate an interim or comprehensive agreement for a qualifying project, each governmental entity receiving a detailed proposal for a qualifying project must provide copies of the proposal to the presiding officer of the commission and the chairs of the House Appropriations Committee and Senate Finance Committee or their designees.
7. the following qualifying projects are not subject to review by the commission: (a) any proposed qualifying project with a total cost of less than \$5 million; and (b) any proposed qualifying project with a total cost of more than \$5 million but less than \$50 million for which money has been specifically appropriated as a public-private partnership in the state's general appropriations act.
8. most state procurement laws do not apply to a qualifying project under the bill.
9. a governmental entity may enter into a comprehensive agreement only in accordance with guidelines that require the contracting person to design and construct the qualifying project in

- accordance with procedures that do not materially conflict with those specified in the Local Government Code procurement provisions relating to alternative delivery methods.
10. a governmental entity must obtain professional services in accordance with the Professional Services Procurement Act.
 11. before developing or operating the qualifying project, the contracting person must enter into a comprehensive agreement with a responsible governmental entity, which shall provide for detailed terms as provided by the bill.
 12. the comprehensive agreement shall provide for any user fee, lease payment, or service payment established by agreement of the parties and may include a provision that authorizes the responsible governmental entity to make grants or loans to the contracting person from money received from the federal, state, or local government or any agency or instrumentality of the government.
 13. a contracting person has broad powers relating to a project, including – with the consent of the governmental entity – the power to adopt and enforce reasonable rules for the qualifying project to the same extent as the governmental entity
 14. at the request of a contracting person, the governmental entity may exercise any power of eminent domain that it has under law to acquire any land or property interest to the extent that the governmental entity dedicates the land or property interest to public use and finds that the action serves the public purpose of the bill.
 15. a peace officer of this state or of any affected jurisdiction has the same powers and jurisdiction within the area of the qualifying project as the officer has in the officer's area of jurisdiction.
 16. the procedures in the bill are not exclusive, and do not prohibit a governmental entity from entering into an agreement for or procuring public and private facilities and infrastructure under other statutory authority.

(Effective September 1, 2011.)

Elections

H.B. 360 (Jackson/Duncan) – Elections: requires that a ballot proposition allowing voters to approve the issuance of bonds or the imposition, increase, or reduction of a tax must: (1) with respect to the issuance of bonds, state the total principal amount of bonds that will be issued, as well as a general description of the purposes of the bond; (2) with respect to a proposition that only seeks voter approval of the imposition or increase of a tax, state the amount or maximum tax rate of the tax or tax increase; and (3) with respect to a proposition that only seeks voter approval of the reduction of a tax, state the amount of tax rate reduction or the tax rate for which approval is sought. (Effective September 1, 2011.)

H.B. 1545 (Lewis/Watson) – Elections: provides that the governing body of a political subdivision, other than a county, that holds its general election for officers on a date other than the November uniform election date may, not later than December 31, 2012, change the date on which it holds its general election for officers to the November uniform election date. (Effective immediately.)

H.B. 1593 (Isaac/Huffman) – Elections: requires the inclusion of a space for a candidate's e-mail address on an official application for a place on the ballot. (Effective September 1, 2011.)

H.B. 2194 (L. Taylor/Jackson) – Elections: among other things, this bill: (1) requires unofficial election results to be released as soon as they are available after polls close, except that the presiding judge of the central counting station may withhold the release of unofficial election results until the last voter has voted; and (2) provides that the nepotism laws do not apply to an appointment of an election clerk who is not related in the first degree by consanguinity or affinity to an elected official of the authority that appoints the election judges for that election. (Effective September 1, 2011.)

H.B. 2449 (Aliseda/Hegar) – Elections: provides that: (1) when mail ballots or carrier envelopes are obtained in violation of state law pursuant to a continuing course of conduct, the conduct may be considered as one offense and the number of ballots or carrier envelopes may be aggregated to determine the grade of the offense; and (2) provides that a copy of an application for a ballot to be voted by mail is not available for public inspection, except to the voter seeking to verify that the information pertaining to the voter is accurate, until the first business day after election day. (Effective September 1, 2011.)

H.B. 2817 (L. Taylor/Duncan) – Elections: among other things, this bill: (1) eliminates the current provision that requires the secretary of state to either prescribe the terms that a county elections administrator must accept, or instruct the county elections administrator to decline to enter into a contract with a city, if a city and county are unable to initially reach an agreement to furnish election services; (2) provides that an election watcher may not be accepted for service if the watcher has possession of a device capable of recording images or sound unless the watcher agrees to disable or deactivate the device; (3) requires that an election order and election notice state the location of the main early voting polling place only, rather than each early voting polling place; (4) provides that the custodian of keys to early voting ballot boxes must retain possession of the keys until delivered to the presiding judge of the central counting station; (5) requires that a plan for counting votes cast on an electronic voting system include a process for comparing the number of voters who signed the combination form with the number of votes cast for the entire election; (6) requires a city to post notice of dates of the filing period for an application for a place on the ballot not later than the 30th day before: (a) the first day on which a candidate may file an application; or (b) the last day on which a candidate may file the application, if the election code does not designate a first day on which the candidate may file the application; (7) provides that a withdrawal from an election that is not made in writing and signed by the candidate, or is not timely filed with the appropriate authority or agent of an authority, has no legal effect and is not considered filed; and (8) requires a notice relating to a local option liquor election that is published in a newspaper to include: (a) the individual or entity that is applying for the petition to gather signatures for a local option liquor election; (b) the type of local option liquor election; (c) the name of the political subdivision in which the petition will be circulated; and (d) the name and title of the person with whom the application will be filed. (Effective September 1, 2011.)

S.B. 14 (Fraser/Harless) – Elections: this is the “Voter ID bill.” It does the following: (1) requires a voter to present one form of acceptable identification to an election officer at the polling place in order to vote; (2) requires the voter registrar of each county and the secretary of state to provide notice of voter identification requirements and to educate voters about the requirements through certain programs by publishing notice on certain websites; (3) requires the presiding judge to post a list of the acceptable forms of identification in a prominent place outside each polling location; (4) requires a disabled voter applying for an exemption from the requirement to present identification in order to vote to include certain types of documentation with the application; (5) provides that a voter who does not present acceptable identification shall be accepted for provisional voting only, and is entitled to receive specific information from an election officer regarding the voter’s right to a provisional ballot; (6) requires an election officer to distribute written notice of the identification required for voting beginning with elections held after January 1, 2012, to each voter who presents a form of identification that will not be sufficient for acceptance as a voter beginning with those elections; (7) provides that a voter who presents the acceptable identification, but whose name is not on the precinct list, shall be accepted for voting if the voter also presents a voter registration certificate; (8) modifies the types of acceptable voter identification documents to include military identification cards and concealed handgun licenses; (9) makes an offense of illegal voting a second degree felony or – if the person is convicted of attempt – a state jail felony; (10) provides that a provisional ballot may be accepted only if the voter: (a) presents acceptable proof of identification at the time the ballot is cast or within six days after the election; (b) executes an affidavit stating that the voter has a religious objection to being photographed; or (c) executes an affidavit stating that the voter does not have proper identification due to a natural disaster; and (11) requires the

Department of Public Safety to issue an election identification certificate to a person who does not have another acceptable form of identification. (Effective January 1, 2012.)

S.B. 100 (Van de Putte/V. Taylor) – Elections: this bill: (1) implements the federal Military and Overseas Voter Empowerment Act by requiring the early voting clerk to make registration and absentee ballots available to overseas military voters at least 45 days before an election involving a federal or statewide office; (2) moves the filing deadline for an application for a place on the general primary election ballot to the second Monday in December of an odd-numbered year; (3) moves the general primary runoff election date from the fourth Tuesday in May following a general primary election; (4) provides that a county elections administrator is not required to enter into a contract to furnish election services with a city for the May uniform election date (the second) in an even-numbered year; (5) allows a home-rule city to change the date on which it holds its general election for officers from the May uniform election date to the November uniform election date through the adoption of a resolution that supersedes a city charter provision requiring a different election date; (6) allows a home-rule city to provide for the election of all members of the governing body at the same election through the adoption of a resolution that supersedes a city charter provision establishing staggered terms of office; (7) provides that a member of a city council with a term of office of more than two years that holds over in office in accordance with Article XVI, Section 17 of the Texas Constitution to conform to a new election date does not create a vacancy in the office by doing so, thereby eliminating the need for a special election called within 120 days of the vacancy; (8) authorizes a general law city with a term of office of one or three years to adopt a resolution by December 31, 2012 changing the length of the term of office to two years; (9) authorizes a general law city with staggered terms of office for members of the city council to cancel its staggered terms by adopting a resolution by December 31, 2012 providing for the election of all members of the governing body at the same election; (10) authorizes a political subdivision that elects the members of its governing body to a term that consists of an odd number of years to adopt a resolution by December 31, 2012 changing the length of terms of its members to an even number of years. (Effective September 1, 2011, but does not apply to an election held on November 8, 2011.)

S.J.R. 37 (Van de Putte/V. Taylor) – Elections: would amend the “resign to run” provision in the Texas Constitution by requiring an officer to resign to run for another office only if the unexpired term of the office exceeds one year and thirty days from the date the officer becomes a candidate for the new office. (Election on November 8, 2011.)

Open Government

H.B. 2313 (Coleman/Wentworth) – Meeting Notice: provides that, as an alternative to posting on a physical bulletin board, a city may post notice of each meeting on an electronic bulletin board at a place convenient to the public in the city hall. The bill defines “electronic bulletin board” to mean an electronic communication system that includes a perpetually illuminated screen on which the city council can post message or notices viewable without manipulation by the public. (Effective immediately.)

VETOED H.B. 2499 (Cook/Nichols) – Department of Information Resources: this is the Department of Information Resources sunset bill. Of particular interest to cities, the bill: (1) requires the department to adopt a process to determine the amount of the administrative fee the department charges to administer any of its programs and, among other things, requires that the amount of a fee directly relate to the amount necessary for the department to recover the cost of its operations; (2) requires the board to establish rules regarding the approval requirements for all contracts; and (3) transfers certain powers to the comptroller, including the authority to charge an administrative fee to a city that purchases commodity items through the comptroller. (Effective September 1, 2011.)

H.B. 2866 (Harper-Brown/Ellis) – Public Information: this bill: (1) authorizes the attorney general to charge and collect a nonrefundable administrative convenience fee for the electronic submission of a document to the attorney general; (2) allows open records letter ruling requests, notices, and other documents to be filed electronically with the attorney general’s office; (3) allows the attorney general’s office to electronically transmit open records notices, decisions, and other documents; and (4) does not, under the Public Information Act, affect the right of a person or governmental body to submit information to the attorney general by United States mail or common or contract carrier. (Effective immediately.)

S.B. 602 (Rodriguez/Marquez) – Public Information: among other things, this bill: (1) provides that certain types of information are expressly public unless they are made confidential under the Public Information Act or other law; (2) authorizes a governmental body to redact certain motor vehicle record information without requesting a decision from the attorney general; (3) authorizes a governmental body to redact a credit card, debit card, charge card, or access device number without requesting a decision from the attorney general; (4) makes a public information request that is modified in response to the requirement of a deposit or bond a separate request that is considered received on the date the governmental body receives the modified request; and (5) provides that if a governmental body receives a written request by mail and cannot establish the actual date of receipt, the written request is considered to be received on the third business day after the date of the postmark. (Effective September 1, 2011.)

S.B. 1613 (Ogden/Brown) – Municipally Owned Electric Utilities: this bill: (1) changes the current definition of “competitive matter” in the Open Meetings and Public Information Acts relating to public power utilities; (2) redefines a “competitive matter,” which can be deliberated by a public power utility in a closed meeting and is not generally subject to public disclosure, as a matter reasonably related to: (a) generation unit specific and portfolio fixed and variable costs, capital improvement plans for generation units, and generation unit operating characteristics and outage scheduling; (b) bidding and pricing information for purchased power, generation and fuel, and Electric Reliability Council of Texas (ERCOT) bids, prices, offers, and related services and strategies; (c) effective fuel and purchased power agreements and fuel transportation arrangements and contracts; (d) risk management information, contracts, and strategies, including fuel hedging and storage; (e) plans, studies, proposals, and analyses for system improvements, additions, or sales, other than transmission and distribution system improvements inside the service area for which the public power utility is the sole certificated retail provider; and (f) customer billing, contract, and usage information, electric power pricing information, system load characteristics, and electric power marketing analyses and strategies; and (3) provides that a “competitive matter” may not be deemed to include, among other things: (a) any tariff of general applicability regarding rates and other matters; (b) salaries and total compensation of all employees of a public power utility; or (c) information publicly released by ERCOT to a law, rule, or protocol generally applicable to similarly situated market participants. (Effective immediately.)

S.B. 1638 (Davis/Geren) – Public Information: this bill: (1) authorizes a current or former employee or official of a governmental body to choose whether to allow public access to their emergency contact information; (2) creates an exception from public disclosure for emergency contact information of certain current and former employees and officers; (3) makes emergency contact information confidential and not subject to public disclosure for certain officers and employees; (4) creates an exception from public disclosure for a motor vehicle operator’s or driver’s license or permit and a motor vehicle title or registration issued by another state or country; and (5) makes a photocopy or other copy of an identification badge issued to an official or employee of a governmental body confidential. (Effective immediately.)

Other Bills

H.B. 1 (Pitts/Ogden) – State Budget: this is the state budget. The following chart shows the differences over the coming biennium in city-related items from the last budget:

Budget Item	HB1	2010-2011 appropriated	Change
Mixed Beverage Tax*	\$246,020,807	\$261,255,000	-\$52,000,000
Library Resource Sharing	\$14,534,904	\$24,594,393	-\$10,059,489
Local Library Aid	\$9,720,097	\$29,684,263	-\$19,964,166
Local Parks Grants	\$881,460	\$36,212,430	-\$35,330,970
Major Events Trust Fund	\$0	\$25,000,000	-\$25,000,000
Automobile Theft Prevention	\$29,823,740	\$15,214,355	\$14,609,385
Homeless Funds/TDHCA	\$0	\$20,000,000	-\$20,000,000
TCEQ Solid Waste Grants	\$15,806,890	\$27,674,640	-\$5,933,879
TOTAL			-\$153,679,119
*Mixed beverage tax reduction is an extrapolation based on the decreased percentage of transfer			

H.B. 4 (Pitts/Ogden) - Parks Funding: this is the supplemental appropriations bill, which reduces funding for parks from proceeds of the sporting good sales tax during the current 2010-2011 biennium by \$300,000. The bill also reduces funding for the Large County and Municipality Recreation Parks account by \$200,000 during the current biennium. (Effective immediately.)

H.B. 1400 (Elkins/West) – Public Improvement Districts: among other things, provides that: (1) a public improvement project may include the payment of expenses relating to the operation and maintenance of mass transportation facilities; (2) a city council may defer an assessment associated with a public improvement district until a date the governing body specifies by ordinance or order; and (3) a city that defers a public improvement district assessment must estimate the appraised value of taxable real property liable for assessment in the district and the cost of the improvement before holding a hearing as required by state law. (Effective September 1, 2011.)

H.B. 1781 (Price/Nelson) – State Reporting: eliminates various state agency reporting requirements, including the requirement that cities that impose an impact fee submit a written certification verifying compliance with the impact fee law to the attorney general each year not later than the last day of the city's fiscal year and that cities submit reports relating to tax increment financing to the attorney general (the report must still be prepared for other entities). (Effective immediately.)

H.B. 1844 (Guillen/Watson) – Records Retention: authorizes the executive and administrative officer of the Texas State Library and Archives Commission to: (1) store, for a fee, local government records on the request of the local government; and (2) allow the state records center to provide for the storage,

access, protection, and final disposition of inactive and vital local government records. (Effective Immediately.)

H.B. 1959 (Thompson/Carona) – Alcoholic Beverage Permit: provides that an applicant who is denied an alcoholic beverage permit or license based on the certification of a city or county is entitled, upon written request, to a hearing before the county judge to contest the matter. (Effective September 1, 2011.)

H.B. 2048 (Lyne/Deuell) – Hotel Occupancy Taxes: provides that: (1) a city may directly perform an audit, or may contract with another person to perform an audit on an hourly or fixed-fee basis, to determine any delinquency in hotel occupancy tax payments to the city; (2) the city shall provide at least 30 days' written notice to a person who is required to collect the tax with respect to a hotel before conducting the audit; (3) the city shall notify the comptroller if the results of an audit reveal a failure of a hotel to collect or pay hotel taxes; and (4) the comptroller shall review the information submitted by a city to determine whether to proceed with collection and enforcement efforts, and shall distribute 20 percent of any additional state hotel taxes collected as a result of the city's audit to the city to defray the cost of the audit. (Effective September 1, 2011.)

H.B. 2226 (Truitt/Carona) – Public Funds Investment: among other things, this bill: (1) requires a city's investment policy to include procedures to monitor rating changes in investments acquired with public funds and the liquidation of such investments; (2) requires a city's investment officer to attend a training session not less than once in a two-year period that begins on the first day of that local government's fiscal year and consists of the two consecutive fiscal years after that date; (3) provides that an obligation that is fully guaranteed or insured by the FDIC or by the explicit full faith and credit of the United States is an authorized investment; (4) provides that certain investment in certificates of deposit using a broker are authorized investments; and (5) authorizes an investment pool to invest its funds in money market mutual funds to the extent permitted by and consistent with state law and the investment policies and objectives adopted by the pool. (Effective immediately.)

H.B. 2702 (Solomons/Eltife) – Population Classifications: updates hundreds of provisions in state law that bracket certain legislation to cities and/or counties of a certain population. (Effective September 1, 2011.)

H.B. 2853 (J. Davis/Jackson) – Tax Increment Financing: among other things, this bill: (1) repeals the requirement that a city adopting a reinvestment zone financing plan mail a copy of the plan to the governing body of each taxing unit that levies taxes in the proposed zone; (2) allows a city to designate a reinvestment zone so long as: (a) less than 30 percent of the property in the proposed zone is used for residential purposes; or (b) the total appraised value of taxable real property in the proposed zone and in existing zones is less than 25 percent of the total appraised value for a city with a population of 100,000 or more, or 50 percent of the total appraised value for a city with a population of less than 100,000; (3) allows a city council that designated a reinvestment zone by ordinance or resolution to adopt an ordinance or resolution extending the term of all or a portion of the zone after notice and a hearing; (4) authorizes a city council to appoint a reinvestment board of directors consisting of nine members if fewer than seven taxing units other than the city are eligible to appoint members of the board of directors; (5) provides that if at least seven taxing units other than the city are eligible to appoint members of the reinvestment zone's board of directors, then the city creating the zone may appoint only one member; (6) allows an agreement to specify the projects to which a participating taxing unit's tax increment will be dedicated and that the taxing unit's participation may be computed with respect to a base year later than the original base year of the zone; and (7) provides that an act or proceeding of a city, a reinvestment zone board, or other entity acting pursuant to a reinvestment zone financing plan is conclusively presumed valid after three years have passed and a lawsuit to annul or invalidate the act or proceeding has not been filed. (Effective immediately.)

H.B. 2973 (Hunter/Ellis) – Strategic Lawsuits Against Public Participation (“SLAPP suits”): this bill: (1) provides for the dismissal of a lawsuit if it is shown by a preponderance of the evidence that the legal action is based on, relates to, or is in response to the exercise of the defendant’s right of free speech, right to petition, or right of association; (2) prohibits dismissal as described in (1), above, if the party bringing the action establishes by clear and specific evidence a prima facie case for each essential element of the claim; (3) requires a court, if dismissal is ordered as described in (1), above, to award to the moving party court costs, attorney’s fees, and expenses incurred in defending against the legal action, and impose sanctions against the person and attorney who brought the legal action; (4) authorizes a court, if a motion for dismissal under (1), above, is found to be frivolous or solely intended to delay, to award court costs and attorney’s fees to the responding party; and (5) exempts from the application of this bill: (a) an enforcement action brought in the name of this state or a political subdivision of this state by the attorney general, a district attorney, a criminal district attorney, or a county attorney; (b) certain legal actions brought against a person who sells or leases goods, services, or insurance products or certain commercial transactions; and (c) legal actions seeking recovery for bodily injury, wrongful death, or survival. (Effective immediately.)

S.B. 425 (Carona/Hancock) – Certificates of Insurance: applies to an insurance certificate holder, policyholder, insurer, or agent with regard to a certificate of insurance issued on property or casualty operations or a risk located in this state, regardless of where the certificate holder, policyholder, insurer, or agent is located. The bill provides – among other things – that: (1) a property or casualty insurer or agent may not issue a certificate of insurance or any other type of document purporting to be a certificate of insurance if the certificate or document alters, amends, or extends the coverage or terms and conditions provided by the insurance policy referenced on the certificate or document; (2) a certificate of insurance or any other type of document may not convey a contractual right to a certificate holder; (3) a person may not require an agent or insurer, either in addition to or in lieu of a certificate of insurance, to issue any other document or correspondence, instrument, or record, including an electronic record, that is inconsistent with the bill; (4) an insurer or agent may not deliver or issue for delivery in this state a certificate of insurance unless the certificate’s form has been filed with and approved by the Texas Insurance Commissioner and contains the phrase “for information purposes only” or similar language, and if a certificate of insurance form does not contain the required language, the commissioner may approve the form only if the form states: (a) that the certificate of insurance does not confer any rights or obligations other than the rights and obligations conveyed by the policy referenced on the form; and (b) that the terms of the policy control over the terms of the certificate of insurance; (5) a certificate of insurance is not a policy of insurance and does not amend, extend, or alter the coverage afforded by the referenced insurance policy; and (6) the commissioner may adopt rules as necessary or proper to accomplish the purposes of the bill. (Effective September 1, 2011.)

S.B. 577 (Duncan/Frullo) – Facsimile Signature: this bill: (1) allows an authorized officer of a home rule city of 200,000 or more to execute, authenticate, certify, or endorse or authorize to be executed, authenticated, certified, or endorsed with the officer’s facsimile signature instead of the officer’s manual signature an eligible contract, if the use of the facsimile signature is authorized by the governing body of the city; and (2) authorizes a city described in (1), above, to use a facsimile signature on a health and safety lien statement. (Effective immediately.)

S.B. 760 (West/Thompson) Interlocal Contracts: provides that an interlocal contract may contain a specified term of years. (Effective when the companion constitutional amendment is approved by voters. See S.J.R. 26, below.)

S.B. 980 (Carona/Hancock) – Telecommunications: provides, among other things, that: (1) a city may not by rule, order, or other means directly or indirectly regulate rates charged for, service or contract

terms for, conditions for, or requirements for entry into the market for Voice over Internet Protocol services or other Internet Protocol enabled services; and (2) the limitation in (1) does not: (a) affect payment of municipal right-of-way fees applicable to Voice over Internet Protocol services; (b) affect any person's obligation to provide video service as defined under applicable state or federal law, the applicability of Utilities Code Chapter 66 (state-issued video and cable franchise), or a requirement to make a payment under Chapter 66; (c) require or prohibit assessment of enhanced 9-1-1, relay access service, or universal service fund fees on Voice over Internet Protocol service; (d) affect any entity's obligations or rights under Sections 251 and 252 of the federal Communications Act of 1934 (47 U.S.C. Sections 251 and 252), which relate to interconnection; (e) affect any applicable wholesale tariff; (f) grant, modify, or affect the authority of the Public Utility Commission to implement, carry out, or enforce the rights or obligations provided by Sections 251 and 252 of the federal Communications Act of 1934, or of an applicable wholesale tariff through arbitration proceedings or other available mechanisms and procedures; (g) require or prohibit payment of switched network access rates or other intercarrier compensation rates, as applicable; (h) limit or grant the commission authority over the subjects listed in (a)-(g); or (i) affect the assessment, administration, collection, or enforcement of any tax or fee over which the comptroller has authority. (Effective September 1, 2011.)

S.B. 1269 (Wentworth/Branch) – Honoraria: Provides that: (1) transportation, lodging, and meals that a public servant accepts in connection with a conference or similar event are not political contributions; and (2) the prohibitions against offering and giving a gift to a public servant do not apply to transportation, lodging, and meals that a public servant accepts in connection with a conference or a similar event.

S.B. 1692 (Lucio/Alvarado) – City Budget: requires the comptroller to provide on its Internet Web site a link to the Web site of each city that contains budget information for the city. (Effective September 1, 2011.)

S.J.R. 26 (West/S. Turner) – Interlocal Contracts: proposes a constitutional amendment that would allow a city to enter into a multiyear interlocal contract with another city or county without having to meet interest and sinking fund requirements, even if such a contract creates a debt. (Effective if approved at the election on November 8, 2011.)

MUNICIPAL COURTS

H.B. 27 (Guillen/Ellis) – Municipal Court: requires a municipal court judge to allow a defendant who the judge determines is unable to immediately pay the fine and costs assessed by the court to pay the fine and costs in specified portions at designated intervals. (Effective September 1, 2011.)

H.B. 350 (Walle/Van de Putte) – Juvenile Defendants: authorizes a judge to discharge all or part of the fine or costs assessed against a juvenile defendant for a class C misdemeanor committed at a primary or secondary school at which the defendant was enrolled at the time of the offense by performing community service for a governmental entity or certain types of nonprofit organizations or by attending a tutoring program that is satisfactory to the court, with certain restrictions on the amount of hours that may be required weekly and how much of the monetary fine can be replaced with service hours. (Effective September 1, 2011.)

H.B. 961 (S. Turner/Hinojosa) – Juvenile Defendants: makes all records relating to a child who is convicted of and has satisfied the judgment for a fine-only misdemeanor offense (other than a traffic

offense) confidential and open to inspection only by certain family members or members of the judiciary. (Effective immediately.)

H.B. 984 (Truitt/Harris) – Municipal Court: authorizes a city with a non-record municipal court to enter into an agreement with a contiguous city or a city with boundaries that are within one-half-mile of the city to establish concurrent and original jurisdiction of the municipal courts in both cities for most types of cases heard by municipal courts. (Effective immediately.)

H.B. 1559 (S. Davis/Huffman) – Records Retention: provides that: (1) a court shall not destroy a court document filed with, presented to, or produced by the court before 1951; and (2) the Texas State Library and Archives Commission may create rules for the retention of such documents. (Effective immediately.)

H.B. 1573 (Gallego/Carona) – Municipal Court: among other things, requires that the clerk of a municipal court that does not provide online Internet access to the court's criminal case records post in a designated public place in the courthouse notice of a prospective criminal court docket setting as soon as the court notifies the clerk of the setting. (Effective September 1, 2011.)

H.B. 1964 (Villareal/Van de Putte) – Juvenile Defendants: this bill: (1) authorizes a judge to discharge all or part of the fine or costs assessed against a juvenile defendant for a class C misdemeanor by performing community service for a governmental entity or certain types of nonprofit organizations, with certain restrictions on the amount of hours that may be required weekly and how much of the monetary fine can be replaced with service hours; and (2) limits the liability of the court with regard to any damages caused or sustained in the course of completing the assigned work. (Effective September 1, 2011.)

H.B. 2949 (Cook/Eltife) – Collection Improvement Program: provides for: (1) a 180-day grace period for a city to come back into compliance if the city is not in compliance with state fee reporting and remitting rules under the state's Collection Improvement Program, which applies only to cities with a population of 100,000 or greater; and (2) certain other, minor changes to the program.

H.B. 3385 (Madden) – Juvenile Offenders: requires school districts and other agencies and courts that deal with juveniles and juvenile offenders to share more records with other agencies and courts that deal with juveniles and juvenile offenders and creates processes for the exchange of confidential information about juveniles among agencies that deal with juveniles. (Effective immediately.)

H.B. 3475 (Gallego/West) – Municipal Judges: this bill: (1) creates a process for a motion for recusal or disqualification of a municipal judge in a specific case; and (2) requires the city secretary of a city with a municipal court to notify the Texas Judicial Council of the name of each person who is elected or appointed to or vacates the office of mayor, municipal court judge, or clerk of a municipal court, within thirty days of the person's election, appointment, or vacancy from office. (Effective September 1, 2011.)

S.B. 61 (Zaffirini/Walle) – Juvenile Case Managers: authorizes the city's judge or governing body to pay the salary and benefits of a juvenile case manager and costs of training, travel, office supplies, and other necessary expenses relating to the position from the juvenile case manager fund, and requires the city's governing body to adopt and the court to implement reasonable rules for juvenile case managers that include a code of ethics, training, and other provisions. (Effective immediately.)

S.B. 209 (Zaffirini/Walle) – Juvenile Case Managers: provides that: (1) a city, rather than solely a municipal court, may employ a juvenile case manager; (2) a juvenile case manager shall give priority to truancy cases; (3) a juvenile case manager shall timely report to a full-time judge assigned to a case managed by a juvenile case manager any information or recommendations relevant to assisting the judge in making decisions that are in the best interest of the child; (4) a full time judge must be assigned to a

case that is being supervised by a juvenile case manager to consult with the manager regarding the child's home environment, developmental, psychological and educational status, and previous interactions with the justice system. (Effective September 1, 2011.)

S.B. 480 (Hegar/Gallego) – Municipal Court: this bill: (1) creates a process for a motion for recusal or disqualification of a municipal judge in a specific case; and (2) requires the city secretary of a city with a municipal court to notify the Texas Judicial Council of the name of each person who is elected or appointed to or vacates the office of mayor, municipal court judge, or clerk of a municipal court, within thirty days of the person's election, appointment, or vacancy from office; and (3) authorizes an individual to appeal a case from a municipal court of record to the court of appeals if, among other things, the sole issue is the constitutionality of the statute or ordinance on which a conviction is based. (Effective immediately.)

S.B. 519 (Hegar/Hartnett) – Municipal Court: extends the period, after the rendition of judgment and sentence in municipal court, during which a motion for new trial must be made from one day to five days. (Effective September 1, 2011.)

S.B. 578 (Fraser/Hartnett) – Municipal Court: creates a process for the testimony of a child in any case where the child is not the defendant. (Effective September 1, 2011.)

S.B. 1241 (West/J. Jackson) – Juvenile Offenders: authorizes a municipal court exercising jurisdiction over a juvenile in a truancy case to access confidential information from the Department of Public Safety's juvenile justice information system. (Effective September 1, 2011.)

S.B. 1489 (Whitmire/Madden) – Truancy: this bill: (1) restricts the age of children that a juvenile court may send to another court, including a municipal court, to 12 years of age or older; (2) requires that a municipal court dismiss the complaint against an individual alleging that the individual failed to attend school if the court finds that the individual has complied with the conditions imposed by the court or presents proof that the individual has obtained a high school diploma or high school equivalency certificate; (3) authorizes a municipal court to waive or reduce a fee or court cost imposed for failure to attend school if the court finds that payment of the fee or court cost would cause financial hardship; (4) requires a municipal court to expunge an individual's conviction for failure to attend school if the court finds that the individual has complied with the conditions imposed by the court or presents proof that the individual has obtained a high school diploma or high school equivalency certificate before the individual's 21st birthday; (5) bars a city without a juvenile case manager from collecting a juvenile case manager fee; (6) requires school districts to create truancy prevention measures in order to minimize filings in municipal court for failure to attend school and requires a peace officer acting as an attendance officer to utilize them; and (7) authorizes the Department of Public Safety to share confidential information contained in the juvenile justice information system with municipal courts. (Effective September 1, 2011.)

S.B. 1521 (Uresti/Gallego) – Municipal Court Building Security Fund: authorizes the expenditure of funds from a city's municipal court building security fund on warrant officers and related equipment. (Effective immediately.)

COMMUNITY AND ECONOMIC DEVELOPMENT

H.B. 479 (Orr/Birdwell) – Economic Development Corporations: permits the board of directors for a Type A or Type B economic development corporation located in a county with a population of less than

30,000 to conduct a board meeting anywhere within the boundaries of the county. (Previously, the law required that a meeting be held within the limits of the creating city.) (Effective immediately.)

H.B. 1147 (W. Smith/Wentworth) – Geospatial Data Products: provides that: (1) a city must provide certain notice on each geospatial data product (including any basic map) that: (a) is created or hosted by the city; (b) appears to represent property boundaries; and (c) was not produced using information from an on-the-ground survey conducted under the supervision of a registered professional land surveyor; (2) the notice must be in substantially the following form: “This product is for informational purposes and may not have been prepared for or be suitable for legal, engineering, or surveying purposes. It does not represent an on-the-ground survey and represents only the approximate relative location of property boundaries.”; (3) the required notice may: (a) include language further defining the limits of liability of a geospatial data product producer; (b) apply to a geospatial data product that contains more than one map; or (c) for a notice that applies to a geospatial data product that is or is on an Internet Web site, be included on a separate page that requires the person accessing the website to agree to the terms of the notice before accessing the geospatial data product; and (4) a city is not required to include the notice on a geospatial data product that does not contain a legal description, a property boundary monument, or the distance and direction of a property line; is prepared only for use as evidence in a legal proceeding; is filed with the clerk of any court; or is filed with the county clerk. (Effective September 1, 2011.)

H.B. 1643 (Zerwas/Hegar) – Development Agreements: provides that the governing body of a city may make a written contract, for which the total duration and any successive renewals or extensions may not exceed 45 years, with an owner of land that is located in the extraterritorial jurisdiction of the city to guarantee the continuation of the extraterritorial status of the land and its immunity from annexation by the city. (Effective immediately.)

VETOED H.B. 2608 (Harper-Brown/Hinojosa) – Housing: this is the Texas Department of Housing and Community Affairs (TDHCA) sunset bill. The bill, among many other things, provides that: (1) TDHCA is continued for 12 years; (2) pursuant to the Texas Disaster Act, each local and interjurisdictional agency shall prepare and keep current an emergency management plan for its area providing for disaster mitigation, preparedness, response, and recovery that identifies: (a) any requirements or procedures that local agencies and officials must satisfy or implement to qualify for long-term federal disaster recovery funding and prepare for long-term disaster recovery; and (b) any appropriate state or local resources available to assist the local agencies and officials in satisfying or implementing those requirements or procedures; (3) TDHCA, in consultation with the Texas Department of Rural Affairs and the office of the governor, shall develop – in consultation with local government officials and others – a long-term disaster recovery plan to administer money received for disaster recovery from the federal government or any other source; and (4) if an application for low income housing tax credits satisfies TDHCA’s threshold criteria, TDHCA shall score and rank the application using a point system that takes into account, among other things, quantifiable community participation with respect to the development evaluated on the basis of a resolution concerning the development that is voted on and adopted by the governing body of a city whose boundaries contain the proposed development site. (Effective September 1, 2011.)

H.B. 2690 (Deshotel/Duncan) – Sale of Real Property: provides that a political subdivision may – without complying with notice and bidding requirements – donate or sell for less than fair market value a designated parcel of land or an interest in real property to another political subdivision if: (1) the land or interest will be used by the political subdivision to which it is donated or sold in carrying out a purpose that benefits the public interest of the donating or selling political subdivision; (2) the donation or sale of the land or interest is made under terms that effect and maintain the public purpose for which the donation or sale is made; and (3) the title and right to possession of the land or interest revert to the donating or

selling political subdivision if the acquiring political subdivision ceases to use the land or interest in carrying out the public purpose. (Effective immediately.)

H.B. 2785 (J.Davis/Shapiro) – Economic Development: establishes the Select Committee on Economic Development to ensure that economic development initiatives in the state are effective in encouraging new investment, employment, and income, and in retaining existing facilities and employment. (Effective September 1, 2011.)

S.B. 18 (Estes/Geren) – Eminent Domain: this is the governor’s emergency item eminent domain bill. Among other things, it:

1. provides that a governmental or private entity may not take private property through the use of eminent domain if the taking is not for a “public use.”
2. makes changes to the permitted activities of a surface owner with regard to easements acquired for a pipeline to be used for oil or gas exploration or production activities.
3. with regard to permissible roads built over an easement for an oil and gas pipeline, provides that the property owner and easement owner may agree to any terms related to the road that they wish.
4. provides that a city may exercise the right of eminent domain only for a public use to acquire public or private property, whether located inside or outside the city, for any of an enumerated list of uses in current law, including providing, enlarging, or improving of only a municipally-owned city hall or other project.
5. Enacts the Truth in Condemnation Procedures Act, which requires – among other things – a record vote with specific procedures and wording to take each parcel of land through the use of eminent domain.
6. requires that any entity authorized to exercise the power of eminent domain must submit to the state comptroller, by December 31, 2012, a letter stating that the entity is authorized to exercise the power of eminent domain and identifying the provision or provisions of law that grant the entity that authority, and provides that the entity’s authority to use eminent domain will expire if the letter is not sent by the deadline.
7. provides, among other things, that an entity with eminent domain authority that wants to acquire real property shall disclose to the property owner any and all appraisal reports produced or acquired by the entity relating specifically to the owner’s property and prepared in the ten years preceding the offer.
8. provides that: (1) an entity seeking to acquire property may not include a confidentiality provision in an offer or agreement to acquire the property; and (2) the entity shall inform the owner of the property that the owner has the right to: (a) discuss any offer or agreement regarding the entity’s acquisition of the property with others; or (b) keep the offer or agreement confidential (subject to the requirements of the Texas Public Information Act).
9. requires an entity with eminent domain authority that wants to acquire real property for a public use to make a bona fide offer to acquire the property from the property owner voluntarily, and list specific criteria that must be met to meet the bona fide offer requirement.
10. provides that a court that determines that a condemnor did not make a bona fide offer to acquire the property from the property owner voluntarily must abate the suit, order the condemnor to make a bona fide offer, and order the condemnor to pay costs and attorneys’ and other professionals’ fees.
11. provides that a condemnation petition must state with specificity the public use for which the entity intends to acquire the property and that the city made a bona fide offer to acquire the property voluntarily.

12. provides, among other things, that each party has a reasonable period to strike one of the three special commissioners appointed by the judge in the case, with the judge appointing a replacement.
13. provides that the special commissioners shall consider an injury or benefit that is peculiar to the property owner and that relates to the property owner's ownership, use, or enjoyment of the particular parcel of real property, including a material impairment of direct access on or off the remaining property that affects the market value of the remaining property, but they may not consider an injury or benefit that the property owner experiences in common with the general community, including circuity of travel and diversion of traffic.
14. requires a city, as a cost of acquiring real property, to: (a) provide a relocation advisory service for an individual, a family, a business concern, a farming or ranching operation, or a nonprofit organization that is compatible with the Federal Uniform Relocation Assistance and Real Property Acquisition Policies Act; and (b) pay moving expenses and rental supplements, make relocation payments, provide financial assistance to acquire replacement housing, and compensate for expenses incidental to the transfer of the property if an individual, a family, the personal property of a business, a farming or ranching operation, or a nonprofit organization is displaced in connection with the acquisition.
15. provides that an entity that is not subject to the Public Information Act, such as a gas pipeline operator, must disclose certain information relating to its use of eminent domain upon request.
16. modifies the current provisions that allow a property owner to repurchase the property if it isn't used by the condemnor within 10 years of the date of acquisition by providing that:
 - A. an entity with eminent domain authority shall disclose in writing to the property owner, at the time of acquisition of the property through eminent domain, that:
 - (a) the owner or the owner's heirs, successors, or assigns may be entitled to: (i) repurchase the property; or (ii) request from the entity certain information relating to the use of the property and any actual progress made toward that use; and
 - (b) the repurchase price is the price paid to the owner by the entity at the time the entity acquired the property through eminent domain.
 - B. a person from whom a real property interest is acquired by an entity through eminent domain for a public use, or that person's heirs, successors, or assigns, is entitled to repurchase the property as provided by this subchapter if: (a) the public use for which the property was acquired through eminent domain is canceled before the property is used for that public use; (b) no actual progress – as defined in the bill – is made toward the public use for which the property was acquired between the date of acquisition and the 10th anniversary of that date; or (c) the property becomes unnecessary for the public use for which the property was acquired, or a substantially similar public use, before the 10th anniversary of the date of acquisition.
 - C. not later than the 180th day after the date that the former property owner is entitled to repurchase the property, the entity shall send by certified mail, return receipt requested, to the property owner or the owner's heirs, successors, or assigns a notice containing – among other things – an identification of the public use for which the property had been acquired, a statement that the person has a right to repurchase the property under the bill, and an explanation of the reason under the bill the person has acquired the right to repurchase the property.
 - D. on or after the 10th anniversary of the date on which real property was acquired by an entity through eminent domain, a property owner or the owner's heirs, successors, or assigns may request that the condemning entity make a determination and provide a statement and other relevant information regarding:
 - (a) whether the public use for which the property was acquired was canceled before the property was used for the public use; (b) whether any actual progress

was made toward the public use between the date of acquisition and the 10th anniversary of that date, including an itemized description of the progress made, if applicable; and (c) whether the property became unnecessary for the public use, or a substantially similar public use, before the 10th anniversary of the date of acquisition.

- E. the right to repurchase provided by the bill is extinguished on the first anniversary of the expiration of the period for an entity to provide notice required under the bill if the entity: (a) is required to provide repurchase notice to a landowner; (b) makes a good faith effort to locate and provide notice to each person entitled to notice before the expiration of the deadline for providing notice; and (c) does not receive a response to any notice provided in the period for response.
 - F. as soon as practicable after receipt of a notice of intent to repurchase, the entity shall offer to sell the property interest to the person for the price paid to the owner by the entity at the time the entity acquired the property through eminent domain.
 - G. provide that a city council may adopt a development plan for a public use project at a public hearing to toll the 10-year right to repurchase if certain other criteria are met.
17. modifies the standard for determination of the fair value of the state's interest in access rights to a highway right-of-way to be the same legal standard that is applied by the Texas Transportation Commission according to the Texas Transportation Code, which may include the impairment of highway access to or from real property where the real property adjoins the highway.

(Effective September 1, 2011.)

S.B. 173 (West/Dutton) – Substandard Buildings: provides that: (1) a city may bring a civil action *in rem* (against the property) for, among other things, the enforcement of a building standards ordinance (Note: the effect of an *in rem* action is a judgment against the structure as well as a judgment against the defendant, which can aid in enforcement against subsequent purchasers); (2) a home rule city may bring an action in district court against an owner of property that is not in substantial compliance with municipal ordinances regarding: (a) the materials or methods used to construct a building or other structure or improvement; (b) the preservation of public health or the fire safety of a building or other structure or improvement; (c) dangerously damaged or deteriorated structures or improvements; (d) conditions caused by accumulations of refuse, vegetation, or other matter that creates breeding and living places for insects and rodents; or (e) point source effluent; and (3) with some exceptions, a court may appoint as a receiver for substandard property a nonprofit organization or an individual with a demonstrated record of rehabilitating properties if the court makes certain findings. (Effective September 1, 2011.)

S.B. 309 – Major Events Trust Fund: this bill: (1) updates the list of events eligible to receive funding from the Major Events Trust Fund to include the Academy of Country Music Awards, the National Cutting Horse Triple Crown, and a national political convention of the Republican National Committee or the Democratic National Committee; and (2) requires the comptroller to complete a study in the market area of an event eligible for disbursements from the fund not later than 18 months after the last day of an event in order to evaluate the measurable economic impact attributable to the event.

S.B. 402 (West/Oliveira) – Community Land Trusts: provides that the governing body of a city or county by ordinance or order may create or designate one or more community land trusts (CLTs), including a housing finance corporation or a land trust operated by a community housing development organization certified by the city or county, to operate in the city or county. (Note: A CLT is an affordable

housing tool generally used in gentrifying areas in which the CLT acquires title to land, sells or leases housing units located on the land, and leases the land through ground leases with terms of at least 99 years.) The bill makes land in a CLT tax-exempt. (Effective January 1, 2012.)

S.B. 1082 (Hegar/Laubenberg) – Strategic Partnership Agreements: provides that: (1) a city may enter into a strategic partnership agreement (SPA) only with certain conservation and reclamation districts; (2) to be annexed for limited purposes under an SPA, an area must be in the city's extraterritorial jurisdiction and contiguous to the corporate or limited purpose boundaries unless the district consents to noncontiguous annexation pursuant to an SPA with the city; and (3) a city may not regulate the sale, use, storage, or transportation of fireworks outside the city's boundaries pursuant to an SPA. (Effective September 1, 2011.)

PERSONNEL

H.B. 159 (Raymond/Zaffirini) – Texas Municipal Retirement System: provides that an individual shall receive a lump-sum payment in an amount equal to the sum of the service retirement annuity payments if the person: (1) retired based on a bona fide termination of employment; (2) resumes employment with the reemploying city at least eight years after the effective date of the person's retirement; and (3) retires after the effective date of the bill. (Effective September 1, 2011.)

S.B. 350 (Williams/Truitt) – Texas Municipal Retirement System: this bill: (1) combines the Municipality Accumulation Fund, Employees Saving Fund, and Current Service Annuity Reserve Fund into one fund (the Benefit Accumulation Fund); and (2) requires all benefits to be paid into and out of this fund. (Effective immediately.)

S.B. 423 (Lucio/Menendez) – Survivor Benefits: provides that: (1) survivors of trainee peace officers who are killed in the line of duty are eligible for health benefits; (2) a survivor who would be eligible for line of duty death health benefits may be: (a) eligible to purchase health benefits from the deceased officer's employer's benefits carrier even if the survivor has health benefits with another employer; and (b) eligible to apply for health benefits until September 1, 2012, if the officer died after September 1993. (Effective immediately.)

S.B. 545 (Seliger/Driver) – Police Termination Reports: provides that: (1) a police chief must indicate that an officer was terminated when filing a report to the Texas Commission on Law Enforcement Officer and Education; (2) an officer is authorized to dispute a report stating that the officer was terminated in an appeal to the State Office of Administrative Hearings; and (3) the commission may assess an administrative penalty against a police chief who fails to make a correction to an employment termination report after being ordered to do so by the State Office of Administrative Hearings. (Effective September 1, 2011.)

S.B. 812 (Zaffirini/Raymond) – Texas Municipal Retirement System: includes substantially the same provisions as **H.B. 159**, above. (Effective immediately.)

PUBLIC SAFETY

H.B. 215 (Gallego/Ellis) – Law Enforcement: requires local law enforcement agencies that regularly use live and photograph lineups to adopt a detailed written policy regarding lineup identification procedures, and directs the Bill Blackwood Law Enforcement Management Institute of Texas to develop

a model policy and associated training materials to assist law enforcement agencies with compliance. (Effective September 1, 2011.)

VETOED H.B. 242 (Craddick/Hegar) – Law Enforcement/Texting While Driving – among other things, this bill: (1) requires the head of a local law enforcement agency at which a person last served as a reserve law enforcement officer to issue the person photo identification if the person holds a certificate of proficiency; (2) prohibits the operator of a motor vehicle from using a hand-held wireless communication device to read, write, or send a text-based communication while operating the vehicle unless the vehicle is stopped; (3) excepts the operator of a motor vehicle from prosecution for violating the prohibition in (2), above, if the operator uses a hand-held wireless communication device: (a) to read, select, or enter a phone number or name to make a phone call; (b) in conjunction with voice-operated technology or a hands-free device; or (c) to navigate using a global positioning system; and (4) excepts the operator of a motor vehicle from prosecution for violating the prohibition in (2), above, if the hand-held wireless communication device is used by the operator to relay information between the operator and a dispatcher in the course of the operator’s occupational duties and is affixed to the vehicle. (Effective September 1, 2011.)

H.B. 343 (Fletcher/Huffman) – Accident Reports: provides that: (1) the record of a peace officer, fire fighter, or emergency medical services employee of a city may not include information relating to a traffic accident that occurs while the employee is driving an official vehicle in the course and scope of the employee’s official duties if the traffic accident results in damages to property of less than \$1,000 or an investigation by a peace officer not involved in the accident determines that the employee was not at fault; and (2) an accident form prepared by the Texas Department of Transportation must: (a) include a way to designate and identify a peace officer, firefighter or emergency medical services employee who is involved in an accident while driving a vehicle in the performance of the employee’s duties; and (b) require a statement by the employee as to the nature of the accident. (Effective September 1, 2011.)

H.B. 442 (Guillen/Williams) – Emergency Communications: provides that the amount of the consolidated state court cost presently allocated for fugitive apprehension is reallocated to a new program for emergency radio infrastructure, with the proceeds to be used for an interoperable statewide emergency radio infrastructure and other public safety purposes. (Effective September 1, 2011.)

H.B. 564 (Craddick/Seliger) – Fire Extinguishers: provides that a local government that adopts an ordinance, order, or policy requiring motor vehicles owned by the local government to be equipped with portable fire extinguishers shall require maintenance to be performed on the portable fire extinguishers annually in accordance with standards that are at least as stringent as the National Fire Protection Association Standard Number 10, *Portable Fire Extinguishers*. (Effective immediately.)

H.B. 577 (McClendon/Deuell) – Emergency Services: this bill: (1) provides that emergency medical services (EMS) personnel, when responding to a call for assistance, have no duty to review, examine, interpret, or honor a person’s written directive; (2) provides that EMS personnel who are providing emergency prehospital care are subject to Health and Safety Code Chapter 166, which relates to advance directives; (3) authorizes a physician present while a person is receiving emergency prehospital care and who assumes responsibility for the care of the person to order the termination of cardiopulmonary resuscitation (CPR); and (4) provides that if a person’s personal physician is not present or does not assume responsibility for the care of the person while the person is receiving emergency prehospital care, the EMS medical director or online physician: (a) shall be responsible for directing the EMS personnel who are providing emergency prehospital care; and (b) may order the termination of CPR. (Effective immediately.)

H.B. 787 (Kuempel/Wentworth) – Abandoned Watercraft and Aircraft: provides that: (1) a law enforcement agency may seize and auction an abandoned aircraft; and (2) an aircraft or watercraft could, under certain circumstances, constitute a junked vehicle and a nuisance subject to abatement. (Effective September 1, 2011).

H.B. 993 (Rodriguez/Watson) – Road Closures: this bill: (1) authorizes a firefighter working for a volunteer fire department, a fire department operated by an emergency services district, or a fire department of a general law city to close one or more lanes of a road or highway to protect the safety of persons or property when performing the firefighter's official duties; (2) provides that a lane closure must be limited to the affected lane or lanes and one additional lane, unless the safety of emergency personnel operating on the road or highway requires more lanes to be closed; and (3) requires that, in making a lane closure, a firefighter deploy one or more authorized emergency vehicles with audible and visual signals that meet certain requirements in the Transportation Code regarding the lights and equipment on emergency vehicles. (Effective September 1, 2011.)

H.B. 1083 (Elkins/Fletcher) – Police Identification Card: requires that a law enforcement agency or other governmental entity that was the last to appoint or employ an honorably retired peace officer issue the retired officer an identification card if the retired peace officer holds a certificate of proficiency and requests the identification. (Effective immediately.)

H.B. 1137 (Darby/Estes) – Pseudoephedrine: provides, among other things, that: (1) a business establishment may not sell to a person who makes over-the-counter purchases of one or more products containing ephedrine, pseudoephedrine, or norpseudoephedrine more than nine grams of those substances within a 30-day period or more than 3.6 grams in a calendar day; (2) before completing an over-the-counter sale of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine, a business establishment shall transmit certain information about the sale to a real-time electronic logging system used by pharmacies, law enforcement agencies, and other businesses; (3) a business establishment may not complete an over-the-counter sale of a product containing ephedrine, pseudoephedrine, or norpseudoephedrine if a real-time electronic logging system returns a report that the completion of the sale would result in the person obtaining an amount greater than allowed, regardless of whether all or some of the products previously obtained by the buyer were sold at another business establishment; (4) a business establishment may obtain a temporary exemption from the requirement of using a real-time electronic logging system but must still keep certain written records of the sells; and (5) a business establishment shall make the records of the sale of these substances available on request to local law enforcement agencies. (Effective September 1, 2011.)

H.B. 1168 (D. Miller/Van de Putte) – Smoke Alarms: modifies the law relating to a landlord's duty to install smoke alarms in a rental unit. Of particular interest to cities, the bill provides that, if a dwelling unit was occupied as a residence before September 1, 2011, or a certificate of occupancy was issued for the dwelling unit before that date, a smoke alarm installed in accordance with law may be powered by battery and is not required to be interconnected with other smoke alarms, except that a smoke alarm that is installed to replace a smoke alarm that was in place on the date the dwelling unit was first occupied as a residence must comply with residential building code standards that applied to the dwelling unit on that date. (Effective September 1, 2011.)

H.B. 1215 (McClendon/Uresti) – Identity Theft Police Report: provides that a police officer making a report for stolen financial information must: (1) include in the report the name of the victim, the name of the suspect, the type of information obtained, and the results of any investigation; and (2) provide the report to the victim upon request. (Effective September 1, 2011).

H.B. 1451 (Thompson/Whitmire) – Dog and Cat Breeders: would: (1) provide for the licensing and regulation of commercial dog and cat breeders by the Texas Department of Licensing and Regulation; (2) authorize the department to contract with third-party inspectors, including local law enforcement agencies and local animal control agencies, to enforce or assist in the inspection of, investigation of, and enforcement against commercial dog and cat breeders; (3) authorize the department to establish training requirements, registration procedures, and policies governing third-party inspectors; (4) require that a person inspecting or investigating a dog or cat breeder notify a local law enforcement or local animal control agency not later than 24 hours after discovering evidence of animal cruelty or neglect during an inspection or investigation; and (5) not affect the applicability of an ordinance or other legal requirement of a city or prevent a city from prohibiting or further regulating the possession, breeding, or selling of dogs or cats. (Effective immediately.)

H.B. 1541 (McClendon/Wentworth) – Automobile Burglary and Theft: provides, among other things, that: (1) an insurer shall pay to the Texas Auto Theft and Burglary Prevention Authority a fee equal to \$2 multiplied by the total number of motor vehicle years of insurance for insurance policies delivered, issued for delivery, or renewed by the insurer; (2) fifty percent of each fee collected may be appropriated only to the authority for the purposes of prevention of auto theft and burglary; and (3) the authority shall allocate grant funds, including grants to municipal police departments, primarily based on the number of motor vehicles stolen in, or the motor vehicle burglary or theft rate across, the state rather than based on geographic distribution. (Effective September 1, 2011.)

H.B. 2006 (Bonnen/Huffman) – Release of Police Officer Photograph: provides that a chapter 143 civil service city may not release a photograph of an officer unless: (1) the officer has been charged with an offense; (2) the officer is a party in a civil service hearing or case before an examiner or arbitrator; (3) the photograph is evidence in a judicial proceeding; or (4) the officer gives written consent. (Effective September 1, 2011.)

H.B. 2471 (Phillips/Deuell) – Animal Control: limits the civil liability of animal control agencies and their employees who, within the scope of employment and in good faith, take into custody and care for certain animals that are abandoned, running at large, or stray and are obtained from a person who is not affiliated with the animal control agency and who certifies that they took reasonable steps to locate the owner. (Effective September 1, 2011.)

H.B. 2490 (Solomons/Carona) – Crafted Precious Metal: provides for various changes to the law relating to crafted precious metal dealers. Of particular interest to cities, the bill provides that a peace officer who has reasonable suspicion to believe that an item of crafted precious metal in the possession of a dealer is stolen may place the item on hold for a period not to exceed 60 days by issuing to the dealer a written notice that: (1) specifically identifies the item alleged to be stolen and subject to the hold; and (2) informs the dealer of certain requirements, including a requirement that the dealer may not melt, deface, alter, or dispose of the identified crafted precious metal until the hold is released in writing by a peace officer of this state or a court order. (Except as otherwise provided in the bill, effective September 1, 2011.)

H.B. 2624 (Sheffield/Van de Putte) – Military Family Violence: this bill relates to procedures applicable in circumstances involving family violence and other criminal conduct and military personnel. Of particular interest to cities, the bill requires: (1) a peace officer who investigates a family violence incident or responds to a disturbance call that may involve family violence to make a written report that includes whether the suspect is a member of the state military forces or is serving in the U.S. armed forces in an active-duty status; and (2) a peace officer to provide written notice of the incident described in (1), above, to the staff judge advocate at Joint Force Headquarters or the provost marshal of the military

installation to which the suspect is assigned with the intent that the commanding officer will be notified, as applicable. (Effective September 1, 2011.)

H.B. 3487 (V. Taylor/Carona) – Law Enforcement Canines: this bill: (1) prohibits a commercial lodging establishment or restaurant from requiring the payment of extra money or a deposit for a service canine that accompanies an individual to the establishment or restaurant if the individual is a peace officer or firefighter assigned to a canine unit, a search and rescue canine handler participating in a search and rescue under authority of a law enforcement or search and rescue agency, or away from home in the course and scope of duty because of a declared disaster or mutual aid request or training; (2) provides for the imposition of a civil penalty against the owner or operator of a commercial lodging establishment or restaurant that violates the prohibition described in (1), above; and (3) provides that governmental immunity from suit and from liability is waived such that the department or agency of a canine unit or handler of a search and rescue canine may be held liable to the owner or operator of a commercial lodging establishment or restaurant for damages to the premises caused by the service canine. (Effective September 1, 2011.)

H.B. 3547 (Alvarado/Gallegos) – Child-Care Facilities: provides that: (1) a city or a county may enforce state law and rules adopted under state law concerning fire safety standards at a licensed group day-care home or a registered family home; and (2) a city or county shall report to the Department of Family and Protective Services any violation of fire safety standards observed by the city or county at a licensed group day-care home or registered family home. (Effective September 1, 2011.)

H.B. 3823 (Thompson/Ellis) – 911 Dispatcher Training: provides that the Texas Commission on Law Enforcement Officer Standards and Education shall require a state, county, special district, or municipal agency that employs telecommunicators (defined as “a person acknowledged by the commission and employed by or serving a law enforcement agency that performs law enforcement services on a 24-hour basis who receives, processes, and transmits public safety information and criminal justice data for the agency by using a base radio station on a public safety frequency”) to provide each telecommunicator with 24 hours of crisis communications instruction approved by the commission on or before the first anniversary of the telecommunicator’s first day of employment. (Effective September 1, 2011.)

S.B. 81 (Nelson/Kolkhorst) – Cottage Food Regulation: provides that a local health department may not regulate the production of food at a cottage food production operation, but must maintain a record of any complaints against such a facility. (Effective September 1, 2011.)

S.B. 244 (Patrick/Fletcher) – Police Officer Training: provides that a peace officer who is second in command to a police chief of a law enforcement agency and who attends a continuing education program for command staff provided by the Bill Blackwood Law Enforcement Management Institute of Texas is exempt from certain line-level continuing education hours required by the Texas Occupations Code. (Effective September 1, 2011.)

S.B. 316 (Whitmire/Gallego) – Felony Forfeiture: among other things, this bill: (1) prohibits prosecutors from executing a plea bargain agreement that would waive a person’s interest in property seized under the felony forfeiture laws; (2) provides that post-judgment interest on money seized under the felony forfeiture laws shall be used for the same purposes that the principal is used; (3) prohibits the use of felony forfeiture funds for: (a) political campaigns; (b) donations to certain organizations that do not assist in the detection, investigation, or prosecution of crime or provide rehabilitation services; (c) judicial training; (d) certain travel expenses; (e) alcoholic beverages; (f) any expenditure not approved by the city council if the law enforcement agency head holds elective office and is not running for reelection or did not prevail in a reelection bid; or (g) a salary, expense, or allowance for an employee of the law enforcement agency that was not approved by the city council; (4) allows the head of a law enforcement

agency to donate felony forfeiture funds to an entity that assists in: (a) the detection, investigation, or prosecution of crime or abuse; or (b) the provision of mental health, drug, or rehabilitation services; (5) requires more detailed local audits of the expenditure of felony forfeiture funds; (6) permits the state auditor to investigate at any time the expenditure of felony forfeiture funds; (7) requires a law enforcement agency to reimburse the state auditor for costs incurred by the state auditor in performing an audit; (8) permits the attorney general to sue a law enforcement agency or prosecutor who misuses felony forfeiture funds; and (9) permits up to a \$100,000 civil fine for misuse of felony forfeiture funds. (Effective September 1, 2011.)

S.B. 321 (Hegar/Kleinschmidt) – Firearms: provides that: (1) an employer may not prohibit an employee who has a concealed handgun license, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition, from transporting or storing a firearm or ammunition in a locked, privately owned vehicle in a parking lot, garage, or other parking area provided for employees; (2) the bill does not: (a) authorize a concealed handgun license holder, who otherwise lawfully possesses a firearm, or who lawfully possesses ammunition, to possess a firearm or ammunition on any property where the possession of a firearm or ammunition is prohibited by state or federal law; or (b) apply to a vehicle owned or leased by a public or private employer and used by an employee in the course and scope of the employee's employment, unless the employee is required to transport or store a firearm in the official discharge of the employee's duties; (3) the bill allows an employer to limit the possession of a firearm on the premises of the employer's business ("Premises" is defined in law as a building or a portion of a building, but the term does not include any public or private driveway, street, sidewalk or walkway, parking lot, parking garage, or other parking area); (4) except in cases of gross negligence, a public or private employer is not liable in a civil action for personal injury, death, property damage, or any other damages resulting from or arising out of an occurrence involving a firearm or ammunition that the employer is required to allow on the employer's property under the bill; and (5) for purposes of the bill, a public or private employer does not have a duty to patrol, inspect, or secure any privately owned car or a parking lot, parking garage, or other parking area the employer provides for employees or to investigate, confirm, or determine an employee's compliance with laws related to the ownership or possession of a firearm or ammunition or the transportation and storage of a firearm or ammunition. (Effective September 1, 2011.)

S.B. 331 (Shapiro/Madden) – Synthetic Derivative of Marihuana: this bill: (1) makes any quantity of a synthetic chemical compound that is a cannabinoid receptor agonist and that mimics the pharmacological effect of naturally occurring cannabinoids subject to Penalty Group 2-A of the Texas Controlled Substances Act; (2) provides the penalty for possession of a substance in Penalty Group 2-A; and (3) provides that it is not an offense to knowingly possess a controlled substance listed in Penalty Group 2-A if obtained directly from or under a valid prescription or order of a practitioner acting in the course of professional practice. (Effective September 1, 2011.)

S.B. 335 (Fraser/Eiland) – Government Hospitals and Clinics: provides that a hospital or clinic owned or operated by a political subdivision of the state is exempt from the term "health spa" and is thereby exempted from certain regulations imposed on health spas. (Effective September 1, 2011.)

S.B. 364 (Ogden/F. Brown) – Driving While Intoxicated: requires: (1) the Texas Department of Public Safety to compile and maintain statistical information on the prosecution of offenses relating to the operating of a motor vehicle while intoxicated; and (2) any police department that enforces intoxication and alcohol related laws to report in the manner and on a form prescribed by the department the number of arrests for operating a vehicle while intoxicated and the number of those arrests resulting in release with no charges. (Effective September 1, 2011.)

S.B. 396 (Deuell/Marquez) – Firefighter Death Investigation: broadens the state fire marshal’s authority to investigate firefighter deaths, including any factors that may have contributed to a death in connection with an on-duty incident. (Effective immediately.)

S.B. 542 (Hegar/Fletcher) – Police Chief Training: provides that a police chief shall complete the initial training and continuing education relating to law enforcement management issues required under the Texas Education Code. (Effective September 1, 2011).

S.B. 646 (Nichols/Cook) – Texas Forest Service: provides, among other things, that: (1) the Texas Forest Service may support the state’s all-hazard response operations by: (a) providing incident management training to local and volunteer responders; (b) maintaining incident management teams that include local and volunteer responders; (c) mobilizing incident management teams for wildfire response operations; and (d) mobilizing incident management teams to provide incident support for local jurisdiction operations; (2) the director of the Service may establish guidelines within which local volunteer fire departments may assist the Service in responding to a wildfire after other local firefighting resources have been exhausted; (3) the Service may, to the extent resources are available, compensate a volunteer firefighter or volunteer department for labor and expenses relating to wildfire assistance and reimburse a volunteer fire department for equipment provided by the department in regard to wildfire assistance; (4) the director of the Service is authorized to determine: (a) the rate at which a volunteer firefighter or volunteer department may be compensated or reimbursed; (b) the type of labor and expenses for which a volunteer firefighter or volunteer department may be compensated; (c) the type of equipment for which a volunteer fire department may be reimbursed; and (d) the minimum qualifications a volunteer firefighter must meet in order to be compensated, which may include certification under a program administered by the State Firemen’s and Fire Marshals’ Association of Texas or the Texas Forest Service; (5) a volunteer firefighter who receives compensation as described in (3) and (4), above, is not subject to certain Texas Commission on Fire Protection certification requirements; (6) the Service may issue National Wildfire Coordinating Group certification to a volunteer firefighter under terms determined by the director; (6) the Service must develop and regularly update a wildfire protection plan that includes: (a) the Service’s role in supporting local fire department responses, and the manner in which a community may engage the Service on issues related to wildfires; and (b) a description of the role of volunteer fire departments in wildfire response; (7) the director must use certain criteria and qualifications in distributing money from the volunteer fire department assistance fund, including the frequency, size, and severity of past wildfires in the jurisdiction and the potential for loss or damage to property resulting from future wildfires in the jurisdiction; and (8) the Service may designate a portion of the volunteer fire department assistance fund to be used to assist volunteer departments in meeting cost share requirements for federal grants. (Effective September 1, 2011.)

S.B. 766 (Estes/Issac) – Sport Shooting Ranges: provides that: (1) a governmental unit, including a city, may not bring suit against a sport shooting range for the lawful discharge of firearms on a sport shooting range or regulate the lawful discharge of firearms on a sport shooting range, except to limit the hours of operation in a manner not more limited than the least limited business in the city except bars; and (2) a city may enforce a valid ordinance or regulation or require the sport shooting range to comply with generally accepted standards in the industry at the time of the range’s construction through injunctive relief against a sport shooting range in certain circumstances. (Effective September 1, 2011.)

S.B. 1217 (Estes/Hilderbran) – Underground Excavations: provides that an excavator who misrepresents a fact or circumstance to undertake an alleged emergency excavation so as to be excepted from the “call before you dig” requirement is subject to certain penalties, including: (1) civil penalties, which increase with multiple violations; (2) a warning letter and mandatory safety training; and (3) criminal penalties if the person acts intentionally or recklessly. (Effective September 1, 2011.)

S.B. 1616 (West/Gallego) – Biological Evidence: requires the Department of Public Safety to adopt standards and rules relating to biological evidence of a sexual assault or a felony offense preserved by a governmental entity, including a law enforcement agency or crime laboratory, and additionally requires that the evidence be preserved for: (1) 40 years or until the applicable statute of limitations has expired, if there is an unapprehended actor associated with the offense; or (2) various periods of time in a case where a defendant has been adjudicated and there are no additional unapprehended actors, depending on the type of conviction and whether the defendant was a juvenile. (Effective immediately.)

S.B. 1636 (Davis/McClendon) – Sexual Assault Evidence: this bill: (1) provides that certain individuals handling sexual assault evidence, including law enforcement and laboratory personnel, must maintain the chain of custody of the evidence from the time the evidence is collected until the time the evidence is destroyed; (2) requires a law enforcement agency that receives physical sexual assault evidence in an active criminal case to submit that evidence to a public accredited crime laboratory for analysis not later than the 30th day after it is received; (3) requires a person who submits sexual assault evidence to a crime lab to provide signed, written certification with each submission as follows: “This evidence is being submitted by (name of person making submission) in connection with a criminal investigation.”; (4) requires a public accredited crime lab to complete its analysis of sexual assault evidence as soon as practicable, if sufficient personnel and resources are available; (5) provides that the failure of a law enforcement agency to submit sexual assault evidence within the period described in (2), above, does not affect the authority of the agency to submit the evidence to a crime lab for analysis or a lab to analyze the evidence; (6) authorizes the disclosure of sexual assault evidence under certain circumstances; (7) provides for the consent for/withdrawal of consent for the release of evidence contained in an evidence collection kit; (8) requires a law enforcement agency in possession of sexual assault evidence that that has not been submitted for lab analysis to submit: (a) a list of the agency’s active criminal cases for which sexual assault evidence has not been submitted for laboratory analysis to the Department of Public Safety (DPS) no later than October 15, 2011; (b) all sexual assault evidence pertaining to active criminal cases that have not been submitted for lab analysis to the DPS or a public accredited crime lab by April 1, 2012; (c) a notification to DPS of any evidence submitted under (b), above, to a non-DPS lab; and (9) provides that this bill does not apply to sexual assault evidence collected before September 1, 1996. (Effective September 1, 2011.)

S.B. 1787 (Patrick/Martinez Fischer) – Blood and Breath Specimens: requires a peace officer, before requesting a person to submit to the taking of a specimen, to inform the person orally and in writing that, if the person refuses to submit to the taking of a specimen, the officer may apply for a warrant authorizing a specimen to be taken from the person. (Effective September 1, 2011.)

TRANSPORTATION

H.B. 563 (Pickett/Nichols) – Transportation Reinvestment Zones: amends the law relating to transportation reinvestment zones (TRZs) to provide that: (1) a TRZ may be used to facilitate the improvement, development, or redevelopment of property or to enhance a local entity’s ability to sponsor a transportation project funded by pass-through tolls; (2) an ordinance designating an area as a TRZ must, among other things, designate the base year for purposes of establishing the tax increment base of the city, which is the year of passage of the ordinance or some year in the future, and contain findings that promotion of the transportation project will cultivate the improvement, development, or redevelopment of the zone; (3) from taxes collected on property in a TRZ, the city shall pay into the tax increment account the tax increment produced by the city, less any amount allocated under previous agreements; (4) all, or the portion specified by the city, of the money deposited to a tax increment account must be used to fund the transportation project for which the TRZ was designated as well as aesthetic improvements within the

zone, and any remaining money deposited to the tax increment account may be used for other purposes as designated by the city; (5) the governing body of a city may contract with a public or private entity to develop, redevelop, or improve a transportation project in a TRZ and may pledge and assign all or a specified amount of money in the tax increment account to that entity; (6) to accommodate changes in the scope of the project for which a TRZ was designated, the boundaries of a zone may be amended, with certain exceptions; (7) any surplus remaining in a tax increment account on termination of a zone may be used for other purposes as determined by the municipality; (8) county TRZ authority is expanded; (9) a city or may establish a TRZ for any transportation project; (10) if all or part of the transportation project is subject to oversight by the Texas Department of Transportation (TxDOT), at the option of the governing body of the city, the department shall delegate full responsibility for the development, design, letting of bids, and construction of the project to the city; (11) after assuming responsibility for a project under (10), a city shall enter into an agreement with TxDOT that prescribes the development process, the roles and responsibilities of the parties, and the timelines for any required reviews or approvals; and (12) TxDOT may not reduce funding to a county or city that designates and uses a TRZ, nor may the department reduce funding to one if its districts because the district contains a TRZ. (Effective September 1, 2011.)

H.B. 630 (Pickett/Nichols) – Transportation: provides a procedure whereby a political subdivision that participates financially in certain Texas Department of Transportation projects may assist with, and expedite, the environmental review process. (Effective September 1, 2011.)

H.B. 1116 (Harper-Brown/Shapiro) – Radar Interference Devices: this bill: (1) prohibits a person, other than a law enforcement officer in the discharge of his official duties, from using, attempting to use, installing, operating, or attempting to operate a “radar interference device” in a motor vehicle operated by the person; (2) prohibits a person from purchasing, selling, or offering for sale a “radar interference device” to be used in a manner described in (1), above; and (3) makes a violation of the prohibitions described in (1) and (2), above, a Class C misdemeanor. (Effective September 1, 2011.)

H.B. 1353 (Elkins/Williams) – Speed Limits: this bill: (1) provides, with some exceptions, that a speed of 70 miles per hour is lawful on non-urban numbered highways, regardless of the type of vehicle or time of day; (2) provides, with some exceptions, that a speed limit of 60 miles per hour is lawful on unnumbered non-urban highways and other roads, regardless of the time of day; (3) requires all speed limits to be the same regardless of the time of day; (4) repeals lower speed limits for trucks; (5) prohibits a city from establishing a speed limit of more than 75 miles per hour on a highway in the city; and (6) authorizes the Texas Transportation Commission to enter an order establishing prima facie speed limits of not more than 75 miles per hour applicable to all highways, including a highway under the control of a city, though the order does not have the effect of increasing the speed limit on a highway. (Effective September 1, 2011.)

H.B. 1376 (Bohac/Ellis) – Junked Vehicles: provides that the definition of “junked vehicle” in state law includes vehicles that: (1) display an expired license plate or invalid inspection sticker; or (2) do not display any license plate or inspection sticker. (Effective September 1, 2011.)

S.B. 1386 (Lucio/Oliveira) – Motor Vehicles: this bill: (1) authorizes a city to enter into a contract with the county in which the city is located or the Texas Department of Motor Vehicles (DMV) to provide information to the county assessor-collector so that the assessor-collector can make a determination of whether to refuse to register a motor vehicle because of an outstanding warrant for failure to appear or pay a fine for violation of a traffic law; and (2) authorizes a city that has a contract described in (1), above, to impose an additional \$20 fee on a person who has an outstanding warrant from the city for failure to appear or pay a fine on a complaint that involves the violation of a traffic law and to use the fee

to reimburse the DMV, the county assessor-collector, or another county department for its expenses related to services under the contract. (Effective September 1, 2011.)

H.B. 1899 (Pickett/Rodriguez) – Cell Phone Bans: this bill: (1) exempts a city from the requirement to post a sign at a school crossing zone regarding the prohibited use of a wireless communication device if: (a) the city prohibits the use of a wireless communication device while operating a motor vehicle throughout its jurisdiction; (b) the city posts signs at each point at which a highway enters the city stating that an operator is prohibited from using a wireless communication device while operating a motor vehicle in the city and that the operator is subject to a fine for a violation; and (c) posts the same message as described in (b) on any dynamic message sign operated by the city on a highway in the city; and (2) provides that the affirmative defense that the car was stopped or was a hands-free device is not available to an operator for an offense committed in a school crossing zone in a city that posts signs in compliance with (1), above. (Effective September 1, 2011.)

H.B. 2596 (Garza/Wentworth) – Speed Limits: among other things, provides that: (1) the city council in a city of less than 2,000 in population, for a highway or part of a highway in the city that is not an officially designated or marked highway or road of the state highway system, may declare a lower speed limit of not less than 20 miles per hour, if the council determines that the prima facie speed limit on the highway is unreasonable or unsafe; and (2) the authority described in (1), above, applies to a one-lane or two-lane, undivided highway or part of a highway. (Effective immediately.)

H.B. 3510 (Hamilton/Carona) – Vehicle Towing: this bill: (1) defines an “incident management tow” to include the removal of a vehicle, cargo, and debris from an accident or incident scene; (2) defines a “parking facility” to include certain lots or areas that charge a fee for parking; (3) allows the Texas Commission of Licensing and Regulation (Commission) to adopt different rules for permits or licenses for tow trucks, towing operators, towing companies, booting companies, and boot operators; (4) requires the Commission to adopt requirements for a consent tow, private property tow, and incident management tow; (5) prohibits a license or permit holder from charging a fee for a nonconsent tow, or a service related to a nonconsent tow, that is greater than that established in state law or authorized by a city; (6) provides that a boot operator may boot certain unauthorized vehicles if a parking facility owner requests the boot or has a standing agreement with the boot operator; (7) requires a vehicle storage facility accepting an unauthorized vehicle that has been towed (except for an incident management tow requested by a law enforcement agency), to report the tow and certain other information to the police or sheriff, as applicable, within two hours of receiving the vehicle; (8) authorizes a law enforcement agency to request a vehicle storage facility to provide a report, in a manner prescribed by the law enforcement agency, of incident management tows within the jurisdiction of the agency and requires that the report be provided not later than 48 hours after receipt of the request; (9) requires certain signage before the towing or booting of vehicles under certain circumstances; (10) provides, in regard to hearings involving a towed vehicle, that a court may award attorney’s fees to the prevailing party; (11) provides that a failure to comply with certain permitting, licensing, and fee requirements is enforceable by law enforcement; and (12) repeals certain provisions related to the fees for private property tows, the filing of reports/schedules, and attorney’s fees. (Effective September 1, 2011.)

S.B. 86 (Nelson/S. Miller) – Traffic Fines: authorizes a city, whether general law or home-rule, to enter into a contract with the county tax assessor-collector to provide information regarding the nonpayment of traffic fines or the failure to appear in municipal court for traffic offenses, thus authorizing the assessor-collector to refuse to register or re-register the vehicle of the person in question. (Effective immediately.)

S.B. 548 (Nichols/Darby) – Transportation: includes substantially the same provisions as **H.B. 630**, above. (Effective immediately.)

S.B. 1420 (Hinojosa/Harper-Brown) – Department of Transportation; this is the Texas Department of Transportation (TxDOT) sunset bill. Among many other things, it:

1. continues TxDOT's existence until September 1, 2015.
2. mandates that TxDOT submit to the legislature a complete and detailed financial audit conducted by an independent certified public accountant.
3. provides that, if an annual performance evaluation indicates unsatisfactory performance by an employee employed in a position at or above the level of district engineer or division or office director, the Texas Transportation Commission (commission) shall consider whether the employee should be terminated.
4. provides that the commission shall establish a compliance program, which must include a compliance office to oversee the program that is responsible for acting to prevent and detect serious breaches of departmental policy, fraud, waste, and abuse of office.
5. requires TxDOT to develop a standard form for submitting a complaint and make the form available on its Internet Web site and to develop a method for analyzing the sources and types of complaints and violations and establish categories for the complaints and violations.
6. requires that the chief financial officer certify each month that any state highway construction and maintenance contracts to be awarded by the department during that month will not create state liability that exceeds the department's most recent cash flow forecast.
7. requires TxDOT to develop a statewide transportation plan covering a period of 24 years and that is updated every four years that contains all modes of transportation.
8. provides that the plan must contain specific, long-term transportation goals for the state and measurable targets for each goal, identify priority corridors, projects, or areas of the state that are of particular concern in meeting the plan goals, and contain a participation plan specifying methods for obtaining formal input on the plan's goals and priorities with input from, among others, political subdivisions.
9. provides a procedure whereby a political subdivision that participates financially in certain TxDOT projects may assist with, and expedite, the environmental review process.
10. requires TxDOT to establish a project information reporting system that makes available in a central location on the Internet easily accessible and searchable information regarding all of TxDOT's transportation plans.
11. requires TxDOT to develop a process to identify and distinguish between the transportation projects that are required to maintain the state infrastructure and the transportation projects that would improve the state infrastructure in a manner consistent with the statewide transportation plan.
12. requires TxDOT to develop and implement a policy for public involvement that guides and encourages public involvement with TxDOT.
13. requires TxDOT to develop a unified transportation program covering a period of 10 years and updated each year to guide the development of and authorize construction of transportation projects.
14. provides that the commission shall develop criteria for major transportation projects, program priority categories, and funding allocation and distribution.
15. provides that all or the portion specified by the city of the money deposited to a tax increment account established in a transportation reinvestment zone must be used to fund the transportation project for which the zone was designated, as well as aesthetic improvements within the zone, and provide that any remaining money deposited to the tax increment account may be used for other purposes as determined by the city.
16. provides that a city may issue bonds to pay all or part of the cost of the transportation project and may pledge and assign all or a specified amount of money in a transportation reinvestment zone's tax increment account to secure repayment of those bonds.

17. lists numerous projects that may be constructed using a comprehensive development agreement, and places various limitations on those agreements.
18. allows TxDOT or a toll road authority may use the design-build method for the design, construction, expansion, extension, related capital maintenance, rehabilitation, alteration, or repair of a highway project.
19. provides that any fines or fees received under the Texas Highway Beautification Act go to the state highway fund, as opposed to the state highway beautification account.
20. creates additional administrative procedures, fees, and civil penalties relating to outdoor advertising that is subject to state law.
21. provides that the combined license and permit fees may not exceed \$10 for an off-premise sign erected and maintained by a nonprofit organization in a city or a city's extraterritorial jurisdiction if the sign relates to or promotes only the city or a political subdivision whose jurisdiction is wholly or partly concurrent with the city.
22. requires TxDOT, in cooperation with local governments, to actively manage a system of changeable message signs located on highways under the jurisdiction of TxDOT to mitigate traffic congestion by providing current information to the traveling public, including information about traffic incidents, weather conditions, road construction, and alternative routes when applicable.

(Except as otherwise provided in the bill, effective September 1, 2011.)

UTILITIES AND ENVIRONMENT

H.B. 51 (Lucio/Hinojosa) – Energy Conservation Codes: provides that: (1) a city shall establish procedures to track and report to the State Energy Conservation Office on implementation of the energy efficiency chapter of the International Residential Code and the International Energy Conservation Code; (2) the Energy Systems Laboratory at Texas A&M University shall report its findings to the city, including an estimate of any energy savings potential above the unamended code from local amendments and annually submit a report to the Texas Commission on Environmental Quality that: (a) identifies the cities and counties whose codes are more stringent than the unamended code, and whose codes are equally stringent or less stringent than the unamended code; and (b) quantifies energy savings and emissions reductions from this program for consideration in the state implementation plan for emissions reduction credit; (3) the laboratory may provide local jurisdictions with technical assistance concerning implementation and enforcement of the International Energy Conservation Code and the energy efficiency chapter of the International Residential Code, including local amendments to those codes; and (4) the laboratory may conduct outreach to the real estate industry, including real estate agents, home builders, remodelers, appraisers, and financial institutions, on the value of energy code compliance and verified, above-code, high-performance construction. (Effective September 1, 2011.)

H.B. 257 (Hilderbran/Patrick) – Utility Deposits: this bill, among other things: (1) provides that a utility deposit is presumed abandoned on the latest of: (a) eighteen months after the date a refund check for the utility deposit was payable to the owner of the deposit; (b) eighteen months after the date the utility last received documented communication from the owner of the utility deposit; or (c) eighteen months after the date the utility issued a refund check for the deposit payable to the owner of the deposit if, according to the knowledge and records of the utility or payor of the check, during that period, a claim to the check has not been asserted or an act of ownership by the payee has not been exercised; (2) provides that a utility deposit is not presumed abandoned for two years from the time the depositor provides documentation to the utility of being called to active U.S. military service during any part of the period described in (1), above; (3) requires each holder who on March 1 holds property presumed to be

abandoned under various laws to file a report of that property with the comptroller on or before the following July 1; (4) requires each holder who on March 1 holds property valued at more than \$250 that is presumed abandoned under various laws to, on or before May 1, mail to the last known address of the owner certain written notice; and (5) requires each holder who on March 1 holds property that is presumed abandoned under certain laws to deliver the property to the comptroller on or before the following July 1, with some exceptions if the property is a safe deposit box. (Effective September 1, 2011, except as otherwise provided in the bill.)

H.B. 965 (Callegari/Hegar) – TCEQ License Requirements: this bill: (1) permits the Texas Commission on Environmental Quality (TCEQ) to recognize Internet-based continuing education programs; and (2) requires the TCEQ to provide a method for certain individuals who hold a license issued by the TCEQ to certify at the time of license renewal that the license holder has complied with the TCEQ's continuing education requirements. (Effective September 1, 2011.)

H.B. 971 (P. King/Fraser) – Electric Transmission/Eminent Domain: makes changes to the routing of certain electric transmission lines. Of particular interest to cities, the bill provides that, for certain electric transmission facilities ordered or approved by the Public Utility Commission, the electric provider's right of eminent domain can be exercised across all public land (e.g., municipal property), except land owned by the state. (Effective immediately.)

H.B. 1728 (Keffer/Harris) – Energy Efficiency: provides that: (1) notwithstanding other law, the governing body of a local government – including a city – may use any available money, other than money borrowed from this state, to pay the provider of the energy or water conservation measures under an energy savings performance contract, and the governing body is not required to pay for such costs solely out of the savings realized by the local government under an energy savings performance contract; and (2) the governing body may contract with the provider to perform work that is related to, connected with, or otherwise ancillary to the measures identified in the scope of an energy savings performance contract. (Effective September 1, 2011.)

H.B. 1732 (Ritter/Hinojosa) – Texas Water Development Board: provides that an applicant for certain financial assistance or loans from the Texas Water Development Board (including assistance through the water infrastructure fund) may not receive the assistance if the applicant has failed to satisfactorily complete a request by the agency's executive administrator or a regional planning group for information relevant to the project for which the assistance is being requested, including a water infrastructure financing survey. (Effective September 1, 2011.)

H.B. 2663 (Chisum/Seliger) – LP Gas: provides that: (1) the rules and standards promulgated and adopted by the Texas Railroad Commission preempt and supersede any ordinance, order, or rule adopted by a political subdivision of this state relating to any aspect or phase of the liquefied petroleum gas industry; and (2) a political subdivision may petition the commission's executive director for permission to promulgate more restrictive rules and standards only if the political subdivision can prove that the more restrictive rules and standards enhance public safety. (Effective September 1, 2011.)

H.B. 2694 (W. Smith/Huffman) – Texas Commission on Environmental Quality: this is the Texas Commission on Environmental Quality (TECQ) sunset bill. It, among other things:

1. expands the TCEQ's role in dam management, but exempts certain small dams on private property outside city limits.
2. transfers authority over the regulation of surface casings for oil and gas wells as they relate to groundwater protection to the Texas Railroad Commission.

3. requires the TCEQ to develop and implement a program to improve public access to information about the TCEQ and the matters the agency regulates.
4. changes how compliance history is used in certain enforcement situations, including taking into account the size and complexity of the site where a violation occurred, requiring the consideration of most notices of violation for a period of no longer than a year from the date of issuance, as well as consent decrees, but excluding most self-reported air quality deviations or violations
5. changes the three classifications of compliance history to unsatisfactory (below minimal acceptable performance standards), satisfactory (generally in compliance), and high performers (above-satisfactory performance record).
6. increases the penalties and increase the maximum fine amount for most statute and rule violations under the jurisdiction of the TCEQ
7. authorizes the TCEQ to approve a city's supplemental environmental project in lieu of a fine that is necessary to bring the city into compliance with environmental laws or to remediate environmental harm caused by the city's alleged violation.
8. requires the TCEQ to develop a policy to prevent a regulated entity from systematically avoiding compliance through the use of supplemental environmental projects.
9. makes changes to the fees, penalties, and authorized TCEQ action for underground storage tanks.
10. requires any water right holder who impounds, diverts, or otherwise uses state water to maintain water use information on a monthly basis to be made available to the TCEQ during an emergency water shortage or in response to a complaint, upon request.
11. authorizes the TCEQ to order temporary suspension and reallocation of water rights during a drought or other emergency water shortage and requires recipients of a water transfer to comply with drought management measures.
12. authorizes a city to provide by e-mail, if available, the notice of a rate change required by state law to be given to customers outside city limits, and also authorizes a non-city-owned utility to provide a statement of notice of a proposed rate change to a city by e-mail.

(Effective September 1, 2011.)

H.B. 3090 (Creighton/Nichols) – Water Utilities: provides that: (1) a water utility providing potable water that receives financial assistance from the Texas Water Development Board (TWDB) shall perform and file an annual water audit computing the utility's system water loss during the preceding year; (2) a utility that does not receive financial assistance from the TWDB shall perform and file an audit described in (1), above, every five years; and (3) the categories into which cities are grouped by population for purposes of TWDB-developed water audit methodologies and submission dates are modified to combine in the lowest population group all cities with populations of 10,000 or less. (Effective September 1, 2011.)

H.B. 3372 (T. King/M. Jackson) – Harvested Rainwater: provides that: (1) the Texas Commission on Environmental Quality (TCEQ) shall work with the Texas Water Development Board (TWDB) to develop rules regarding the installation and maintenance of rainwater harvesting systems that are used for indoor potable purposes and connected to a public water supply system; (2) a person who installs and maintains rainwater harvesting systems that are connected to a public water supply system and are used for potable purposes shall be licensed by the Texas State Board of Plumbing Examiners as a master plumber or journeyman plumber and hold an endorsement issued by the board as a water supply protection specialist; (3) the use of harvested rainwater for drinking water and other potable uses in a structure connected to a public water supply system is authorized, and that the system owner shall notify (but not obtain the consent of) the city utility before connecting; and (4) a city may not be held liable for any adverse health effects allegedly caused by the consumption of water collected by a rainwater harvesting system and is used for drinking purposes if the city is in compliance with state standards for drinking water sanitation. (Effective September 1, 2011.)

H.B. 3391 (D. Miller/Seliger) – Harvested Rainwater: this bill (1) requires the Texas Commission on Environmental Quality (TCEQ) to develop rules regarding the installation and maintenance of rainwater harvesting systems that are used for indoor potable purposes and are connected to a public water supply system; (2) requires the owner of the system to obtain consent from the city before connecting the system to the public water supply system; (3) provides that a city may not be held liable for any adverse health effects allegedly caused by the consumption of water collected by a rainwater harvesting system and is used for drinking purposes if the city is in compliance with state standards for drinking water sanitation; (4) encourages a city to promote rainwater harvesting through incentives such as the provision at a discount of rain barrels or rebates for water storage facilities; (5) requires the Texas Water Development Board (TWDB) to ensure that training on rainwater harvesting is available for city permitting staff, and require each member of the permitting staff of a city located wholly or partly in an area designated as a priority groundwater management area or any city with a population of more than 100,000 to receive mandatory training on rainwater harvesting at least once every five years; and (6) prohibits a city from denying a building permit solely because the facility will implement rainwater harvesting (but authorizes a city to require that such a system comply with minimum state standards). (Effective September 1, 2011.)

S.B. 181 (Shapiro/Laubenberg) – Water Conservation: requires that: (1) the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ) to develop a uniform, consistent methodology and guidance for calculating water use and conservation to be used by a city in developing water conservation plans and preparing certain reports required by state law; (2) the methodology and guidance include: (a) a method of calculating total water use, including water billed and nonrevenue water used, (b) a method of calculating water use for each sector of water users, (c) a method of calculating total water use by a city in gallons per capita per day, (d) a method of classifying water users within sectors, (e) a method of calculating water use in the residential sector that includes both single-family and multifamily residences, in gallons per capita per day, (f) a method of calculating water use in the industrial, agricultural, commercial, and institutional sectors that is not dependent on a city's population, and (g) guidelines on the use of service populations by a city in developing a per-capita-based method of calculation, including guidance on the use of permanent and temporary populations in making calculations; (3) the TWDB and TCEQ use the methodology and guidance developed in evaluating a water conservation plan, program of water conservation, survey, or several other types of reports required by state law; (4) the TWDB create a data collection and reporting program for cities with more than 3,300 connections; and (5) the TWDB and TCEQ adopt rules as necessary to implement the bill. (Effective immediately.)

S.B. 332 (Fraser/Ritter) – Groundwater: this is this “rule of capture” bill, which: (1) recognizes that a landowner owns the groundwater below the surface of the landowner's land as real property; (2) outlines the rights that the landowner owns as entitling the landowner or the landowner's lessees, heirs, or assigns, to drill for and produce the groundwater below the surface of real property without causing waste or malicious drainage of other property or negligently causing subsidence; (3) clarifies that the rights owned by a landowner to groundwater do not entitle a landowner or the landowner's lessees, heirs, or assigns the right to capture a specific amount of groundwater below the surface of that landowner's land; (4) provides for a groundwater conservation district's authority to regulate groundwater through restrictions on well spacing, tract size, and other types of restrictions based on proportional share of total groundwater production in the district, and also provides for the authority of the Edwards Aquifer Authority, the Harris-Galveston Subsidence District, and the Fort Bend Subsidence District to do the same; and (5) requires a groundwater conservation district, when adopting rules limiting groundwater production, to consider a landowner's groundwater ownership and rights and the public interest in preserving, protecting, recharging, and preventing the waste of groundwater and in controlling subsidence. (Effective September 1, 2011.)

S.B. 370 (Seliger/Ritter) – Texas Water Development Board Assistance: includes substantially the same provisions as **H.B. 1732**, above. (Effective immediately.)

S.B. 403 (Eltife/Murphy) – Gas Rates: provides that: (1) when establishing a gas utility's rates, the regulatory authority (e.g., and city and/or the Texas Railroad Commission) shall allow recovery of the gas utility's costs of pensions and other postemployment benefits – as determined by actuarial or other similar studies in accordance with generally accepted accounting principles – in amounts the regulatory authority finds reasonable and necessary; (2) a gas utility must follow detailed procedures to include the benefits in its rates; and (3) if the gas utility establishes reserve accounts for the costs of pensions and other postemployment benefits, the regulatory authority at a subsequent general rate proceeding shall determine whether the amounts are reasonable and necessary and act accordingly. (Effective immediately.)

S.B. 573 (Nichols/Creighton) – Certificates of Convenience and Necessity: provides that: (1) for most cities with a population of 500,000 or more: (a) the Texas Commission on Environmental Quality (TCEQ) may grant a CCN to a retail public utility within the city limits or the city's extraterritorial jurisdiction (ETJ) if: (i) after 180 days have passed since a formal request for a CCN for the area was filed, the city does not enter into a binding agreement to provide service to the area or the city has refused to provide the service applied for as evidenced by a formal vote or formal notification by the city, and the TCEQ finds that the landowner or retail public utility that submitted the formal request has not unreasonably refused to comply with the city's service extension and development process or enter into a contract for water and sewer services with the city, or (ii) if the city refuses to provide service in the proposed service area by formal vote of the city or an official notification by the city; (b) the TCEQ must require as a term of the CCN granted within a city's limits or ETJ that the authorized water and sewer facilities be designed and constructed in compliance with the city's standards for such facilities; (2) for most cities, a landowner may elect to exclude some or all of his property from a city's CCN expansion beyond its ETJ except where the ETJ expansion is due to a transfer of certificate; (3) a utility is exempt from any requirement to provide water or sewer service in the future to an area that has had land removed from its CCN due to landowner election, including a future petition for service due to the violation of law or TCEQ rules by the water or sewer system of another person; (4) a landowner may apply for expedited release from a CCN, even if the CCN holder is a borrower under a federal loan program; (5) a landowner applying for expedited CCN release must, in addition to current requirements under state law: (a) show that the request for service submitted to the certificate holder included the approximate cost for the alternative provider to provide the service at the same level and manner that is requested from the certificate holder and the flow and pressure requirements and specific infrastructure needs of the landowner, including line size and system capacity for the required level of fire protection requested; (b) that the holder of the CCN from which the landowner is requesting release is not capable of providing the at the approximate cost that the alternative provider is capable of providing for a comparable level of service; and (c) the alternate provider from which the petitioner will be requesting service possesses the financial, managerial, and technical capability to provide continuous and adequate service within the timeframe, at the level, at the cost, and in the manner reasonably needed or requested by current and projected service demands in the area; (6) an additional expedited CCN release process is available to owners of land that is at least 25 acres, that is not receiving water or sewer service, and is located in a county with a population of at least one million, a county adjacent to a county with a population of at least one million, and certain other counties; (7) a utility is exempt from any requirement to provide water or sewer service in the future to an area that has had land removed from its CCN due to landowner election under the new expedited release provision in (6), above, including a future petition for service due to the violation of law or TCEQ rules by the water or sewer system of another person. (Effective September 1, 2011.)

S.B. 652 (Hegar/Bonnen) – State Agency Sunset: this is the “safety net bill” that continues certain agencies whose sunset bills did not pass this session, including: (1) the Railroad Commission (S.B. 655/H.B. 3106), which is continued until September 1, 2013; and (2) the Public Utility Commission (H.B. 2134/S.B. 661), which is continued until September 1, 2013. (Effective immediately.)

S.B. 660 (Hinojosa/Ritter) – Texas Water Development Board: this is the Texas Water Development Board (TWDB) sunset bill. It, among other things, requires: (1) the attorney general to, in the event of a default on payment of a loan, failure to comply with a covenant related to a bond, or other failure to pay or comply with financial assistance requirements, and upon the request of the TWDB’s board, seek a writ of mandamus in Travis County to compel a financial assistance program recipient or the recipient’s officers, agents, and employees to cure the default and seek any other legal or equitable remedy the board and attorney general deem necessary; (2) the TWDB to develop a methodology and guidance for calculating water use and conservation, and require that the system be used in water conservation plans and certain other reports required by statute, though the rules adopted may not require a city to report data that is more detailed than the city’s billing system is capable of producing; (3) the TWDB to establish advisory committees, which include local governmental representatives, to assist the board with state geographic data issues; (4) regional water plans to be consistent with the desired future conditions adopted for the relevant aquifers located in the regional water planning area; (5) includes substantially the same the provisions of S.B. 181, above, relating to water conservation methodology; and (6) that a public comment period and public hearing requirement be implemented before any vote on proposed desired future conditions for an aquifer. (Effective September 1, 2011.)

S.B. 694 (West/Smith) – Metal Recycling: this bill, among other things: (1) adds various items to the list of regulated metals under state law, including: fire hydrants, an item with the logo of a governmental entity or utility, and wire that has been burned to remove the insulation; (2) provides that a county, city, or other political subdivision may require the record of purchase of regulated metals to contain a clear and legible thumbprint of a seller; (3) requires that a county, city, or other political subdivision that requires a metal recycling entity to report information relating to a sale of regulated material include certain provisions in its contracts and investigate certain activities in relation to those provisions; (4) prohibits owning or operating a metal recycling entity without a license or permit if a license or permit is required by a county, city, or other political subdivision, and provides for criminal and civil penalties for a violation of this prohibition; (5) exempts a person from an offense described in (4), above, if the person held a license or permit at one point during the 12-month period preceding the date of the alleged offense and the person obtains or submits an application for the appropriate license or permit not later than the 15th day after the date the person receives notice that they are operating without a license; (6) requires a county, city, or other political subdivision to provide a minimum 30-day notice followed by a public hearing prior to enacting a prohibition on the sale or use of a recyclable product; (7) authorizes the Department of Public Safety (DPS) to enter into contracts relating to the operation of a statewide electronic reporting system and database; (8) requires the department to make available on its Internet website a publicly accessible list of all registered metal recycling entities; (9) requires the department to establish an advisory committee relating to the department’s regulation of metal recycling entities and include on that committee representatives of local law enforcement agencies; (10) prohibits a metal recycling entity from paying for a purchase of regulated material in cash if the entity does not hold a certificate of registration and does not hold (if applicable) a license or permit required by a county, city, or other political subdivision, or has been prohibited by the department from paying cash; (11) prohibits a county, city, or other political subdivision from adopting or enforcing a rule, charter, or ordinance or issuing an order or imposing standards that limit the use of cash by a metal recycling entity in a manner more restrictive than provided in (10), above, unless the rule, charter, ordinance, or order was in effect on January 1, 2011; (12) authorizes a county, city, or other political subdivision to enjoin the business operations of a business owner or operator of a recycling entity if the owner or operator has not submitted an application for a certificate of registration or, if applicable, a license or permit required by a county,

city, or other political subdivision; (13) allows a city or county to retain 10 percent of the money collected from a fine for a conviction of certain offenses related to metal recycling; and (14) provides that fines collected and remitted to the comptroller for violations of metal recycling laws may be used to finance certain activities of the department and to fund grants to assist local law enforcement agencies in preventing the theft of regulated metals. (Effective September 1, 2011, except as otherwise provided in the bill.)

S.B. 875 (Fraser/Hancock) – Greenhouse Gases: provides that: (1) a person who is subject to an administrative, civil, or criminal action for nuisance or trespass arising from greenhouse gas emissions has an affirmative defense to that action if the person's actions that resulted in the alleged nuisance or trespass were authorized by a rule, permit, order, license, certificate, registration, approval, or other form of authorization issued by the Texas Commission on Environmental Quality, the federal government, or an agency of the federal government and: (a) the person was in substantial compliance with that rule, permit, order, license, certificate, registration, approval, or other authorization while the alleged nuisance or trespass was occurring; or (b) the commission, the federal government, or an agency of the federal government exercised enforcement discretion in connection with the actions that resulted in the alleged nuisance or trespass; and (2) the bill does not apply to nuisance actions solely based on a noxious odor. (Effective immediately.)

S.B. 898 (Carona/Cook) – Energy Efficiency: provides that: (1) each political subdivision shall establish a goal to reduce the electric consumption by the entity by at least five percent each state fiscal year for 10 years, beginning September 1, 2011; (2) a political subdivision that does not attain the goals in (1), above, must include in the report (required by current law) to the State Energy Conservation Office (SECO) justification that the entity has already implemented all available cost-effective measures; (3) an entity that submits a report under the bill indicating that the entity has reviewed its available options, has determined that no additional measures are cost-effective, and has already implemented all available cost-effective measures is exempt from the annual reporting requirement if a subsequent report would indicate no change in status; (4) an entity may be required to provide notice to SECO that it is exempt under (4), above; (5) a political subdivision annually shall report to SECO regarding the entity's goal, the entity's efforts to meet the goal, and progress the entity has made under the bill; (6) SECO must develop and make available a standardized form for reporting purposes; and (7) the Energy Systems Laboratory at Texas A&M University shall calculate, based on the evaluation and the forms submitted to SECO, the amount of energy savings and estimated reduction in pollution achieved as a result of the implementation of programs, and shall share the information with the Public Utility Commission, the United States Environmental Protection Agency, and the Electric Reliability Council of Texas to help with long-term forecasting and in estimating pollution reduction. (Effective September 1, 2011.)

S.B. 924 (Carona/Keffer) – Municipally Owned Electric Utilities/Emergency Notification: provides that: (1) beginning April 1, 2012, a municipally owned electric utility must report each year to the State Energy Conservation Office (SECO), on a standardized form developed by SECO, information regarding the combined effects of the energy efficiency activities of the utility from the previous calendar year, including the utility's annual goals, programs enacted to achieve those goals, and any achieved energy demand or savings goals; (2) SECO shall provide the reports to the energy systems laboratory at Texas A&M University, which shall calculate the energy savings and estimated pollution reductions that resulted from the reported activities; (3) the energy systems laboratory shall share the results of the analysis with the Public Utility Commission of Texas, ERCOT, the United States Environmental Protection Agency, and the Texas Commission on Environmental Quality; (4) a public service provider, including a city, may use an emergency notification system to notify the provider's customers, governmental entities, and other affected persons of: (a) a disaster or emergency; and (b) actions to take during a disaster or emergency; (5) an emergency notification system must use a dynamic information database for simultaneous transmission of the information; and (6) a provider may receive confidential 9-

1-1 contact information to use the emergency notification system. (Portions Effective immediately, and portions effective September 1, 2011.)

S.B. 937 (Lucio/Naishtat) – Electric Service: provides that a municipally owned electric utility shall report to the governing body or the body vested with the power to manage and operate the municipally owned utility the emergency operations plan for restoring power to a nursing facility, an assisted living facility, and a facility that provides hospice services. (Effective September 1, 2011.)

S.B. 1073 (M. Jackson/T. King) – Harvested Rainwater: provides that: (1) the Texas Commission on Environmental Quality (TCEQ) shall work with the Texas Water Development Board (TWDB) to develop rules regarding the installation and maintenance of rainwater harvesting systems that are used for indoor potable purposes and connected to a public water supply system; (2) a person who installs and maintains rainwater harvesting systems that are connected to a public water supply system and are used for potable purposes must be licensed by the Texas State Board of Plumbing Examiners as a master plumber or journeyman plumber and hold an endorsement issued by the board as a water supply protection specialist; (3) harvested rainwater may be used for drinking water and other potable uses in a structure connected to a public water supply system (a system owner must notify a city utility of the connection, but is not required to obtain the consent of the city); and (4) a city may not be held liable for any adverse health effects allegedly caused by the consumption of water collected by a rainwater harvesting system and is used for drinking purposes if the city is in compliance with state standards for drinking water sanitation. (Effective September 1, 2011.)

S.B. 1087 (Carona/Hilderbran) – Cable Franchises: provides that: (1) an entity providing cable service or video service under a franchise agreement with a city is bound to that agreement until it expires or is terminated under the bill; (2) beginning September 1, 2011, a cable service provider or video service provider in a city with a population of less than 215,000 that was not allowed to or did not terminate a municipal franchise may elect to terminate not less than all unexpired franchises in cities with a population of less than 215,000 and seek a state-issued certificate of franchise authority (at the full five-percent fee) for those areas by providing written notice to the Public Utility Commission and each of those cities before January 1, 2012; (3) a cable service provider or video service provider in a city with a population of at least 215,000 may: (a) terminate a municipal franchise in that city if the cable service provider or video service provider is not the incumbent cable service provider in that city and the incumbent cable service provider received a state-issued certificate of franchise authority from the commission before September 1, 2011; or (b) enter into an agreement with any cable service provider in the city to terminate a municipal cable franchise before the expiration of the franchise, and that - to the extent that the mutually agreed on terms and conditions for early termination of the unexpired municipal cable franchise conflict with a provision of the bill or current law - the agreed on terms and conditions control; (4) a cable service provider that elects to terminate an existing municipal franchise is responsible for remitting to the affected city before the 91st day after the date the municipal franchise is terminated any accrued but unpaid franchise fees due under the terminated franchise; (5) a city may review the business records of the cable service provider or video service provider to the extent necessary to ensure compensation in accordance with the terms of a state-issued franchise, provided that the city may only review records that relate to the 48-month period preceding the date of the last franchise fee payment; (6) with regard to the one-percent fee that a provider pays to a city for public, educational, and governmental (PEG) channels: (a) the holder of a state-issued certificate of franchise authority shall include with a fee paid to a city a statement identifying the fee; and (b) a city that receives the fees shall maintain revenue from the fees in a separate account established for that purpose, may not commingle revenue from the fees with any other money, shall maintain a record of each deposit to and disbursement from the separate account, including a record of the payee and purpose of each disbursement, and may not spend revenue from the fees except directly from the separate account; (7) a city that received PEG fees before September 1, 2011, shall, on September 1, 2011, transfer any fees that have not been disbursed to a

separate account as required by (6), above; (8) institutional network capacity and cable service to community public buildings, such as municipal buildings and public schools, shall continue to be provided to a city under a state-issued franchise in certain circumstances; (9) if a city did not have the maximum number of PEG access channels as of September 1, 2005, based on the city's population on that date, the cable service provider or video service provider shall furnish at the request of city: (a) up to three PEG channels for a city with a population of at least 50,000; and (b) up to two PEG channels for a municipality with a population of less than 50,000; and (10) where technically feasible, the holder of a state-issued certificate of franchise authority that is not an incumbent cable service provider and an incumbent cable service provider, including an incumbent cable service provider that holds a state-issued certificate of franchise authority, shall use reasonable efforts to interconnect their cable or video systems for the purpose of providing PEG programming. (Effective September 1, 2011.)

S.B. 1134 (Hegar/Craddick) – Oil and Gas Facilities: provides, among other things, that the Texas Railroad Commission may not adopt a new permit by rule or a new standard permit or amend an existing permit by rule or an existing standard permit relating to certain oil and gas facilities unless the commission: (1) conducts a regulatory analysis of the permit; (2) determines, based on the evaluation of credible air quality monitoring data, that the emissions limits or other emissions-related requirements of the permit are necessary to ensure that the permit protects the public's health and physical property; (3) establishes any required emissions limits or other emissions-related requirements based on the evaluation of credible air quality monitoring data and credible air quality modeling that is not based on the worst-case scenario of emissions or other worst-case modeling scenarios unless the actual air quality monitoring data and evaluation of that data indicate that the worst-case scenario of emissions or other worst-case modeling scenarios yield modeling results that reflect the actual air quality monitoring data and evaluation; and (4) considers whether the requirements of the permit should be imposed only on facilities that are located in a particular geographic region of the state. The bill also provides an affirmative defense to enforcement for emissions events in certain circumstances. (Effective immediately.)

S.B. 1258 (Duncan/Hardcastle) – Demolition Waste: provides that: (1) the Texas Commission on Environmental Quality may issue a permit by rule to authorize a city with a population of 10,000 or less to dispose of demolition waste from certain buildings, including nuisance buildings, if the disposal occurs on land that the city owns or controls and would qualify for an arid exemption under the commission's rules; and (2) the commission shall – in order to protect public and private property, rights-of-way, groundwater, and any other right – adopt rules to control the collection, handling, storage, processing, and disposal of demolition waste from buildings that are abandoned, found to be a nuisance, acquired by a city through bankruptcy, tax delinquency, or condemnation, and buildings that were previously-owned by a person not financially capable of paying the costs of disposal at a solid waste disposal facility. (Effective September 1, 2011.)

S.B. 1693 (Carona/Thompson) – Periodic Electric Rate Adjustments: provides that:

1. the Public Utility Commission or a regulatory authority (e.g., a city), on the petition of an electric utility, may approve a tariff or rate schedule in which a nonfuel rate may be periodically adjusted upward or downward based on changes in the parts of the utility's invested capital.
2. invested capital is that categorized as distribution plant, distribution-related intangible plant, and distribution-related communication equipment and networks in accordance with commission rules adopted after consideration of the uniform system of accounts prescribed by the Federal Energy Regulatory Commission.
3. a periodic rate adjustment approved under the bill may not include indirect corporate costs or capitalized operations and maintenance expenses.

4. a periodic rate adjustment must: (a) be approved or denied in accordance with an expedited procedure that provides for appropriate updates of information, allows for participation by the Office of Public Utility Counsel and affected parties, and extends for not less than 60 days; (b) take into account changes in the number of an electric utility's customers and the effects, on a weather-normalized basis, that energy consumption and energy demand have on the amount of revenue recovered through the electric utility's base rates; (c) be consistent with the manner in which costs for invested capital were allocated to each rate class in an electric utility's most recent base rate; (d) not diminish the ability of the commission or a regulatory authority on its own motion or on complaint by an affected person, after reasonable notice and hearing, to change the existing rates of an electric utility for a service after finding that the rates are unreasonable or in violation of law; and (e) be applied by an electric utility on a system-wide basis; and (f) be supported by the sworn statement of an appropriate employee of the electric utility that affirms certain information.
5. a periodic rate adjustment approved under the bill may not be used to adjust the portion of a nonfuel rate relating to the generation of electricity.
6. an electric utility may adjust the utility's rates under the bill not more than once per year and not more than four times between comprehensive base rate proceedings.
7. nothing in the bill is intended to limit: (a) the authority of the commission; (b) the jurisdiction of a city over the rates, operations, and services of an electric utility; or (c) the ability of a city to obtain reimbursement for the reasonable cost of services related to the bill.
8. the commission shall adopt rules necessary to implement the bill, which must contain certain protective requirements.
9. the commission shall undertake a study and conduct a report analyzing any periodic rate adjustment established under the bill for the legislature's review by January 31, 2017, so that the legislature may properly be informed as to the need to continue the commission's authority to allow periodic rate adjustments.
10. the provisions in the bill expire on January 1, 2017.

(Effective immediately.)

THE CUTTING ROOM FLOOR

Hundreds of harmful initiatives that would have done serious damage to Texas cities were defeated through the efforts of the League and individual cities. Among them were the following:

1. numerous bills that would have: (1) reduced the current cap on annual increases in residential appraisals from ten percent to some lesser amount, (2) applied the cap to all real property; or (3) capped city revenues.
2. legislation that would have eliminated the ability of cities to collect local sales tax on the purchase of ATVs, off-road motorcycles, and golf carts.
3. a variety of bills that would have decimated or eliminated annexation authority.
4. legislation that would have substantially reduced the authority of cities to regulate nuisances.
5. legislation that would have prohibited cities from adopting policies preventing law enforcement officers from asking the immigration status of people who are detained or arrested.
6. various bills that would have pre-empted city ordinances including tree mitigation and bans on plastic bags.
7. legislation that would have required cities to approve digital billboards; and
8. legislation that would have implemented a \$5 court fee for indigent defense and legislation that would have increased the state traffic fine from \$30 to \$45.
9. legislation that would have prohibited broad form indemnity in municipal public works contracts.

INDEX

<u>Topic</u>	<u>Page</u>
Finance and Administration	3
Property Tax	3
Sales Tax.....	5
Purchasing	6
Elections.....	8
Open Government.....	10
Other Bills.....	12
Municipal Courts	15
Community and Economic Development.....	17
Personnel.....	22
Public Safety.....	22
Transportation	29
Utilities and Environment	33
The Cutting Room Floor.....	43



MARISA MARQUEZ

STATE REPRESENTATIVE • DISTRICT 77

July 7, 2011

Mayor John Cook
City of El Paso
2 Civic Center Plaza
El Paso, TX 79901

Dear Mayor Cook,

The 82nd Legislative Session was rough and trying for the entire delegation. The super majority we were faced with made it difficult to argue against the "cut's only" mentality many of my colleagues advocated for. However, through the work and dedication of many individuals, the City of El Paso was able to push through many of their priorities.

The City, as always, through the Mayor and Council was accessible to my office and voiced their support or opposition to many bills. We were able to make great strides in many of the items the City requested be enacted. Among those accomplishments I voted for and urged my colleagues to support were:

- H.B. 205** *Ft. Bliss sales tax (Pickett/Rodríguez)*
- H.B. 630** *Increased flexibility for TRZ's (Pickett/Nichols)*
- H.B. 1090** *Interest rates for tax refunds (Gonzalez/Seliger)*
- H.B. 1112** *Greater flexibility for RMA's (Phillips/Nichols)*
- H.B. 1866** *Highway 20 state historic highway designation (Gonzalez/Rodríguez)*
- H.B. 1899** *Cell phone ban signs in school zones (Pickett/Rodríguez)*
- S.B. 173** *Receiverships for substandard buildings (West/Dutton)*
- S.B. 1910** *Net metering for the El Paso Electric Company service are in Texas (Rodríguez/Margo)*

Furthermore, I am proud to have authored/co-authored and passed the following legislation for the City:

- H.R. 306** *Expressing support for the preservation of the pristine land known as Castner Range (Márquez/Rodríguez)*
- H.B. 1451** *Licensing and Regulation of dog and cat breeders; providing penalties (Thompson, Márquez, et al./Whitmire)*

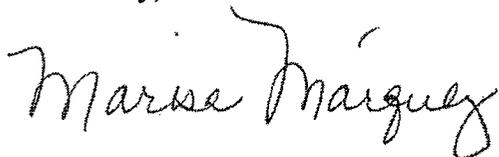
- H.B. 2090** *Feasibility study establishing dental school at Texas Tech University Health Sciences Center at El Paso (Márquez/Rodríguez)*
- H.B. 2592** *Regulation of credit services organizations (Truitt, Márquez, et al./Carona)*
- H.B. 2594** *Regulation of credit services organizations (Truitt, Márquez, et al./Carona)*
- H.B. 3831** *Creation of the Montecillo Municipal Management District No. 1 (Marquez/Rodríguez)*
- S.J.R 28** *Proposed constitutional amendment for Regional Park District (Marquez/Rodríguez)*

This Session also brought forth many bills that would have had a negative impact on our community. I voted against enacting the following legislation:

- H.B. 15** *Sonogram bill (Miller/Patrick)*
- S.B. 9** *Sanctuary cities (Williams/Miller)*
- S.B. 14** *Voter ID bill (Fraser/Harless)*

I look forward to our continued relationship in making El Paso a premier city. Should you ever have a future need, please do not hesitate to call on me. Once again, I thank you for your dedication to our community.

Yours truly,



Marisa Márquez
State Representative, District 77
Texas House of Representatives

cc: Members of Council