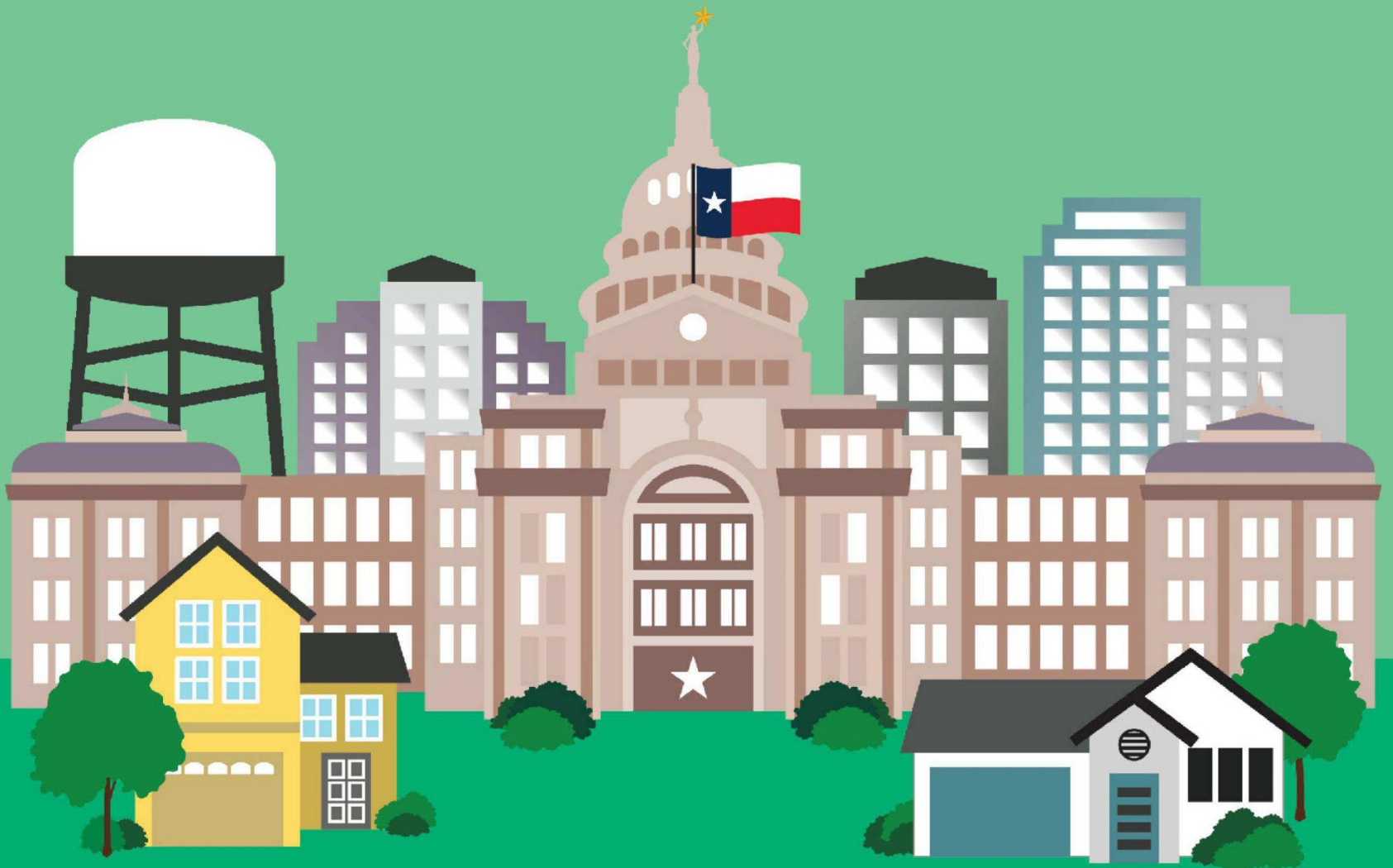


OFFICIAL PUBLICATION OF THE TEXAS MUNICIPAL LEAGUE

January 2023
VOLUME CX
NUMBER 01

TTC

TEXAS TOWN & CITY



HOW CITIES WORK

HAPPY ROADS



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Our Home, Our Decisions Local Governments Providing Essential Services for Our Diverse State

Cities, the government closest to the people, embody the idea that “We the People” should be able to continue making decisions based on the needs of each unique community in Texas. Cities provide the services that we cannot do without - services that reflect the will of the local taxpayers and recognize that not all laws are able to be “one size fits all.” **Because of the unique patchwork of cities in our state, we must be able to retain our ability to govern locally and continue making decisions that represent the needs of the community.**

For this purpose, Our Home, Our Decisions was created to emphasize the necessity for local decision making and ensuring that the diverse needs of our communities can continue to be met by local governments.

With the idea that no two areas in the state are alike, the legislature began creating cities upon statehood to work closely with the community to more effectively address local needs. The locally-elected city councils in those cities decide – based on the needs of their citizens – how to provide appropriate services. Each city is different and the needs of each community widely ranges. We often say, what works in the Piney Woods of East Texas won’t always work in the Great Plains of the Panhandle and that rings true all across the state. But that is what makes our state great – the diversity and unique needs that can be addressed by the government closest to the people.

Cities rarely seek funding from the state, and they typically receive very little from the state. Cities need to **be allowed to make their own decisions about how to keep their local communities thriving, benefiting the overall success of the state.** For these reasons, we have created the Our Home, Our Decisions campaign to amplify and celebrate the diversity of Texas.

1. Ensure that local decisions are made locally and oppose attempts to harm the ability of local governments to represent their constituents without state interference.
2. Preserve the ability for local governments to retain the experts needed to achieve the goals of their communities.
3. Allow local governments the flexibility to fund essential services for their community such as law enforcement and first responders, roads and bridges, clean water, broadband connectivity, and more.

Join Us in Celebrating the Diversity of Texas: Our Home, Our Decisions

To learn more, visit www.ourhomeourdecisions.org or call 512-231-7400
Legislative direct contact: Monty Wynn monty@tml.org



The 88th Texas Legislature Keep Your Finger on the Pulse!

TMLLEGISLATIVESERIES.ORG



Texas cities are strongest when we work together. The 88th session of the Texas Legislature begins in January. It will be a session where state lawmakers and local government leaders sort out roles and determine how cities can be partners with the state in meeting local taxpayers' needs.

WEBINARS

Thursday, January 12, 10:30 a.m. (central)

Legislative Webinar #1: Preview – What's Ahead for Texas Cities

Thursday, March 16, 10:30 a.m. (central)

Legislative Webinar #2: Keep Your Finger on the Pulse

Thursday, April 13, 10:30 a.m. (central)

Legislative Webinar #3: Be Heard at the Capitol

Thursday, May 4, 10:30 a.m. (central)

Legislative Webinar #4: What to Expect in the Final Days

WORKSHOP (IN-PERSON)

Thursday, June 15, 7:30 a.m.-2:00 p.m. (Georgetown)

Legislative Wrap-Up Workshop: An Insider's Perspective

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Official Publication of the
Texas Municipal League.

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Editor Christina Corrigan
Creative Manager Jennifer Stamps
Designer Will Bowling
Advertising Sales Gray Gilson
Printing Publication Printers Corp.

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Mr. Bennett Sandlin has entered into an agreement with Publication Printers Corp. for the printing of *Texas Town & City* magazine. Mr. Sandlin represents the member cities of the Texas Municipal League.

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ABOUT THE COVER

Learn what Texas cities do and how they do it in this biennial publication, *How Cities Work*.
Cover illustration: Lindy N. Jordaan

ABOUT ★ TML

The Texas Municipal League exists solely to provide services to Texas cities. Since its formation in 1913, the League's mission has remained the same: to serve the needs and advocate the interests of its members. Membership in the League is voluntary and is open to any city in Texas. From the original 14 members, TML's membership has grown to more than 1,150 cities. Over 16,000 mayors, councilmembers, city managers, city attorneys, and department heads are member officials of the League by virtue of their cities' participation.

The League provides a variety of services to its member cities. One of the principal purposes of the League is to advocate municipal interests at the state and federal levels. Among the thousands of bills introduced during each session of the Texas Legislature are hundreds of bills that would affect cities. The League, working through its Legislative Services Department, attempts to defeat detrimental city-related bills and to facilitate the passage of legislation designed to improve the ability of municipal governments to operate effectively.

The League employs full-time attorneys who are available to provide member cities with information on municipal legal matters. On a daily basis, the legal staff responds to member cities' written and oral questions on a wide variety of legal matters. The League annually conducts a variety of conferences and training seminars to enhance the knowledge and skills of municipal officials in the state. In addition, the League also publishes a variety of printed materials to assist member cities in performing their duties. The best known of these is the League's monthly magazine, *Texas Town & City*. Each issue focuses on a variety of contemporary municipal issues, including survey results to respond to member inquiries.

For additional information on any of these services, contact the

Texas Municipal League at 512-231-7400 or visit our website, www.tml.org.

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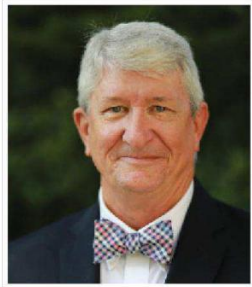
TML Health Benefits Pool

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Rollingwood

TML Intergovernmental Risk Pool

Jeffrey Snyder, City Manager, Plainview

MESSAGE ★ FROM THE PRESIDENT



DAVID RUTLEDGE, CMO
Mayor, City of Bridge City
TML President

Dear Texas City Official,

It's almost that time. Our friends at the Texas Legislature go back into action at noon on January 10 and, as cities, we need to be ready. That's what this issue, titled *How Cities Work*, is all about. You can't really be in a position to file dozens or even hundreds of bills that will affect cities and towns without understanding how our local governments operate.

Think of this month's magazine as one-stop-shopping for everything essential about how cities function. Taxes, utilities, debt, franchise fees, right-of-way management, and much, much more are covered. Not only will this magazine help educate you on the essentials, but more importantly you'll be able to share the relevant sections with your state legislators. Give them the whole magazine if you think it will help!

Texas cities are unique. We don't ask for much from the state in terms of resources. What we do request instead is broad authority to do our jobs locally as our citizens demand. Under such a structure, it's important that legislators understand exactly how a bill could affect vital services and operations. When there's no state funding to compensate for new ideas that affect Texas cities, we need to be doubly careful not to affect that autonomy. Knowledge and communication are key to thriving in such a unique environment.

That Texas continues to lead most of the nation on the economy is no accident. Most of the action takes place in our 1,200 plus cities. We're the hub of the Texas Miracle, and the League will be working hard in 2023 to keep it that way!

A handwritten signature in black ink that reads "David Rutledge". The signature is written in a cursive, flowing style.

David Rutledge, CMO
Mayor, City of Bridge City
TML President



By **Bennett Sandlin**, TML Executive Director

As you read this issue of *Texas Town & City*, the 88th Texas Legislature has convened and is hard at work. The 2023 regular session will not end until Monday, May 29, 2023. Between now and then, lawmakers will consider thousands of bills. Unfortunately, many of those bills would, if enacted, erode municipal authority or otherwise limit the ability of Texas cities to carry out the important functions and provide the vital services expected by municipal residents.

Cities, the government closest to the people, embody the idea that “We the People” should be able to continue making decisions based on the needs of each unique community in Texas. Cities provide the services that we cannot do without - services that reflect the will of the local taxpayers and recognize that not all laws are able to be “one size fits all.” **Because of the unique patchwork of cities in our state, we must be able to retain our ability**

to govern locally and continue making decisions that represent the needs of the community.

With the idea that no two areas in the state are alike, the legislature began creating cities upon statehood to work closely with the community to address local needs more effectively. The locally-elected city councils in those cities decide – based on the needs of their citizens – how to provide appropriate services. Each city is different, and the needs of each community widely ranges. We often say, what works in the Piney Woods of East Texas won’t always work in the Great Plains of the Panhandle and that rings true all across the state. But that is what makes our state great – the diversity and unique needs that can be addressed by the government closest to the people.

Cities rarely seek funding from the state, and they typically receive very little from the state. Cities instead need to be allowed to make their own decisions about how to keep their local communities thriving, benefiting the overall success of the state. For these reasons, we created **the Our Home, Our Decisions** campaign to amplify and celebrate the diversity of Texas. I encourage every one of you to get involved with the campaign and use the resources we will continue making available during the legislative session, and after.

Further, this issue of our magazine is a tool to help city officials explain how Texas cities are powerful engines of economic growth, as well as safe and pleasant places for people to grow up, raise families, and retire.

In this issue of *Texas Town & City*, we highlight:

- The sources of municipal revenue and the ways in which the legislature can damage that revenue
- The value of building codes
- Municipal economic development efforts and the ways that property tax caps threaten those efforts
- The status of municipal solid waste programs
- Municipal transportation and public works and the importance of maintaining right-of-way authority, compensation for use of rights-of-way, and funding sources for drainage utilities
- Municipal participation in utility rate cases

- The provision of municipal water and wastewater services, including funding for the State Water Plan
- The connection between infrastructure and revenue caps
- The high cost of providing public safety services
- The importance of annexation authority to the future of Texas cities and to the state's economy
- The ways in which zoning authority protects citizens and their property values
- The importance of libraries and library funding
- The value of municipal parks and recreation programs

Also in this issue is a description of the 2022/2023 TML legislative program, the key feature of which is opposing any legislation that would harm the ability of cities to provide the services and facilities enumerated above.

While some state leaders will try to reduce municipal revenue or chip away at municipal authority, the vast majority of Texans knows that their city leaders are trustworthy stewards and should be allowed to answer the needs of their citizens. To a very great extent, economic growth in Texas is the result of municipal efforts to ensure the availability of infrastructure, the public safety, and the quality of life necessary for job creation. State policymakers should be very reluctant indeed to harm cities, because as our cities go, so goes our entire beloved state.

We look forward to working with you in these important months ahead as we advocate for municipal government in Texas. We're counting on you, our members, to actively help in this mission.

If you have any questions, please feel free to contact a member of the TML legislative department.

To learn more about Our Home, Our Decisions, visit www.ourhomeourdecisions.org.

Thank you for your support and assistance.



RISK POOL ★ NEWS



MARY M. DENNIS

Mayor, City of Live Oak
2022-2024 TML Risk Pool Board of Trustees Chair

Dear Fellow City Official:

I'm Mary M. Dennis, and I serve as the chair of the TML Risk Pool's Board of Trustees. I've been the mayor of the City of Live Oak since 2010, I serve on the National League of Cities Board of Directors, and you may remember me as president of the Texas Municipal League during 2016-2017.

I'm thankful to each of you for putting your trust in me, and I promise to work hard and stay true to the Pool's mission statement of providing Texas cities "with a stable and economic source of risk financing and loss prevention services."

That mission has been put to the test in recent years. The Pool has incurred losses of over \$90 million each with Hurricane Harvey, Winter Storm Uri, the COVID-19 pandemic, and combined wind and hail damage. Past Chair Randy Criswell, city manager in Wolfforth, called those events a series of "gut punches." He's right, but he steadfastly led the Board, and because he did the Pool remains in an excellent financial position.

My goal for my two-year term (which culminates during the Pool's 50th anniversary in 2024) is to share with you the benefits of Pool membership. The Pool isn't about writing checks for losses. We are a partnership, and we help cities through some of the toughest times they ever face.

The Pool formed in 1974 to provide workers' compensation coverage when the private market couldn't. We later added property and liability, and we now provide coverage for more than 95 percent of Texas cities. Those \$90 million Pool "losses?" We see them as your city's gain because you use those funds to rebuild your facilities after a storm, help your employees recover from injuries, and more.

I plan to – in the spirit of the Pool's Core Values (Integrity, Public Service, Operational Excellence, Fiscal Responsibility) – canvas the state in support of our partnership. I also ask that you explore the Pool's loss prevention services, which include individual safety consultations and training. My husband served as a San Antonio firefighter for 35 years before his passing, so I'm well aware of the danger that city employees face. That's why we strive to prevent injuries before they become a claim.

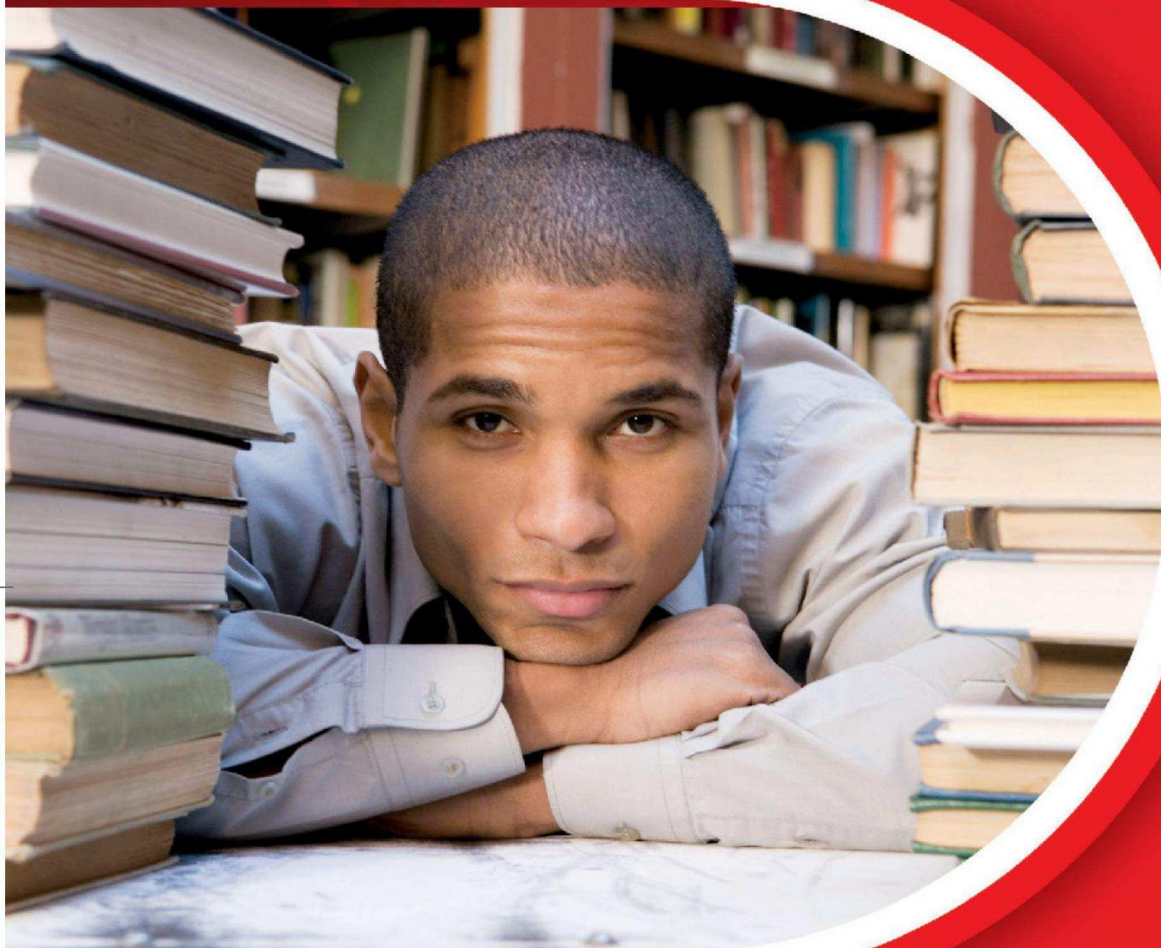
If I don't make it to your neck of the woods, I apologize in advance. But don't worry, we're trying new ways to get the word out. For example, check out the "*Local Officials: Stronger, Together Podcast*" to learn more about important legal issues, the Pool, and the services we provide (go to www.tmlirp.org and click on the STP Podcast button).

Please reach out to your member services manager with questions. I look forward to working with you, so that we stay *Stronger, Together!*

A handwritten signature in black ink that reads "Mary M. Dennis". The signature is written in a cursive, slightly slanted style.

Mary M. Dennis

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our culture has
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DIVERSITY

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www.heb.com

Employee Benefits as a Competitive Advantage in Attracting Talent for Municipal Employers

In a recent survey of more than 150 employers, eight in 10 employers said healthcare costs affect their ability to remain competitive in attracting talent. Nearly three quarters of respondents said rising healthcare prices prevented wage increases. Yet benefits are more important to attracting talent than ever. The Society of Human Resource Management's 2022 Employee Benefits Survey shows employers finding that benefits are even more important to employee recruitment than they were prior to the COVID-19 pandemic. In an environment like this, how can municipal employers use health and voluntary benefits to attract and retain employees?

Most Sought-After Employee Benefits

Healthcare is an important employee benefit, but employees also cite other benefits as important, including:

- Mental health benefits
- Remote work
- Paid time off
- Flexible hours
- Paid family leave

Employees and employers are both beginning to acknowledge the importance of mental health benefits, with one in four workers saying they are highly or extremely stressed, and workers under 35 years of age ranking mental health as their top concern according to a Mercer survey. Mental health benefits can extend beyond medical coverage, with Employee Assistance Programs, dedicated mental health telemedicine lines, and other new offerings to support employee mental health.

Forty-four percent of employees, nearly half, want to work remotely full time. While this isn't feasible for every employer or job, it ranks high on the list of employee desires where it's possible. Remote work, flexible hours, and paid time off are all part of the broader employee desire for work-life balance, and even if employees can't work remote, flexible hours or more paid time off can also support balancing work with everyday life.

Paid family leave is also a highly valued employee benefit. According to the Society for Human Resource Management, the number of employers that offer paid maternity leave is only 34 percent, with 30 percent offering paid paternity leave and 29 percent offering adoption leave. Employer-paid leave and short-term disability coverage can both be part of a work-life strategy for giving employees time to care for and grow their families.

Addressing High Medical Out-of-Pockets

Traditionally, in order to reduce monthly costs of health benefits, employers have to raise deductibles for employees, shifting more costs to them. To reduce the impact of this tradeoff, some employers are beginning to offer targeted supplemental benefits that help address the deductibles and out-of-pocket expenses.

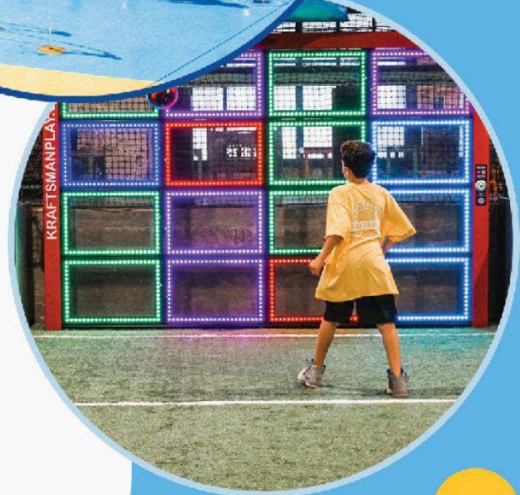
Benefits such as 24/7 accident coverage (for on- and off-the-job accidents) and critical illness insurance to help cover out-of-pocket expenses for injuries and serious diseases like cancer are increasing in popularity, as they can help keep monthly costs for health benefits low by raising deductibles on paper but helping employees cover certain catastrophic expenses.

Benefits Are Still Key in Attracting and Retaining Employees

The right benefits package can help municipal employers stay competitive in hiring and retaining talent to build stronger cities. With good benefit design, creative health benefits packages and some often-overlooked benefits that are increasingly important to employees can be a significant part of this hiring strategy.

About TML Health Benefits Pool

TML Health Benefits Pool offers health benefits created by Texans exclusively for Texas cities and political subdivisions. TML Health brings together hundreds of Texas public entities to leverage collective purchasing power and risk sharing to stabilize the cost of health benefits and deliver the lowest long-term net costs, while offering additional services such as wellness programs, virtual health checkups, telemedicine, and online and phone enrollment. By sharing in the Pool, TML Health's members share the rewards of superior health coverage—lower costs, better health outcomes, and more personalized service. ★



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SMALL CITIES' ★ CORNER



WHAT CAN SMALL CITIES DO LEGISLATIVELY?

The goings-on at the Texas Capitol every two years may seem like a big-city process since the legislature meets in Austin and many of the lobbyists and their firms are based in big cities. But 80 percent of the Texas Municipal League's (TML) member cities are under 10,000 population, and a large number of legislators and their staff have roots in small cities.

The League routinely calls on mayors, councilmembers, and city managers from small cities to testify, make phone calls, or get the word out about all the issues that Texas cities face. With due respect to the larger cities, often times,

nothing shouts "credibility" more than a small city mayor engaged on an important issue like telecommunications law or water policy. Texans like to think of themselves as small town and rural at heart, and our legislature is no exception. It's important that city officials from small cities make their voices heard.

With this in mind, the League needs your help mobilizing our membership at key points during the 2023 legislative session. One tool that has proven to be highly effective is the Grassroots Involvement Program (GRIP). GRIP is an online survey that asks how well you know various state legislators, and if you are willing to communicate with those legislators during legislative session.

If you would like to support our advocacy work during the 2023 legislative session, please participate in the GRIP survey by visiting <https://bit.ly/GRIP2023>.

A heads-up about this program: If you're an official from a small city, it is highly likely that you will be among the first to be called! We mean what we say—small cities matter to TML and to the legislature, and we need you as a partner in our efforts to protect your ability to make decisions for your residents and community.

The best thing you can do as an elected official in a small city is to get to know your state legislators – not just during legislative sessions, but year-round. Give them a call, invite them to city hall, and share your town's concerns and successes. Ask how you can help them. Many of our legislators started out as mayors, councilmembers, commissioners, or school board members. They love to "talk shop."

For a complete list of contact information regarding your representatives, visit the state's "Who Represents Me" website at <https://wrm.capitol.texas.gov/home>. If you have any questions about the GRIP survey, contact JJ Rocha at jj@tml.org or 512-231-7400. ★

Maintain budget neutrality while implementing needed upgrades

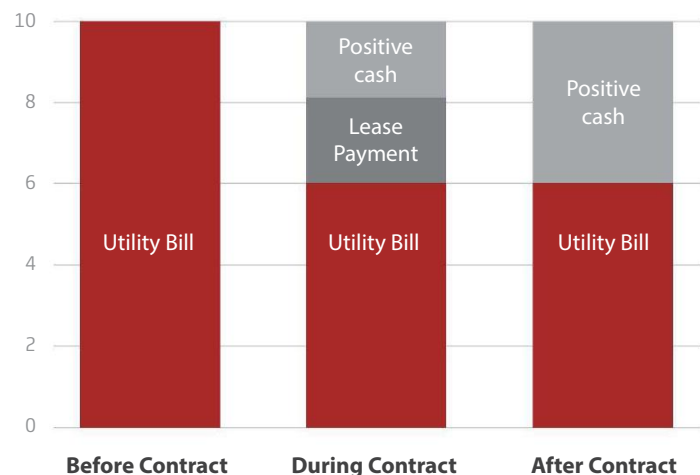


While energy and infrastructure upgrades reduce overhead costs, limited budgets and conflicting priorities can restrict spending that doesn't immediately impact frontline services. Centrica Business Solutions deploys flexible contracting options that enable local governments to maintain budget neutrality while implementing needed upgrades.

- ① Requires no initial investment
- ② Uses the energy savings achieved by the infrastructure improvements to finance the cost of upgrades
- ③ Pays for the project over time with the guaranteed annual savings

Download our guide to maximize your energy and infrastructure and accelerate your energy reduction and net zero targets while avoiding three common mistakes:

www.centricabusinesssolutions.com/us/TML



Q. What is the Texas Municipal League's legal services department?

A. The League's legal services department provides general guidance to city officials on legal issues. The League hired its first lawyer in the 1950s. Since that time, the legal services department's staff has expanded to meet the growing needs of our member cities. Under the direction of the TML Director of Legal Services, the current staff of four attorneys, a part-time law clerk, and a legal assistant performs numerous functions for the League's member cities. The main role of the department is to answer inquiries from the elected and appointed officials of the League's member cities about legal issues within their official responsibilities.

Q. What is the background of the department's attorneys?

A. The attorneys have diverse backgrounds. One worked previously for the Texas attorney general's office, two have worked in-house for cities, one has also worked in private practice for a municipal law firm, another has worked as an attorney with the Texas Legislative Council, and one worked as a research attorney for a Texas membership association.

Q. What is the most important service that the department provides?

A. The legal services department's key service is responding to legal inquiries from member city officials. The legal staff responds to hundreds of phone calls, emails, and letters each week. In fact, over the last five years, the attorneys have provided legal advice to more than 75 percent of the League's more than 1,175 member cities. The inquiries range from simple questions to consultations on cutting-edge legal matters.

Q. How does the legal department support the League's legislative activities?

A. The legal staff provides support for the TML legislative services department on legislative matters throughout the legislative sessions, and during the interim. That support includes legal research, bill analysis, drafting of legislation, and testimony on city-related bills, among other things. During the 2021 regular session, TML attorneys reviewed and analyzed more than 6,900 bills and resolutions, and provided written testimony on bills before many committees of the Texas Legislature.

Q. What other services does the department provide?

A. The legal staff performs various other functions, including:

- Writing and updating numerous handbooks including the *TML Home Rule and General Law Handbooks*, the *TML Revenue Manual*, and the *Economic Development Handbook*. For the last update, the legal staff incorporated approximately 200 bills and dozens of other legal changes into the handbooks.
- In association with the Texas City Attorneys Association, providing "amicus curiae (friend of the court)" briefs in both state and federal appellate court cases and on attorney general opinion requests that could adversely affect our member cities. Over the past three years, TML has filed over 20 amicus curiae briefs.
- Preparing legal question-and-answer columns like this one and other articles for *Texas Town & City* magazine.
- Researching and writing articles for the *TML Legislative Update*.
- Conducting the "Agency Watch" program, which consists of monitoring 50 state agencies for any rulemakings or other actions that may adversely affect our member cities, and participating or filing comments when appropriate.
- Preparing materials for the TML website.
- Preparing materials for and presenting at numerous TML and TML affiliate workshops, small cities' problem-solving clinics, and other seminars, as well as providing speakers with expertise in city issues to other organizations. Over the past year, TML lawyers have spoken at many workshops and seminars.

Q. How do I contact the legal department?

A. The legal staff is available for phone consultation at 512-231-7400 from 8:00 a.m.-5:00 p.m. Monday through Friday. The most common way that city officials submit inquiries is through emails to legalinfo@tml.org. A great deal of information is also located on the "Legal Research" tab found under the "Policy" section of the League's website at www.tml.org.

Q. What else do I need to know about the legal department?

A. City officials should remember that the League's attorneys serve as a resource to provide general guidance on legal issues. We do not directly represent your city, and our legal guidance should never be substituted for that of your local counsel. ★

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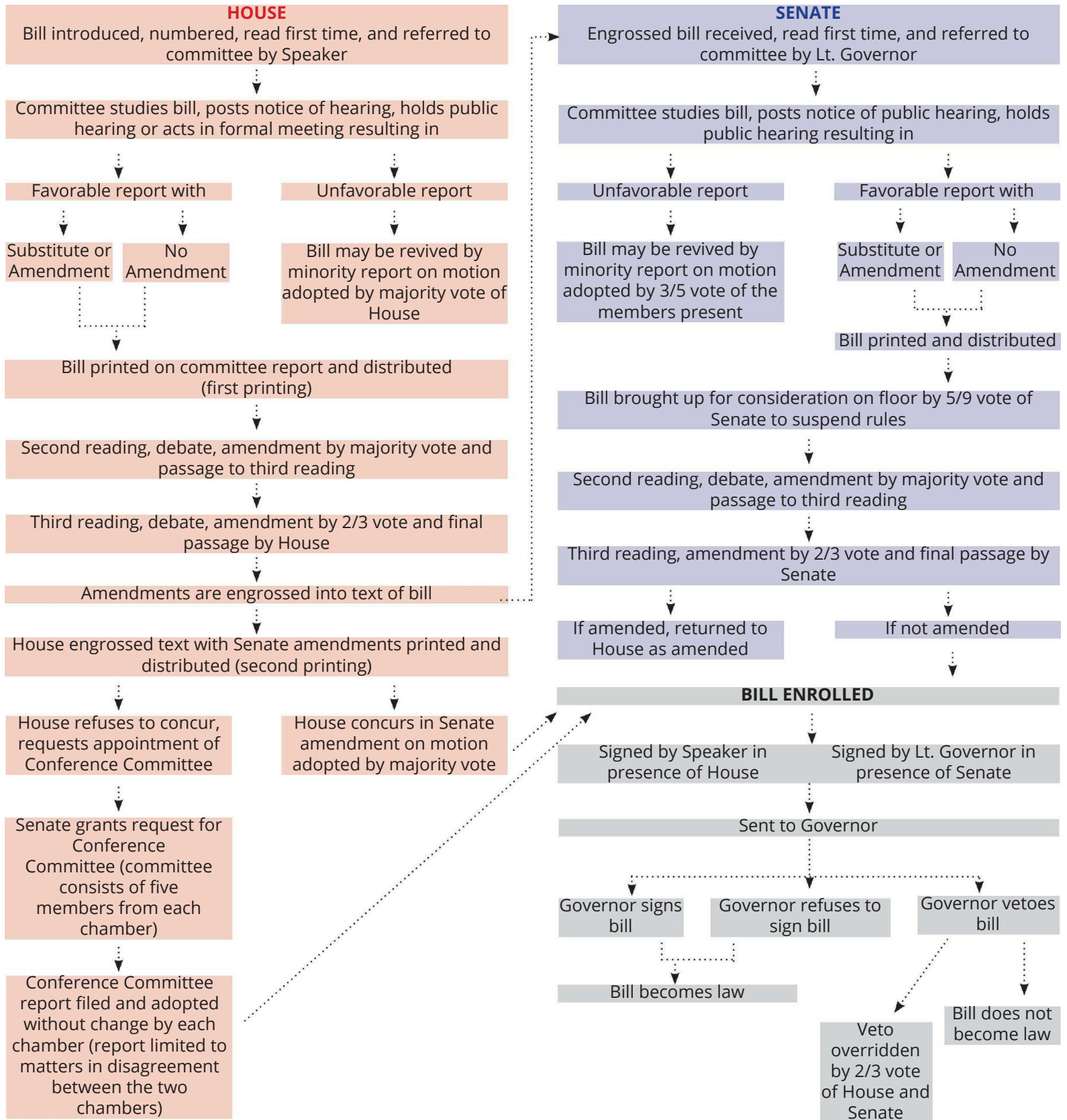
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Principal Office: Austin, Texas. The attorney responsible for the contents of this advertisement is Carmen Perez.

THE TEXAS LEGISLATIVE PROCESS FOR HOUSE BILLS AND RESOLUTIONS

This diagram displays the sequential flow of a bill from the time it is introduced in the house of representatives to final passage and transmittal to the governor.





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CITY PROPERTY TAXES: TREMENDOUS BANG FOR THE BUCK

Texas cities depend heavily on property tax revenue. Property taxes help fund many of the services that residents demand including police, fire, streets, and parks. But as Chart 1 shows, city property taxes constitute a small portion of a typical homeowner's property tax bill.

How do Texas cities provide so many services with such a small share of a typical property tax bill? Is it with financial help from the state? Not quite.

Unlike other states, Texas provides no general-purpose state aid to cities to help pay for streets, public safety, or other city services. The state forces cities to generate their own revenue. That's why (as the chart below shows) per capita state tax revenue is relatively low, while per capita local tax revenue is comparatively high.

But Chart 2 focuses on "local governments" (cities, counties, schools, and districts). What about cities only? For this information, we turn to a publication of the National League of Cities (NLC), *Cities and State Fiscal Structure*.

One section of this report tabulates, for each state, a statistic the authors refer to as "own-source capacity." This is a measurement of the extent to which decisions made by city officials actually determine the city's fiscal direction. Since Texas cities take care of themselves without intergovernmental aid, it comes as no surprise that Texas ranks second in the nation in municipal own-source capacity.

Chart 1

Distribution of Property Tax Collections

Source: Texas Comptroller's Biennial Property Tax Report

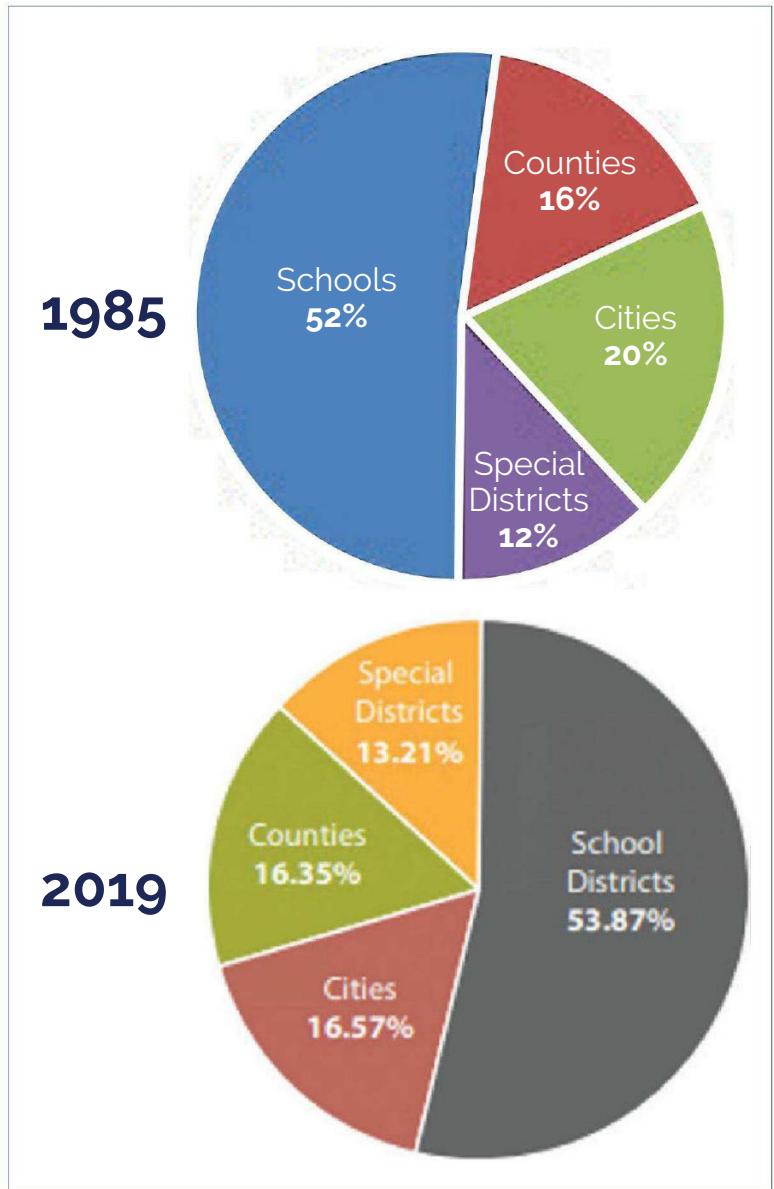


Chart 2

State and Local Government Tax Revenue, 2018

Source: U.S. Census Bureau

	U.S.	Texas
Per capita state and local	\$5,384	\$4,470 (29th)
Per capita state	\$3,126	\$2,102 (49th)
Per capita local	\$2,258	\$2,368 (13th)
Percent local	41.9%	53.0%

The flip side of that coin, however, is the report's measure of state aid to cities. Here again, the NLC report replicates previous research: Texas trails only Georgia, Oklahoma, and West Virginia in state aid—the share of municipal revenue that comes from state government sources.

These two findings of the NLC report once again establish these facts: (1) the State of Texas relies very heavily on Texas cities to generate the revenue necessary for municipal facilities and services; (2) the state gives cities the capacity to generate that revenue; but (3) the state gives cities virtually no state financial aid.

In addition to forcing local governments to generate comparatively large amounts of tax revenue, the State of Texas also forces those local governments to rely too heavily on property taxes. It does this by denying them other revenue sources. While this is especially true for public schools which rely almost exclusively on property tax, it is also true for cities and counties. In fact, of the \$2,368 shown in Chart 2 as per capita local government tax revenue in 2018 in Texas, a whopping \$1,968 (83.1 percent) came from the property tax.

These two fiscal conditions, which create the property tax mess in Texas, are unlikely to change unless the State of Texas takes one (or both) of two actions:

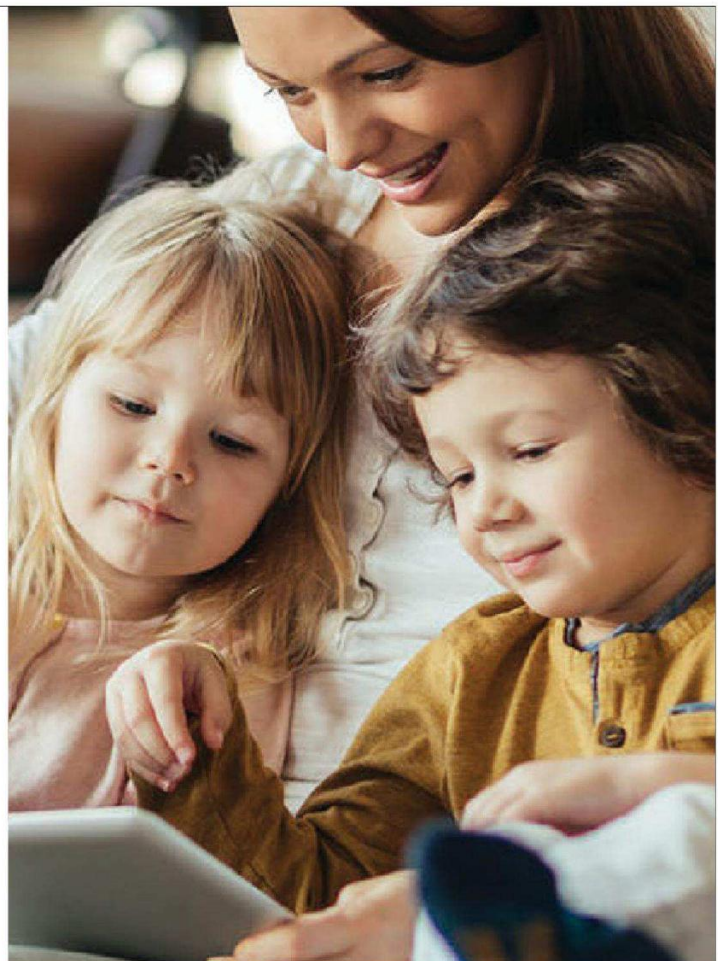
1. Inject more state money into public services and facilities, especially public schools. This means even more state revenue than was provided through past school funding efforts.
2. Open more revenue sources for counties and cities.

Additional attempts to reduce the property tax burden in Texas will either be ineffective or will create unintended, negative consequences.

In a nutshell:

- (1) Texas cities provide vital services that benefit their citizens;
- (2) Texas cities provide those services with less aid from the state, as compared to other states; and
- (3) Texas cities manage all of this despite a very small share of the total property tax levy and with reasonable annual increases in those taxes. ★

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WHERE DO TEXAS CITIES GET THEIR MONEY?

City government is where the rubber meets the road. Cities pave our streets, fight crime and fires, prepare us for disaster, bring water to our taps, take our trash away, build and maintain our parks—the list goes on and on. These services cost money. This article describes the sources of municipal revenue and expenditures.

A 2022 Texas Municipal League survey shows that municipal general fund revenue in Texas is made up of the following sources:

General Fund Revenue

Conspicuously absent from this list is financial assistance from the state. This is unusual—most states provide direct financial assistance to cities in recognition of the fact that cities provide basic services on which the entire state depends.

Instead of revenue, Texas cities receive something equally important from the state—broad authority to govern themselves, including the authority to raise their own revenue. This local authority has worked to the benefit of cities and the state for many decades and should continue into the future.

Here's more information on each source of municipal revenue:

Property Taxes

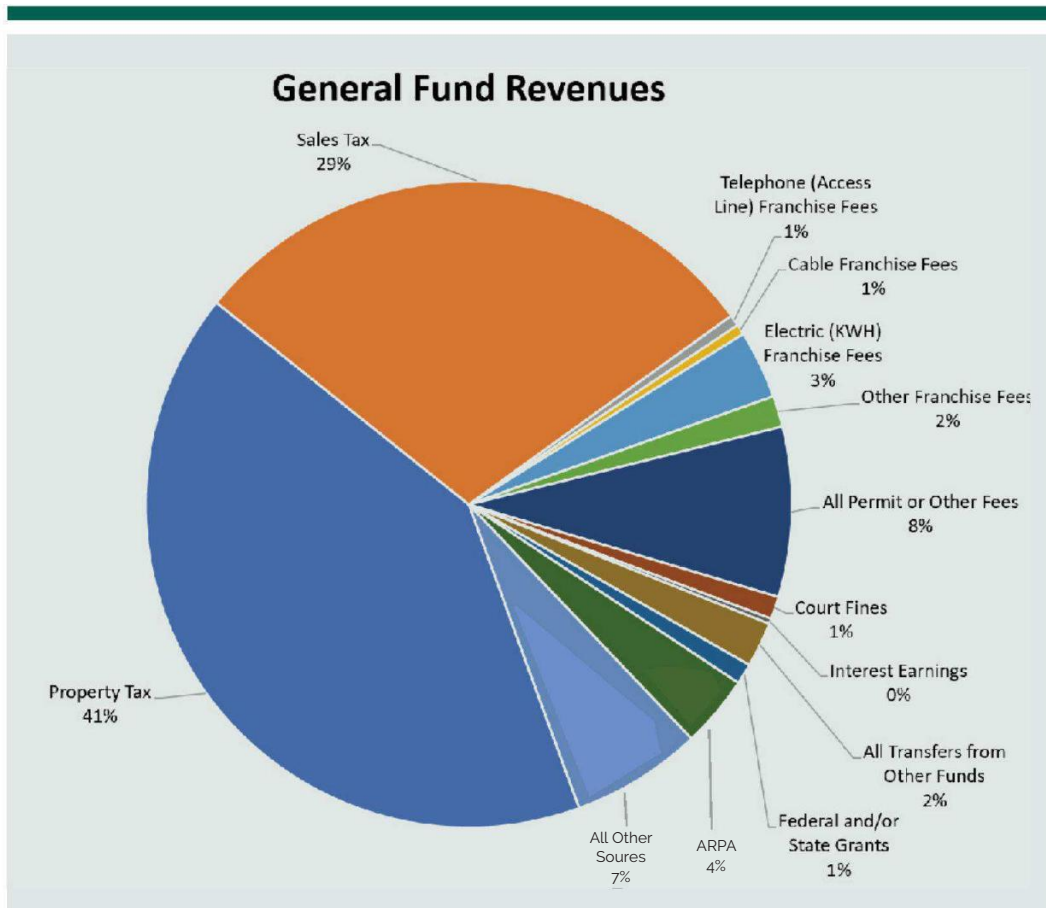
Property taxes are the leading source of city revenue. Though crucial to city budgets, city property taxes make up just a fraction of a property owner's total property tax bill.

Most cities under 5,000 population have statutory authority to levy property taxes at a rate of up to \$1.50 per \$100 of assessed value. Most cities over 5,000 population have statutory authority to levy property taxes at a rate of up to \$2.50 per \$100 of assessed value. Despite this broad authority, the average city property tax rate was only \$.53 for tax year 2018.

City property tax levies are tied by law to fluctuating property tax values. As values increase, the city must adjust its rate or face potential rollback elections. In reality, such tax rollback elections are rare. City rates have held relatively steady for years, both in terms of actual rates and in terms of total levy as adjusted for inflation and rising income.

Sales Taxes

Sales taxes are a major source of city revenue. Nearly 93 percent of Texas cities levy a basic one-cent city sales tax. The revenue can be used for any purpose other than payment of debt. Many cities, though not all, also impose additional sales taxes in varying amounts of up to one cent. These additional sales taxes are known as dedicated taxes, because their proceeds may be



spent only for certain purposes. Some popular dedicated sales taxes include mass transit, economic development, street maintenance, property tax relief, and sports venue taxes. All city sales taxes, including the basic one-cent sales tax, require a local-option election of the citizens. Collection of sales taxes is performed by the Texas comptroller, who "rebates" the city share on a monthly basis. The comptroller retains a small portion of the city tax revenue to cover the state's administrative costs.

Right-of-Way Rentals

When utilities and other industries use city property to distribute their services, cities are permitted by law to collect rental fees, also known as "franchise" fees, for the use of public property. Franchise fees are calculated by various methods, depending on industry type.

Permits and Fees

Cities may collect fees for issuing permits for building construction, environmental regulation, and other services. Because cities incur costs to regulate in these areas, the permit fees must be tied to the cost of providing the service.

Court Fines

A city that operates a municipal court may impose fines for violations of traffic laws and city ordinances. Maximum fines typically range from \$200 for traffic violations, and up to \$2,000 for city ordinance violations relating to health and safety. Much of a city's fine revenue offsets the costs of law enforcement and operation of the municipal court system.

Interest Earnings

When a city invests its funds, it must closely follow the mandates of the Public Funds Investment Act. Because of the twin concerns of safety and liquidity, investment income is a relatively small source of city revenue.

Transfers from Other Funds

Many cities operate utilities and other optional services that generate substantial gross revenues. By law, the fees for such services must closely offset the cost of providing the service. In addition to the cost factor, cities are permitted to retain a reasonable "return," which can then be transferred to the general fund. This return amounts to less than six percent of overall city revenue.

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Putting Local Debt in Context

The story about debt coming out of certain Austin think tanks goes something like this: the state has its fiscal house in order, but local governments are greedy, profligate spenders running up the taxpayers' credit card. It's a powerful narrative, but it isn't true.

A recent report issued by the Texas Bond Review Board shows total outstanding state and local debt for the past few years. From 2017-2021, total outstanding local debt increased from \$218.98 billion to \$266.38 billion, a 21.6 percent increase. Meanwhile, total outstanding city debt increased from roughly \$71 billion to \$84 billion, an 18 percent increase during the same time frame. For the same period, total outstanding state debt increased from \$53.01 billion to \$63.21 billion, a 19.24 percent increase. In other words, local debt (and city debt) is increasing at a similar pace as state debt in recent years.

At \$266.38 billion, the amount of total local debt is certainly significant. However, only a small portion of that—\$34 billion—is tax-supported city debt. Another \$42 billion is city debt supported by the revenues of city utilities and not by property taxes. The largest portion is tax-supported school district debt at \$87 billion.

School funding is a constitutional obligation of state government. The state has chosen to discharge that obligation by creating local school districts that levy the needed taxes. In reality, the \$87 billion of school district debt ought to be thought of as a state debt because that's how the state has chosen to fund schools. Shift that \$87 billion over to the state debt column and a vastly different picture about which governments may be falling dangerously into debt emerges. In any event, the numbers clearly show that it isn't Texas cities.

The recent focus on local debt (despite the fact that state debt is growing faster) likely relates to the reality that Texas state government, for better or worse, has gotten out of the business of building new state infrastructure with state dollars. Instead, locals are expected to pick up the slack for things like roads and reservoirs.

Consider the water funding proposition that passed in November 2014—it ultimately spends zero state dollars. Instead, through the use of a revolving fund, it *encourages cities to take on debt* to build our state's important reservoirs and other water projects. This is a perfect example of the state essentially forcing locals to take on debt to do the state's work, then blaming the same locals for having taken on the debt in the first place.

Texas cities are willing to partner with state government to build infrastructure in our great state, but should not be considered scapegoats in that partnership. ★

Did You Know?

Many people mistakenly believe that cities derive substantial general revenue from their courts. In reality, the first \$84 of most traffic tickets goes directly to the state. What's left over, if any, can be used by the city. Unfortunately, city courts are increasingly being used as a backdoor revenue source for the state.

Other Sources

City revenue can take various other forms, including user fees for some services, amusement taxes, and hotel occupancy taxes.

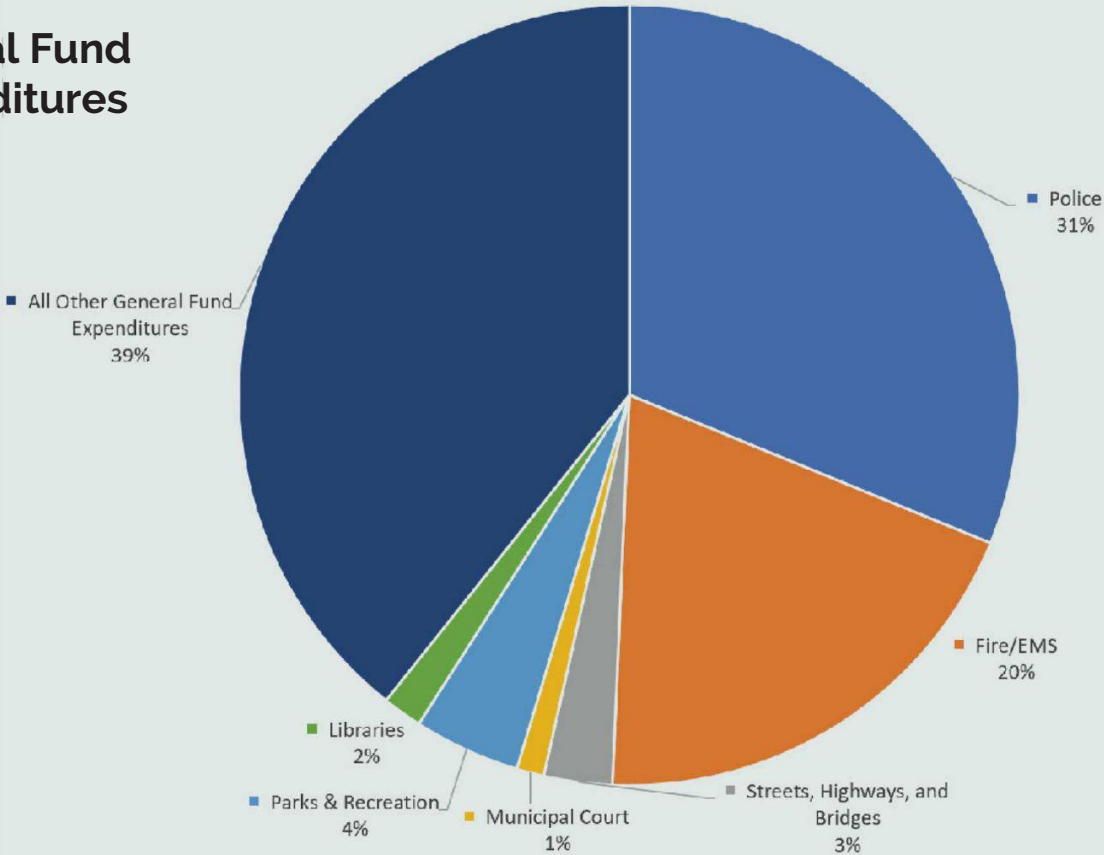
The Bottom Line

The state could put municipal revenue at risk in at least two ways. First, the state could increasingly look to cities for revenue to fund state programs. When a state provides direct financial assistance to its cities, such trading of revenue might be workable. Texas is not such a state. Texas cities receive virtually no direct funding from the state, and cannot afford to fund the state's obligations. Second, the state could erode the statutory authority under which cities raise their own revenue. While cities are indeed subservient to the state, city officials hope that the respectful nature of the fiscal relationship between Texas cities and the state will continue for years to come.

Expenditures

Core city services like police, fire, and EMS account for the majority of expenditures in a survey conducted by TML. In addition, cities spend revenue on streets, municipal courts, parks, and libraries. "Other Expenditures" in the survey include primarily administrative and personnel costs.

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CRACKING THE CODE: CITIZEN SAFETY AND PROTECTION OF PROPERTY VALUES

The building code of 4,000 years ago was simple but brutal. According to an ancient Hammurabi code, "If a builder builds a house and does not make its construction firm, and the house collapses and causes the death of the owner, that builder shall be put to death."

The first building codes in the United States, established in 1625, addressed fire safety and specified materials for roof coverings. In 1630, Boston outlawed wooden chimneys and thatch roof coverings. In the late 1770s, George Washington recommended height and area limitations on wood frame buildings in his plans for the District of Columbia. In 1788, the nation's first-known formal building code was written in Winston-Salem, North Carolina. Larger United States cities began establishing building codes in the early 1800s.

Today, most populous cities in Texas have adopted modern construction codes. The professionals enforcing current building codes in Texas maintain the vigilance of the ancient code of Hammurabi, but with a significantly more civilized approach that emphasizes knowledge and education. Building code regulations enforced in Texas cities ensure minimum standards for safe homes, schools, workplaces, and other buildings.

Scott McDonald, Denton's director of development services, points out that "during these tough economic times, the enforcement of construction codes is even more important." According to McDonald, "The active enforcement of construction codes not only provides a minimum standard for the structural and life safety components of the homes, schools, churches, and businesses, it can also provide energy efficiency standards."

"Buildings constructed to meet updated codes and energy efficient standards protect property values for years into the future, [and] they provide a sustainable stock of housing and commercial options in a community," he adds.

Prior to 2001, Texas had no statewide standard for any residential or commercial buildings. Each city chose which, if any, building codes to adopt for construction within the city limits, and each city amended its code to meet local concerns.

In 2001, the Texas Legislature adopted the International Residential Code (IRC) and the National Electrical Code (NEC) as the standard building codes for residential construction in Texas cities. However, cities were authorized to make amendments to these codes to meet local concerns. Also in 2001, the Legislature adopted energy efficiency standards for residential, commercial, and industrial construction.

More recently in 2021, the Texas Legislature enacted House Bill 738, which provides that the 2012 versions of the IRC and IBC are the official residential building code and commercial building code in this state. However, the bill authorizes a city to establish procedures to adopt local amendments "that may add, modify, or remove requirements" set by the codes in the IRC and IBC, above, but only if the city: (a) holds a public hearing on the local amendment before adopting the amendment; and (b) adopts the local amendment by ordinance. House Bill 738 also recodifies the provisions that prohibit a city from enacting a policy requiring the installation of a fire sprinkler protection system in a new or existing one- or two-family dwelling, but excepts from the prohibition mentioned above, a city that has enacted a policy requiring the installation of a fire protection sprinkler system in a new or existing one- or two-family dwelling on or before January 1, 2009.

In 2005, the Legislature adopted the International Building Code (IBC) as the municipal building code in Texas for commercial and multi-family construction. Nothing in the bill prohibited a city from adopting local amendments to the IBC. Later sessions included revisions to the International Energy Conservation Code.

Uniform building codes can make construction and inspection easier and more cost-effective. However, because Texas is a vast state with many different climates and topographical features, uniform codes serve only as standards, and each city should be allowed to amend its codes to meet that city's needs.

In 2019, the Texas Legislature adopted House Bill 2439, which impacts a city's ability to control building materials or construction methods of residential or commercial buildings within the city. Although cities can continue to adopt amendments to the building codes that do not conflict with House Bill 2439 and can have limited control over building materials or construction methods if done pursuant to a written agreement, the reality is that cities now have much less authority over building materials and aesthetic methods than they did prior to 2019.

In 2021, the legislature passed Senate Bill 1090, which among other things, created an exception for Dark Sky Communities from certain regulations regarding the use of building materials. Specifically, the bill allows those cities that have adopted a resolution stating the city's intent to become certified as a Dark Sky Community to regulate outdoor lighting in a manner required to become certified. In addition, the bill created an exemption for a city that implements a water conservation plan or program that requires a standard for a plumbing product, or if the Texas Water Development Board requires the use of a standard for a plumbing product as a condition for a TWDB program.

Under most cities' codes, a person who wishes to build a structure must apply for a permit. City officials review the necessary information and issue a permit if the structure complies with that city's regulations. The amount of time needed to review

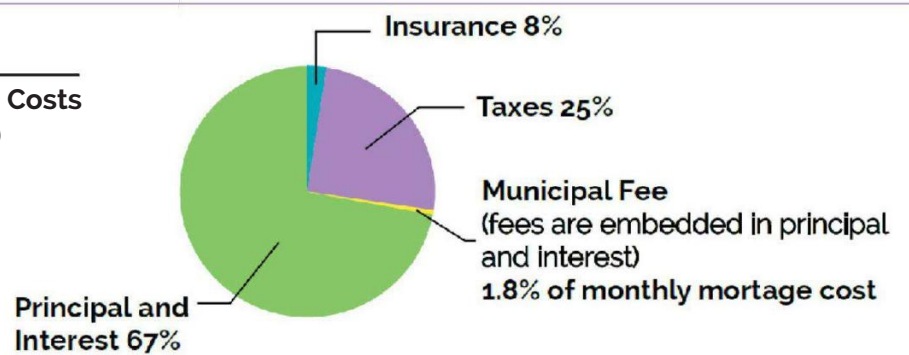
the permit application varies from city to city and from project to project based on several factors, including the complexity of the city's code and the project. Because of many issues affecting each individual city and building project, a blanket requirement that a permit be issued in a certain amount of time would place an untenable burden on city building officials.


Similarly, building permit fees vary widely based on several factors, including the number and type of inspections and the sophistication of the city's permitting process. While some have claimed that city fees are responsible for the rising costs of housing in Texas, a survey commissioned by the Texas Municipal League shows that building and inspection fees constitute only a tiny fraction of a homebuyer's mortgage payment (see Chart

1). A city is not limited by statute as to the amount the city can charge for building and related permits, but a city cannot charge more than is reasonably related or necessary to administer the permitting process as that could be deemed an unconstitutional tax. Additionally, House Bill 852, which was adopted by the Legislature in 2019, prohibits a city from basing its building permit fees on the cost of a proposed structure. Specifically, a city, in determining the amount of a building permit or inspection fee required in connection with the construction or improvement of a residential dwelling, may not consider: (1) the value of the dwelling; or (2) the cost of constructing or improving the dwelling. As a result, cities have opted to use square-foot based fees, a flat fee schedule, or other non-cost-based and reasonable calculations to determine reasonable permit fees. ★

Chart 1

The Role of Municipal Fees in Monthly Mortgage Costs
(Average of Eight Representative Texas Cities, 2003)





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CITY ECONOMIC DEVELOPMENT

Texas cities are the first—and often the only—engine of economic development in the state. Until the controversial Texas Enterprise Fund was created, cities were the only entity that routinely granted incentives necessary to attract new business to the state. With the Enterprise Fund up and running, larger cities have partnered with the state to attract such major developments as a Texas Instruments facility and a Toyota plant. Smaller cities are usually on their own to attract business.

Until the late 1980s, using city resources to attract business was arguably unconstitutional. However, in 1987, Article 3, Section 52-a of the Texas Constitution was added to make it clear that economic development serves a public purpose. From that point on, three major channels of city economic development began to open for cities: Chapter 380 agreements; the Type A/Type B economic development sales tax; and property tax incentives.

Chapter 380 Agreements

Chapter 380 of the Local Government Code authorizes cities to establish programs for grants and loans of city resources for economic development purposes. Although it is the broadest economic development tool for cities, Chapter 380 is often overlooked in favor of other incentives. Cities using 380 agreements must be careful not to simply present a blank check to business and industry prospects; a program providing for

checks and balances on a business's use of Chapter 380 money is required by law. Examples of these checks and balances might be performance agreements tying grant money to the creation of a certain number of jobs or requiring the business to stay in the city for a certain length of time.

Type A/Type B Economic Development Sales Tax

More than 500 Texas cities have adopted a Type A or Type B economic development sales tax. Some cities have both taxes. The tax was created in 1989 and authority to spend Type A/Type B tax money gradually expanded over the next decade to cover all forms of commercial, retail, and traditional industrial economic development. An important bill, House Bill 2912, passed in 2003. House Bill 2912 scaled back the authority of some Type A and Type B economic development corporations. Following the passage of House Bill 2912, the economic development sales tax could no longer be spent on retail, commercial, or service industries. Instead, the tax could be spent on basic industrial and manufacturing businesses, among a limited amount of other authorized expenditures. The authority for some, but not all, Type B corporations to engage in retail, commercial, and service economic development was restored in 2005.

The Type A/Type B sales tax remains an important economic development tool for many cities that have the available land and workforce to attract industry. Additionally, instead of a Type A or Type B economic development sales tax, some cities have adopted a municipal development district (MDD) sales tax that may be levied in a specified area in the city or in the city's extraterritorial jurisdiction. The MDD sales tax closely resembles the traditional economic development sales tax, and the scope of projects that may be funded with an MDD tax is slightly broader. There are some key differences in how an MDD is administered as compared to an EDC; however, including a bit less statutory clarity on the city's oversight of an MDD.

Property Tax Incentives

Property taxes may be directly tapped to promote economic development in two ways: tax abatement and tax increment financing. Both function by either forgiving (abatement) or dedicating to improvements (increment financing) any **net increase** in property tax revenue as a result of a business moving to town or upgrading existing facilities. Property tax incentives can never forgive or decrease the present taxable value of the land and facilities upon which they are granted. This key feature of the incentives—that all current taxes must continue to be paid—belies the common stereotype that tax incentives are “giveaways.” On the contrary, when done properly, tax incentives create new taxable value that never would have come to town absent the incentive, thus lowering the overall tax burden on other properties. ★



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CITIES KEEP THE GARBAGE FROM PILING UP

Did You Know?

Texas cities have been authorized to provide or contract with a private company to provide garbage collection services within city limits since 1971. Texas law recognizes that this authority is essential to preserve the public health and safety of all the residents of a city. Uncollected garbage can easily result in various health problems. This law routinely comes under attack from certain groups, but the bottom line is that timely, efficient, and effective garbage collection through city service prevents problems from occurring. Open piles of garbage attract disease-carrying rodents and insects, and often wash into drainage systems where they contribute to floods and waterborne disease.

Garbage collection and disposal is one of the most recognizable and widely used city services. This vital service protects the public health and the environment. A city can choose to operate its own garbage collection and disposal system or grant a franchise to a private company (or companies) to handle those tasks.

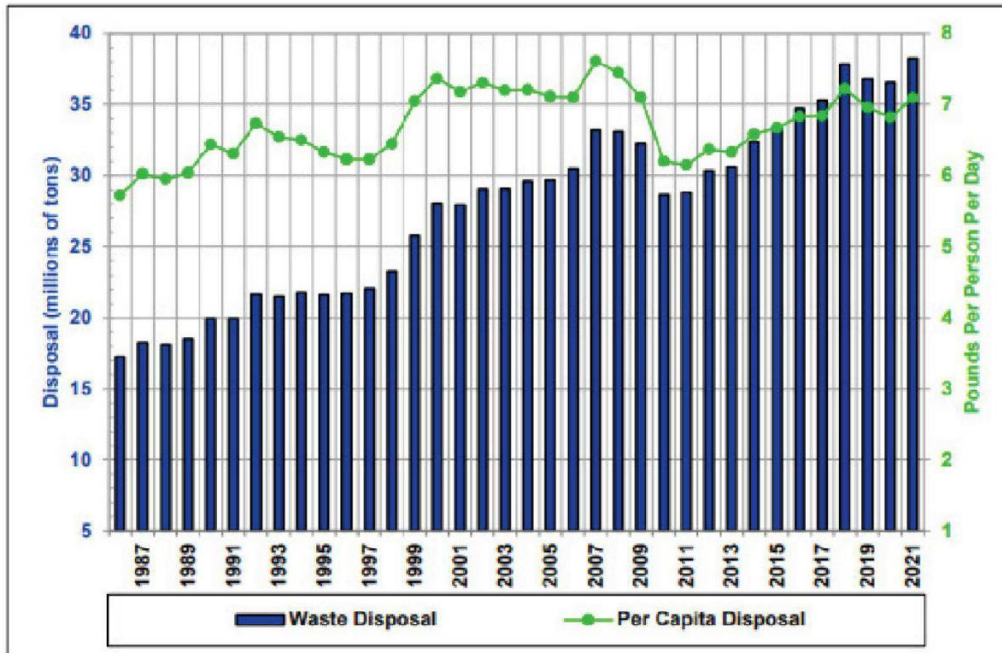
"If future generations are to remember us with gratitude rather than contempt, we must leave them something more than the miracles of technology. We must leave them a glimpse of the world as it was in the beginning, not just after we got through with it."

-President Lyndon B. Johnson

Waste generation is a function of two variables – population and economy – both of which are growing in Texas. In Texas, the definition of "municipal solid waste" includes waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities including garbage, rubbish, ashes, street cleanings, dead animals, abandoned autos, and all other solid waste other than industrial solid waste. According to the Texas Commission on Environmental Quality (TCEQ), Texans disposed of approximately 38.23 million tons of municipal solid waste in 2021. That's about 7.09 pounds per person per day, a slight increase from the 2020 rate of 6.82 pounds. During this period, the state's population increased by 0.57 percent.

Texas Total and Per Capita for MSW Landfill Disposal

Source: TCEQ, Municipal Solid Waste in Texas: A Year in Review - FY2020 Data Summary and Analysis (September 2021)



*"Unless someone like you
cares a whole awful lot,
nothing is going to get better
– It's not."*

-The Lorax by Dr. Seuss

Cities have statutory authority to offer recycling programs to their citizens. Recycling helps reduce the production of solid waste that a city must dispose of and reduces the costs of operating a municipal solid waste disposal system. In addition, recycling may also create more jobs than disposal programs do. Of course, statewide recycling mandates wouldn't take into account the various factors that make different parts of Texas unique, so recycling should be implemented locally in a way that is appropriate for each city. ★

Figure 3. Texas MSW Landfill Disposal Tons and Per Capita Disposal Rate

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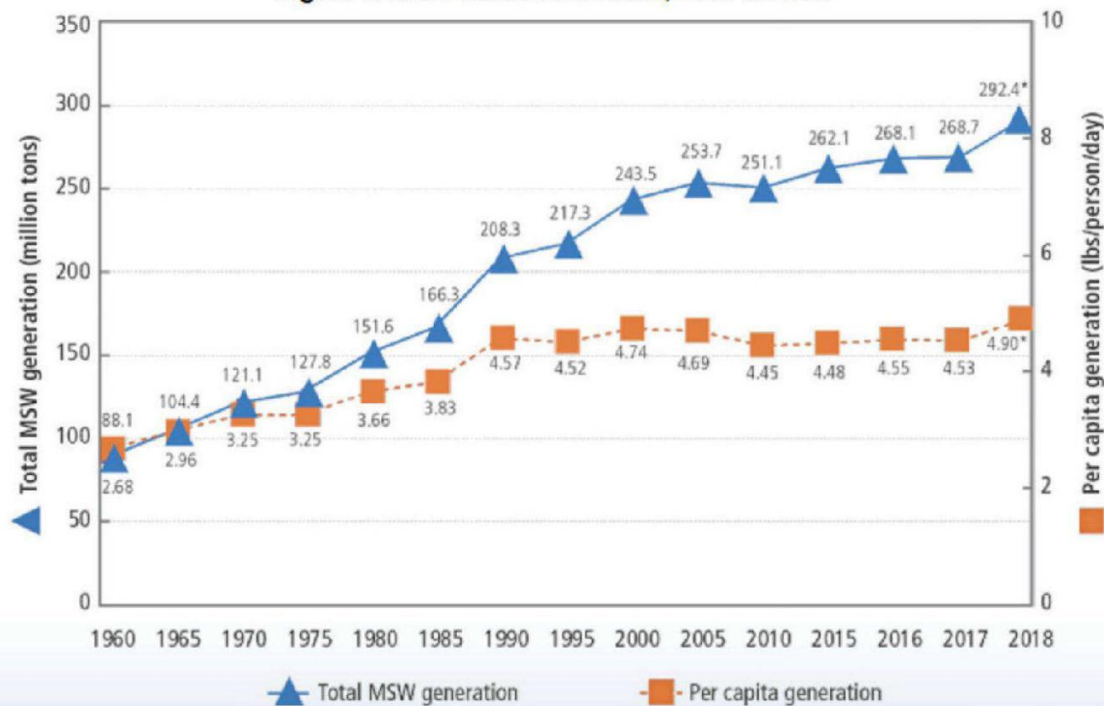
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Recycling of Municipal Solid Waste (MSW) in the United States 1960 – 2018

Figure 1. MSW Generation Rates, 1960 to 2018*



*MSW generation rose considerably from 2017 to 2018 mainly because EPA enhanced its food measurement methodology to more fully account for all the ways wasted food is managed throughout the food system.

Where Does It Go After I Place It at the Curb? How Much Does This Service Cost?

After household garbage is collected, it often goes to a facility known as a transfer station where waste is consolidated into larger loads for shipment to its ultimate destination: a landfill or a waste-to-energy plant. Recyclable material goes to processing facilities where it becomes raw materials for new products.

In 2018, 50.0 percent of municipal solid waste generated in the United States was ultimately disposed of in landfills; 11.8 percent was disposed of through waste incineration with energy recovery; and 32.1 percent was recovered for recycling or composting.

According to data collected by the National Solid Wastes Management Association, the typical U.S. monthly household bill for waste collection in 2003-04 ranged between \$12 and \$20 per month. The cost of

governmental compliance and the rising costs of fuel and equipment has led to an increase in the costs of collection and disposal in some communities. However, even with such increases, residential trash collection and disposal is still inexpensive relative to other utilities and household services, such as cell phone bills and cable television.

Collection and disposal costs have gone up in some communities for various reasons including the rising costs of fuel and equipment, as well as the rising costs of complying with new environmental regulations. Despite these increases, residential trash collection and disposal is still a bargain for United States consumers when compared to other utilities and services like cellular phone and cable television service.

Hear What Our Members Are Saying About Us!



“By switching to TML Health, we were able to save around \$37,000 and give raises to employees that they hadn’t seen in some time.

MELISSA GONZALES
Taft’s City Manager



“It seems too good to be true, and that’s what I thought at first too when our HR Manager said it was available. If you can, give it a try. It actually does what it says it does which is pretty awesome.

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Manvel’s City Systems Administrator



“TML Health allows us to offer an incredibly competitive benefits package to employees. Seminole is able to cover at 100% and still be in our municipality’s budget.

MARY FURLOW
Seminole’s Finance Director



“One of our employees went to the Catapult Screening and discovered they had something severe. They took immediate action and are better now.

ELENA QUINTANILLA
Ransom Canyon’s City Administrator



“MDLIVE is great. I’m a mom and I didn’t have to go anywhere.

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Taft’s Accounts Payable Clerk



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PUTTING THE “WORKS” IN PUBLIC WORKS

Streets and Traffic

Citizens expect to travel easily from one place to another and want their commute to be problem-free. A city's public works department makes that possible. Public works employees are constantly striving to keep driving conditions safe by building, maintaining, and repairing city streets. These efforts are not limited to streets, but also include streetlights, sidewalks, and other infrastructure that is crucial to cities. However, funding such maintenance efforts, which benefit the entire state economy, is a challenging task for Texas cities. Unlike many other states, Texas cities receive no state aid to offset the benefits that city streets provide. In those other states, a portion of vehicle registration fees or gasoline taxes are returned to cities for this purpose; not so in Texas. However, the Texas Legislature has granted Texas cities the authority to impose a street maintenance sales tax to be used to maintain city streets. Many cities have adopted this tax.

Traffic Signals: Coordinating Intersections Isn't Free.

According to the City of Austin, after a traffic signal request is granted for an intersection, it costs approximately **\$200,000** to construct and install a single traffic signal.

Right-of-Way Authority and Utilities

Many Texas cities are experiencing an unprecedented level of activity in their streets and rights-of-way (ROW). This is the result of an explosion in new communications technology, the growth of competition in the telecommunications industry, and the expansion of electric distribution lines to newly developing areas.

Sometimes, these activities can have a detrimental effect on public safety, traffic flow, city infrastructure, and efficient city administration. On occasion, excavations caused a breach in major water lines, and other ROW activities caused front-page incidents due to heavy traffic. Cities have had their utility lines cut, their streets barricaded and torn up, and suffered breaches in their major water lines. These actions significantly shorten the life expectancy for city streets, and make them unsuitable for traffic.

The new most recent ROW issues have arisen due to the planned proliferation of "small cell nodes." A small cell node is an antenna and related equipment that can provide very large bandwidth at a very short range. They are, by definition, deployed in densely-populated areas as a means to provide the broadband capacity that people and business want and need. One overarching principle relating to small cell deployment is clear: cities and businesses want better cellular/broadband service. Everyone wants the best technology for educational and business opportunities.

Senate Bill 1004, passed in 2017, attempted to help companies roll out their small cell facilities. The bill requires a city to allow access for cell nodes and related equipment in city rights-of-way, and it also entitles cell companies and others to place equipment on city light poles, traffic poles, street signs, and other facilities. That mandate can pose a public safety threat. More troubling, however, is that the bill limits cities to a rental fee of \$250 per node, far less than the amount companies must pay on the open market.

Similarly, Senate Bill 1152 passed in 2019, eliminated certain franchise fees. The bill authorized a cable or phone company to stop paying the lesser of its state cable franchise or telephone access line fees, whichever are less for the company statewide. Under the bill, compensation of the use of city's right-of-way is no longer based on the value of the right-of-way to the companies, rather its effect is to force city taxpayers to subsidize the cost of doing business for the companies.

As a result, a coalition of cities filed a lawsuit challenging S.B. 1004's unconstitutional cap on small cell rental fees and S.B. 1152's elimination of certain franchise fees. The lawsuits assert that the cap and the franchise fee elimination are a taxpayer subsidy to the cellular industry and telecommunication industry because they allow nearly free or discounted use of taxpayer-owned rights-of-way and facilities. Put simply, the bill takes the money every city resident pays in taxes and hands it directly to cell phone and telecommunications providers. Both lawsuits are pending.

Adding fuel to those flames, the Federal Communications Commission (FCC), in 2017, also adopted an order preempting

municipal authority over small cells and related equipment, further usurping local right-of-way authority and capping right-of-way rental fees for small cell deployment. In response, a national coalition of cities led by the City of Portland filed a lawsuit challenging the FCC order. In August 2020, a court of appeals court upheld the provision of the FCC's order that limits a city's right-of-way fees to a recurring fee of \$270 per site, per year, and expressly limits the ability of a city to recover any cost not directly related to rights-of-way maintenance, charging fees above cost recovery, or recovering "unreasonable" costs, such as excessive contractor or consultant fees.

Right-of-Way Compensation

The Texas Constitution prohibits a city from allowing the use of its rights-of-way for free. Thus, cities collect compensation in the form of rent (based on various state and federal statutes) from utility providers. Some have attempted to characterize this rent as a "tax." That characterization is incorrect. Instead, the rent is a cost of doing business for a utility that uses a city's property (just as a utility would have to rent property or obtain an easement from a private landowner). Utilities such as satellite providers do not pay the rent when they have no facilities on city property. In any case, the law authorizes compensation that provides significant revenue for cities.



The partners of Texas municipal law firm Messer, Fort & McDonald are proud to announce Arturo D. 'Art' Rodriguez Jr. and Bradford E. Bullock as the newest partners to the firm in their Austin location.

Mr. Rodriguez has close to 30 years' experience as general/special/litigation counsel to local governmental entities across Texas. Art's focus has been in water quality, water districts, oil and gas, administrative, and utility law specifically before the TCEQ and PUC.

Mr. Bullock defends local governments and their officials in complex state and federal litigation claims, including land-use matters, civil rights claims, employment matters and development agreements. He has a long-standing relationship with the Texas Municipal League Intergovernmental Risk Pool.

With offices in Frisco, Dallas, Austin and Abilene, Messer, Fort & McDonald's representation spans the state of Texas offering 400+ years of combined municipal experience.

To learn more, please visit www.txmunicipallaw.com.

Local Participation: Cities Help Pay for State Highways

Although amendments to the Texas Constitution in 2013 and 2015 boosted Texas Department of Transportation (TxDOT) funding significantly, TxDOT continues to ask for "local participation" in many of its projects. Local participation is sometimes referred to as a "pay-to-play" system imposed by TxDOT on local governments that wish to see highway projects in their area move forward. Moreover, TxDOT sent a letter in summer 2013 to cities with a population of more than 50,000 – as well as select smaller cities adjoining or surrounded by those larger cities – informing them that TxDOT intended to consider transferring all maintenance of certain non-controlled-access state highways to the cities in which they are located. TxDOT dubbed the proposal "Turnback." The agency later stated the program was always intended to be a "voluntary participation program." In any case, cities pitch in more than \$100 million annually in cash and much more in right-of-way donations and in-kind services. In addition, the state gasoline tax paid by cities accounts for many more millions of dollars paid by cities for the state transportation system.

Federal Storm Water Mandates and Municipal Drainage Utilities

Federal Storm Water Mandates

During rainfall, storm water runs off impervious areas such as paved streets, parking lots, and rooftops. The storm water contains pollutants that may adversely affect water quality. Thus, the federal Clean Water Act requires cities to obtain a permit from the United States Environmental Protection Agency (EPA) before allowing the discharge of storm water from a storm sewer system into rivers and lakes. In Texas, the EPA has delegated the administration of the storm water permitting program (known as the "National Pollution Discharge Elimination System" or "NPDES") to the Texas Commission on Environmental Quality (TCEQ).

Most medium and large cities in Texas, such as Dallas, Houston, San Antonio, Austin, Abilene, and others, currently operate under a "Phase I" permit. Since the early 1990s, "Phase I" cities were required to develop a storm water management program that would reduce storm water pollutants. Many other Texas cities are subject to the "Phase II" general permit. The Phase II program began in 1999 and requires more than 400 of the state's smaller cities to also develop storm water management programs. At a minimum, the programs must include public education and participation, detection of unwanted discharges into sewers, construction site storm water runoff controls, and pollution prevention measures.

In addition, cities operating under the Phase II permit must issue an annual report to the TCEQ that includes information regarding the status of compliance with permit conditions, an assessment of the appropriateness of best management practices, a description of progress toward reducing the discharge of pollutants to the maximum extent practicable, the measurable goals for each of the minimum control measures, and an evaluation of the program's progress. TCEQ, in compliance with federal law, reissued the Phase II general permit for small cities in 2013.

All Texas cities subject to the NPDES program are required to identify and apply management practices to reduce storm water pollution. Unsurprisingly, implementing such practices comes at a high monetary cost, especially in light of the fact that the mandate is not funded by the state.

In 2003, the Texas Legislature enacted a law that exempted state colleges and universities from paying municipal storm water utility fees. The rationale for that exemption (presumably) was that a taxpayer-funded entity shouldn't be required to pay a fee to another taxpayer-funded entity. In 2007, private universities sought and obtained the same exemption. The exemption of private colleges and universities has had detrimental effects on some cities. These private entities benefit from the flood prevention and storm water control provided by storm water utilities, and both public and private universities generally have very large areas of impervious cover that contribute to runoff. The exemptions have resulted in a cost shifting to residents and businesses. Further, a city council can consider exempting public school districts, public agencies, and religious groups. If a city council chooses to do so, the same cost shifting result may occur. ★

Municipal Drainage Utilities

As a means to protect citizens from the devastating effects of flooding and to offset the costs of unfunded federal storm water mandates, the Local Government Code authorizes Texas cities to establish municipal storm water drainage utilities. The utilities are generally funded by fees on properties that are benefited by the improvements. The fees must be nondiscriminatory and must be directly related to drainage.

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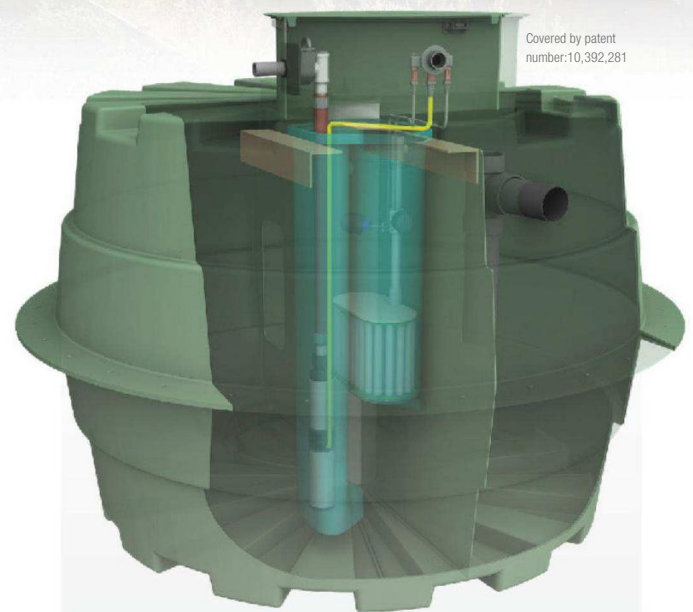
- Brundtland Report, United Nations, 1987

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*WERF Fact Sheets C1, C2, & C3, "Performance & Cost of Decentralized Unit Processes," 2010.



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WATER CONSERVATION

Conservation continues to play a pivotal role in meeting the future water demands of Texas' rapidly growing population. Municipal water conservation is one of the key recommended management strategies for addressing future water needs in the 2022 State Water Plan. The 2022 Water Plan recommends about 977,000 acre-feet in municipal conservation strategies in 2070, of which 320,000 acre-feet is associated with water loss reduction activities at a capital cost of approximately \$3.8 billion. Ultimately, each city is best suited to determine what conservation programs work for the city.

In past years, the Texas legislature enacted numerous bills related to statewide water conservation standards, including a recent requirement that cities draft, implement, and submit drought contingency and water conservation plans. The legislature also created the Water Conservation Advisory Council (WCAC) tasked with, among other responsibilities, developing numerous Best Management Practices (BMPs) (a voluntary efficiency measure intended to save a quantifiable amount of water, either directly or indirectly, when implemented within a specified timeframe). BMPs, including municipal BMPs, are available at www.twdb.texas.gov/conservation/BMPs/index.asp.

In addition, the Texas legislature, in recent years, passed bills which require the Texas Water Development Board and the Texas Commission on Environmental Quality 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. The methodology and guidance include: (1) a method of calculating total water use, including water billed and nonrevenue water used; (2) a method of calculating water use for each sector of water users; (3) a method of calculating total water use by a city in gallons per capita per day; (4) a method of classifying water users within sectors; (5) a method of calculating water use in the residential sector that includes both single-family and multifamily residences, in gallons per capita per day; (6) a method of calculating water use in the industrial, agricultural, commercial, and institutional sectors that is not dependent on a city's population; and (7) 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.

The resulting “Guidance and Methodology for Reporting on Water Conservation and Water Use” is intended to guide water providers through the process. This guidance is available at <https://www.twdb.texas.gov/conservation/doc/SB181Guidance.pdf>.

Another water conservation issue is that of mandatory water conservation rates. The legislature, in the past, proposed legislation that would take away a city’s exclusive authority to set water rates within its city limits, but no such legislation has passed. As a result, the ability to set water rates within the city limits remains with each city’s governing body, which comports with the Texas Municipal League’s members’ view that local control is best.

While water was one of the main topics of the 2013 legislative session, only a handful of water conservation bills have passed since then. In the 2022 interim, the House and Senate were charged with making recommendations to promote conservation and waste prevention and to evaluate the state’s groundwater management process, including data to support regional water planning and conservation goals, respectively.

Water restrictions, conservation education, and higher prices have played a role in Texans using less water. According to a League survey, the average monthly residential water consumption is decreasing each year (with a few outliers), averaging a total of 5,481 gallons in 2022 compared to 8,581 in 2002. Which method of addressing water shortages—restricting usage, repairing/replacing inefficient infrastructure, or scarcity pricing—is the best? Whatever a city council decides is right for its city is usually the correct method. In other words, local control is the best method.

Interestingly, one side effect of lower water use is a loss of millions of dollars in anticipated revenue to some cities. For example, the City of Wichita Falls has reported that conservation efforts have resulted in a water revenue reduction of nine million dollars from fiscal year 2012-2013 to fiscal year 2013-2014. Anticipated water revenue is generally budgeted to pay for fixed or capital infrastructure costs and in certain cases, to pay off debt, including debt issued to finance new wastewater plants or water-related projects.

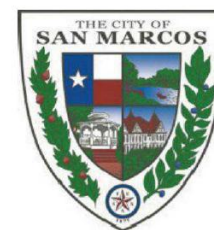
Each city has a unique perspective and resulting priorities for expending resources to conserve water. Climate,

population density, availability of water resources, and the ratio of industrial to residential water use in the city are a few of the various factors that affect conservation decisions across the state. Water conservation continues to be a major issue in many cities in Texas, and cities should continue implementing water conservation strategies that are appropriate for their specific community. ★

Cities offer a variety of different programs to encourage water conservation.

For example,
the City of San Marcos offers:

- Tiered Water Rate System
Water rates increase as consumption increases.
- Rebate/Incentive Programs
The City of San Marcos provides rebates to those customers who purchase and install qualifying water conserving items.
- Irrigation System Evaluations
Free irrigation system check-ups for both residential and commercial water customers.
- Indoor Water Surveys
Free indoor water surveys to customers who would like to save water and money. City staff will evaluate your home or business to make sure you are using water as efficiently as possible.
- Public and School Education Programs





The Texas State Water Plan provides for the orderly development, management, and conservation of water resources in the state. The plan's goal is to ensure that sufficient water will be available at a reasonable cost to protect the public health, further economic development, and protect the agricultural and natural resources of the entire state.

The State Water Plan is the culmination of a regional planning process that the Texas Legislature established in 1997. Every five years, 16 planning groups—one for each regional water planning area—assess the projected population, water demands, and water supplies in their area for the next 50 years. Each planning group holds public hearings and meetings to develop its regional water plan, which lists the water supply projects needed to meet their water shortages. Once a regional water planning group adopts its regional water plan, the plan is then sent to the Texas Water Development Board (TWDB) for approval. The TWDB ultimately compiles the information to make the State Water Plan. The most recent iteration is the 2022 State Water Plan, adopted on July 7, 2021.

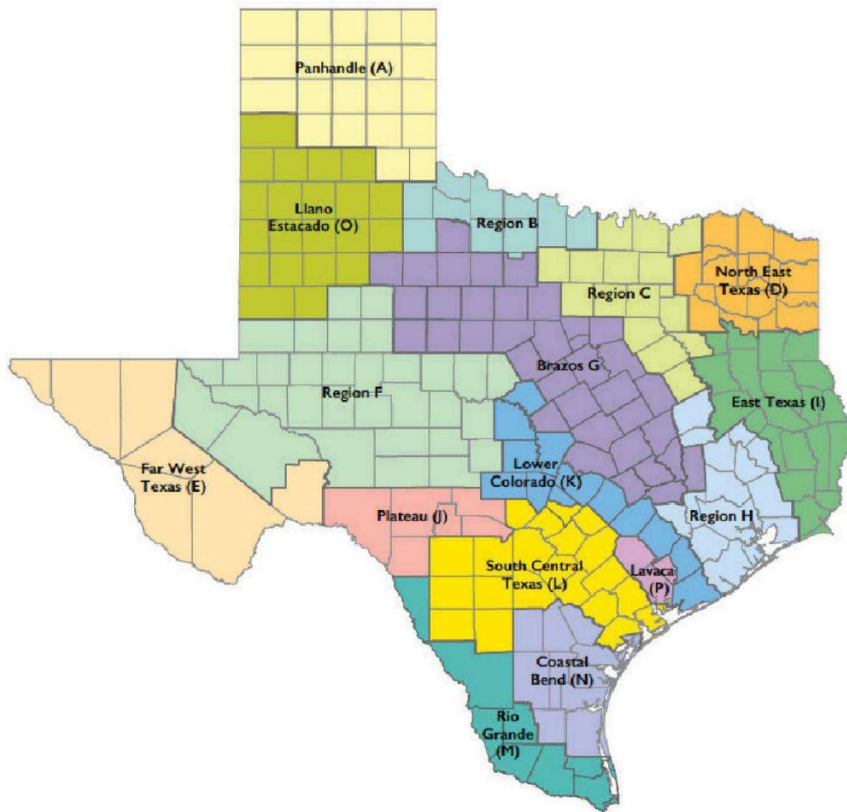
The 2022 State Water Plan tells us that our population will continue its rapid growth. Texas' population is expected to increase more than 70 percent between 2020 and 2070, from 29.7 million to 51.5 million, with over half of this growth occurring in Regions C and H. Water demands are projected to increase less significantly, by approximately 9 percent between 2020 and 2070, from 17.7 million to 19.2 million acre-feet per year. This projected increase is smaller than the 2017 State Water Plan, primarily due to revised methodologies for the irrigation, manufacturing,

and steam-electric power generation sectors of water use. Notably, municipal demands are anticipated to grow by the greatest total amount, from 5.2 million acre-feet per year in 2020 to 8.5 million in 2070. Agricultural irrigation demand is expected to decrease, from 9.4 million acre-feet per year in 2020 to about 7.6 million in 2070, due to more efficient irrigation systems, reduced groundwater supplies, and the transfer of water rights from agricultural to municipal users. Manufacturing and livestock demands are expected to increase, while mining demand is expected to decline over the next 50 years. Steam-electric (power generation) demand is expected to remain constant.

Texas' existing water supplies—those that can already be relied on in the event of drought—are expected to decline by approximately 18 percent between 2020 and 2070, from 16.8 million to 13.8 million acre-feet per year. Water user groups face a potential water shortage of 3.1 million acre-feet per year in 2020 and 6.9 million acre-feet per year in 2070 in "drought of record" conditions.

The 2022 State Water Plan provides a roadmap for how to address the water needs that accompany our expected growth by identifying water management strategies and their associated costs for communities across Texas. Approximately 5,800 water management strategies recommended in the plan would provide 7.7 million acre-feet per year in additional water supplies to water user groups in 2070. The estimated capital cost to design, construct, and implement the more than 2,400 recommended water management strategy projects by 2070 is \$80 billion in 2018 dollars, without accounting for inflation. Water management

Regional Water Planning Areas



strategies can include conservation, drought management, reservoirs, wells, water reuse, desalination plants, and others.

The information in this plan is critical to ensuring that Texas has adequate and affordable water supplies now and in the future. Without employing water management strategies, approximately one-quarter of Texas' population would have less than half of the municipal water supplies they will require during a "drought of record" in 2070. If Texas does not implement the State Water Plan, estimated annual economic losses resulting from water shortages will range from approximately \$110 billion in 2020 to \$153 billion in 2070.

For more information on the 2022 State Water Plan, as well as resources on how to get involved with your regional planning group and financial assistance for cities, visit the Texas Water Development Board at www.twdb.texas.gov. ★

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THE CONNECTION BETWEEN INFRASTRUCTURE AND PROPERTY TAX LIMITATIONS

Except for construction, repair, and maintenance of the state highway system, infrastructure in Texas is primarily the responsibility of local governments. Streets, bridges, drinking water systems, and wastewater facilities are funded by local entities. Although some loans and very limited grant funds are available for some water projects, the fact remains that city streets, water systems, and wastewater utilities are built and maintained with city-generated revenue.

Texas cities are virtually on their own when it comes to paying for these infrastructure projects. While recent federal programs such as the American Rescue Plan Act and the Infrastructure Investment and Jobs Act have made additional federal funding available to cities in the recent years, the paucity of state aid to Texas cities is well-documented. While most states (including virtually all the most populous states) provide substantial financial assistance to cities to help pay for infrastructure, such grant programs generally do not exist in Texas.

Chart

Cost-Saving Measures

Percent of All Cities

	2015	2016	2017	2018	2019	2020	2021	2022
Hiring freeze	3.8%	2.9%	3.2%	4.9%	2.9%	2.1%	13.9%	5.0%
Wage freeze	3.4%	3.5%	4.5%	2.9%	2.6%	1.6%	10.5%	5.9%
Reduced services	1.3%	2.5%	2.1%	2.0%	1.3%	2.0%	7.5%	0.1%
Eliminated services	1.3%	0.6%	0.8%	1.3%	2.0%	1.6%	3.6%	1.2%
Reduced salaries	0.4%	0.4%	0.4%	0.2%	0.0%	0.0%	1.1%	0.8%
Laid off employees	3.0%	1.4%	3.2%	3.1%	1.9%	1.2%	5.2%	3.1%
Postponed capital spending	36.0%	28.7%	26.4%	24.4%	22.0%	22.2%	20.6%	21.6%

It can be argued that funds flow in the opposite direction—from local entities to the state. In recent years, the Texas Department of Transportation received almost \$100 million annually in *Local Participation* revenue from cities alone. (Other entities provide local participation funds as well.) This is city money that helps pay for improvements to the state highway system.

This means that much of the local revenue that is used to fund infrastructure projects comes from local property owners through their property taxes, which raises an interesting question: if the Texas Legislature passes additional legislation that limits municipal property tax revenue, will municipal investment in infrastructure decrease?

The Texas Municipal League's *Fiscal Conditions Survey* shows that the answer is yes. When asked which cost-cutting measures were employed to balance the current-

year budgets, cities consistently identified *postponed capital spending* as the most used tactic. (Please see Cost-Saving Measures chart on page 42.)

Similarly, when asked to identify how they would respond to diminishing revenue in future years, more than half of the respondents identified *postpone or defer capital improvements* and/or *reduce or eliminate expenditures or right-of-way contributions to TxDOT* as their top two identified areas for future spending reduction.

Any legislation that further restricts the ability of cities to generate property tax revenue will result in reduced spending on infrastructure, which could harm regional economies and the state's economy. Without continued municipal investment in the infrastructure needed for industrial and commercial activity, the *Texas Miracle* of continued job creation and economic growth will be difficult to maintain. ★



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THE HIGH COST OF PROVIDING PUBLIC SAFETY

Ensuring that citizens have a safe city in which to live and work is of the utmost importance to the state. Cities strive to promote the health, safety, and welfare of all their citizens. Unfortunately, providing a high level of public safety does not come cheap.

Most citizens automatically turn to the government in times of need. In cities, that translates to spending tax dollars on public safety services. Of these public safety services, cities expend a considerable amount of their resources in anticipation of emergencies, occurrences that the public at large generally doesn't want to think about. Traditionally, public safety includes fire protection (fighting house fires), police protection (patrolling streets for traffic violations and criminal activity), and responding to numerous 911 calls.

However, in today's world, "public safety" has expanded to encompass:

- responding to hurricanes and other natural disasters
- preventing and responding to terrorist threats and attacks
- enforcing federal homeland security mandates
- providing emergency medical services (EMS) and ambulance services

- providing border security
- responding to hazardous materials issues
- responding to pandemic disease and other public health disasters
- participating in drug task forces
- conducting search and rescue operations, along with a host of other activities

Police, fire, and EMS now must protect our homeland and be ready to respond to terrorist attacks with chemical, biological, and weapons of mass destruction. That's a tall order, considering the cost of standard public safety training and equipment.

For example, it costs approximately \$2,000 to provide basic protective equipment for a single structural firefighter. Of course, the equipment needed to enter a burning building is specialized and much more costly than the standard issue equipment. (See firefighter diagram.) In addition to the expensive equipment necessary for firefighters to safely carry out their jobs, they must also receive continuous training. This training often comes with a high price tag and must be supplemented on an ongoing basis.

TEXAS CITIES ASSIST WITH DISASTER RESPONSE AND RELIEF

Over the past several years, cities played a major role in disaster response, relief, and rebuilding efforts as various natural disasters hit Texas. According to the City of Houston, the City was responsible for \$500 million in the recovery effort after Hurricane Harvey. Houston rushed to repair vital infrastructure, dedicating countless resources to restoring necessary services to citizens. The City of Galveston, hard-hit by Hurricane Ike in 2008, expended \$500 million to repair and replace housing, city buildings, and utility infrastructure, not to mention millions more to repair roads and revitalize the business community. Even though the federal government ultimately reimbursed some of these expenditures, the ability of cities to react quickly and decisively during and after a natural disaster is an invaluable service. In 2013, the City of West responded to a fertilizer plant explosion that devastated its city. The City paid the price of emergency response in dollars, and lost many of its volunteer firefighters, one of whom was the city secretary. Disasters like the West explosion can lead to legislation that seeks to impose additional mandates on cities but does not provide the necessary funding.

The COVID-19 pandemic also emphasized Texas cities' important role during public health emergencies. In response to the pandemic, city police departments were tasked with enforcing the governor's orders, including the mask mandate and business capacity limitations, as well as local orders like curfews. The costs for public health emergencies will continue to fall on cities because urban populations are often the most affected. ★



Median Salary for Police Officer and Firefighter

Police Patrol Officer:

\$64,610.00 plus benefits annually

Firefighter:

\$50,700.00 plus benefits annually

Source: United States Bureau of
Labor Statistics

Helmet and hood:
\$381

"Pass" alarm to
monitor firefighter
while deployed:
\$495

Self-contained
breathing apparatus:
\$2928

Firefighter pager:
\$459

Heat-reflective,
fire-resistant coat:
\$1,200

Gloves:
\$87

Heat-reflective,
fire-resistant pants:
\$600

Puncture-proof,
heat-resistant boots:
\$370

Total: \$6,520



ANNEXATION: A DANGEROUS POLICY EXPERIMENT IS UNDERWAY

Following incorporation, the authority of a city to annex neighboring property has been the only way for Texas cities to expand their city limits. On May 24, 2019, House Bill 347 became effective, and municipal annexation as it had existed for over a century was over. The bill requires landowner or voter approval of most annexations by any city in Texas. In instances where the landowner does not request to be annexed, annexation of that property can become impossible. Prior to 2019, the legislature rarely acted to broadly limit municipal annexation. Even when major reforms passed, the core authority remained largely intact, because key legislators understood that cities support the state's economy through the services and growth management they provide. As cities grew and prospered, so did the state. With the passage of House Bill 347, it is clear the legislature has lost sight of this connection.

According to many national authorities, the annexation power of Texas cities had been a key difference between

the flourishing cities of Texas and the declining urban areas in other parts of the nation. A 2003 report issued by The Perryman Group predicts that overly restrictive annexation policies will harm the Texas economy by reducing gross state product, personal income, sales, employment, and population. The Perryman report concludes that restrictions on annexation will mean that "the entire character of the Texas economy will be changed in a way which notably limits its capacity to support future growth and prosperity." If you think those numbers are exaggerated, just look at what happened to four once-great American cities that were prevented from growing. In 1950, Detroit, Baltimore, Cleveland, and St. Louis were the fifth, sixth, seventh, and eighth largest cities in the nation in population. All four of them were prevented from expanding their city limits. By 2010, all four cities had about the same number of square miles they had sixty years before but had double-digit declines in population.

	Land Area Sq. Mi.		Population Rank		City Population		Population Change	Median household Income in 2013
	1950	2010	1950	2010	1950	2010		
Detroit	140	140	5	20	1,849,568	713,777	-61%	\$26,325
Baltimore	79	81	6	24	949,708	620,961	-35%	\$41,385
Cleveland	75	78	7	48	914,808	396,815	-57%	\$26,217
St. Louis	61	62	8	61	856,796	319,294	-63%	\$34,582

Contrast those four cities with Austin, Houston, San Antonio and Dallas over the same sixty-year period, when Texas cities could unilaterally annex property to expand their city limits.

	Land Area Sq. Mi.		Population Rank		City Population		Population Change	Median household Income in 2013
	1950	2010	1950	2010	1950	2010		
Houston	160	600	14	4	596,163	2,099,451	252%	\$45,010
San Antonio	70	461	25	7	408,442	1,327,407	225%	\$45,722
Dallas	112	341	22	9	434,462	1,197,816	176%	\$42,846
Austin	32	297	73	14	132,459	790,390	497%	\$53,946

To say that the first four cities' collective decline is the direct result of the lack of annexation authority clearly paints with too broad a brush; other powerful forces certainly were at play. But annexation authority plays a big role in the growth and continued success of Texas cities (and therefore the state). Without the ability to expand their borders between 1950 and 2010, none of these Texas cities would have the ability to support their current populations, which has fueled the state economy.

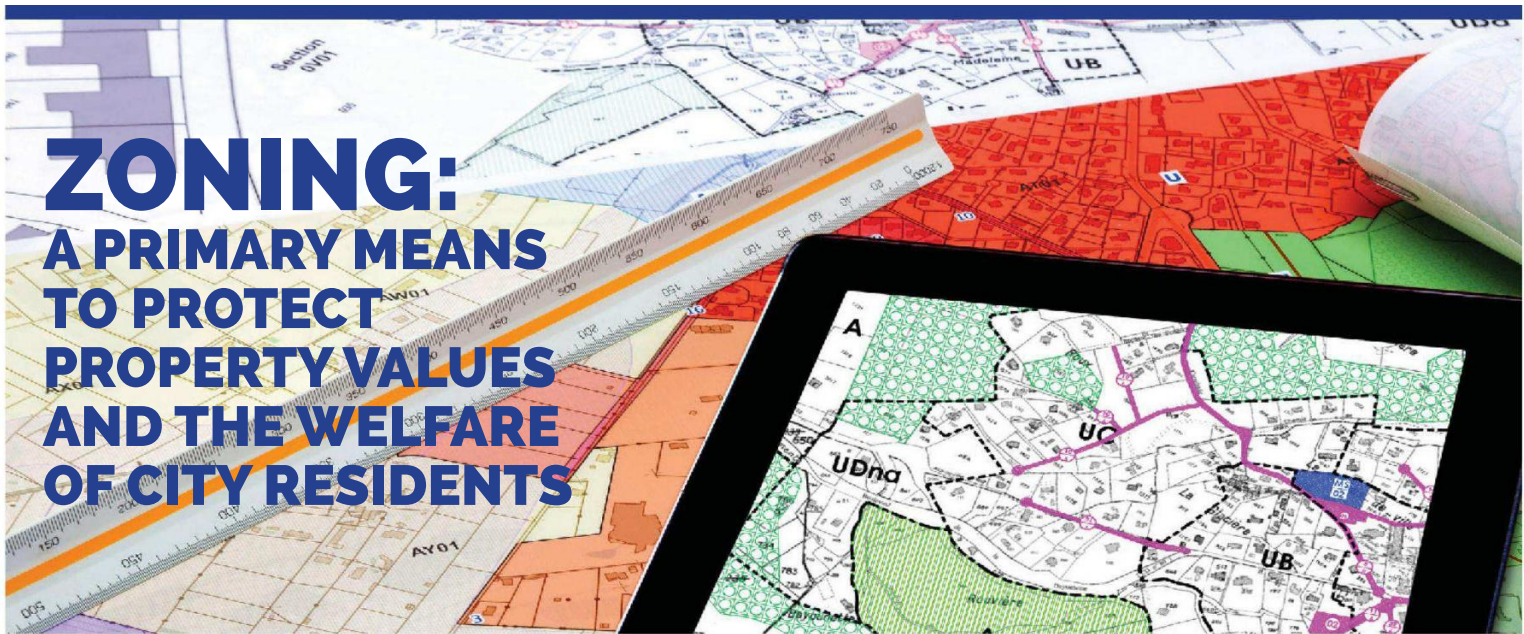
More recently, the League commissioned a study of southern states with similar demographics to Texas. That study found that, among a comparison set of 13 states, three key findings emerge:

1. States in which city councils decide whether to annex have seen their cities grow faster over the past 25 years, both economically and demographically, than other states that limit annexation.
2. In terms of annexation activity (as measured by change in city size), states in which city councils decide whether to annex have seen their cities physically grow more slowly from 1990 to 2010 than other states that limit annexation.
3. When measured by bond ratings tied to the issuance of general obligation bonds, states in which city councils decide whether to annex have better ratings than other states that limit annexation.

In short, municipal annexation has been an engine driving the Texas economy and slowing that engine will likely be detrimental to the state's financial future. With House Bill 347, the legislature has started a dangerous policy experiment.

Texas is now one of the only states in the nation that denies both state financial assistance and unilateral annexation authority to its cities, which is an additional reason why this experiment in annexation is particularly dangerous in Texas. Unlike other states, Texas cities do not receive general state financial assistance or state revenue-sharing. Prior to House Bill 347, the potential for the future annexation of residents and businesses just outside a city's corporate limits pressured those landowners and cities to work together as partners or future partners. Cities would extend services beyond the city limits, knowing that the folks who would benefit from access to those city's facilities and services could be called on to share their associated costs. Now, with limited annexation authority and without state-level financial support, all the financial risk of extending city services beyond city limits falls on city taxpayers. This will likely result in lower levels of service to Texans living just outside cities, which can mean lower levels of economic productivity outside the city and lower standards of living.

Nearly 85 percent of Texas' population lives in urban areas, meaning that most Texans currently depend on city services to support their daily needs. Given that Texas is adding an additional 1,400 plus people each day to its population – and mostly in the cities – the result of this annexation experiment becomes more critical every day. ★



ZONING: A PRIMARY MEANS TO PROTECT PROPERTY VALUES AND THE WELFARE OF CITY RESIDENTS

What is zoning?

Zoning is the division of a city into districts that permit compatible land uses, such as residential, commercial, industrial, or agricultural, and is arguably one of the most important functions of local government. Zoning authority empowers a city to protect residential neighborhoods, promote economic development, and restrict hazardous land uses to appropriate areas of the city. It is used to lessen street congestion; promote safety from fires and other dangers; promote health; provide adequate light and air; prevent overcrowding of land; and facilitate the provision of public facilities.

How does zoning occur?

Chapter 211 of the Texas Local Government Code contains the procedural requirements that must be followed when a city zones or rezones property, including strict notice and hearing provisions. The requirements ensure that city and neighborhood residents have a strong voice anytime a zoning change is considered. In addition, Chapter 211 provides for the creation of a planning and zoning commission to make recommendations on the adoption of the original regulations, as well as to hear proposed amendments. Finally, a board of adjustment may be appointed to hear requests for appeals of decisions, special exceptions, and variances from the regulations.

Why is there zoning?

Zoning authority is often demanded by the residents of cities. Citizens, acting through neighborhood

and preservation groups, generally support zoning wholeheartedly because zoning minimizes conflicts between land uses and maintains property values. "For example, assume a beautiful home on a half-acre lot has just been built. Six months after construction and move-in, the property owner next door decides to put in a restaurant. This means parking problems and late-night noise. Without a zoning ordinance, there may be nothing to prohibit the adjacent landowner from building the restaurant or a manufacturing facility, for that matter." Jennifer Evans, *A Citizen's Guide to Texas Zoning*, Texas A&M Real Estate Center, Report 1294 (April 1999).

Who decides zoning?

Because zoning is dependent on knowledge of local conditions and the needs of individual communities, the power to zone is best exercised by local officials – the level of government that is closest to the people. "The same [zoning] ordinance that protects property from what occurs next door also limits the development of property." *Id.* This sometimes creates a conflict between neighboring landowners, which is then resolved through an open, local process, governed by the local zoning ordinance within the framework created by the Local Government Code.

Appropriate Use of Manufactured and Modular Housing

The Texas Manufactured Housing Standards Act allows cities to regulate the location of "manufactured homes," which meet federal construction regulations. Other state

law regulates industrialized housing and buildings, and allows cities to require that “modular homes,” which meet the more stringent requirements of the International Residential Code, have an appearance and value similar to nearby homes. Many cities take advantage of these provisions to protect property values and the safety of residents, while at the same time allowing for different housing products for different segments of the market. The Texas Municipal League is not opposed to this type of housing, and strongly advocates the authority of cities to retain local control over when, where, and how this type of dwelling is installed. ★

ZONING CHANGES AND PROPERTY VALUES

State laws that require compensation when a property’s value is affected by a zoning change are extremely rare in the United States. Rather, the United States Supreme Court and various state courts have set forth tests that are used to determine whether a zoning regulation requires compensation to a property owner.

In fact, the Supreme Court of Texas has upheld city authority to make reasonable zoning changes. In one case, a city rezoned a residential area to provide for larger lot sizes. The rezoning was designed to create more open space, less traffic, greater setbacks, less noise, and similar results. The Court concluded that a city has a legitimate governmental interest in such results and in preserving the rate and character of community growth. The Court also found that no “taking” of the owner’s property occurred, because the regulation did not impose a great economic impact on the owner.

Any legislative requirement that compensation should be paid every time a zoning change reduces the value of a property would create an unworkable situation where cities would either be forced to relinquish their zoning power or go bankrupt paying claims. Moreover, the reality is that most zoning changes are initiated by a property owner and *increase* the value of land.

WHY ZONING MATTERS

A 2008 survey found social offerings, such as entertainment venues and places to meet; openness (how welcoming a place is); and the area’s aesthetics (physical beauty and green spaces) are the three main qualities that “attach” people to their communities. Zoning facilitates the development of those attributes by allowing cities to create and maintain healthy, attractive, livable, and prosperous communities.

Zoning Is Linked to Economic Development

A 2006 study on the effect of zoning on economic development in rural areas concluded that zoning facilitated economic development. According to the authors, the economic benefits of zoning include: (1) predictability in land use for both business and residents; (2) the assurance that personal and commercial investments will be protected; (3) the ability to guide future development to prevent haphazard or harmful development; and (4) the minimization of potential conflict between industry and residents.


Zoning Is Linked to Tourism

Tourism generates billions of dollars in Texas. In discussing the role that a community’s image plays in tourism, one author explains that the more communities “come to look and feel just like everywhere else, the less reason there is to visit. On the other hand, the more a community does to enhance its uniqueness, the more people will want to visit. This is the reason why local land use planning and urban design standards are so important.”

Sources: Gallup & John S. and James L. Knight Foundation, *Soul of the Community Survey* (2008), available at: <https://knightfoundation.org/sotc>.

Joy Wilkins et al., *Does Rural Land-use Planning and Zoning Enhance Local Economic Development?*, *Economic Development Journal* (Fall 2006), available at https://www.iedconline.org/clientuploads/Economic%20Development%20Journal/EDJ_06_Fall_Nelson.pdf

Edward T. McMahon, *Responsible Tourism: How to Preserve the Goose that Lays the Golden Egg*, *Virginia Town & City*, 9 (May 2015), available at: <https://www.vml.org/vol-50-no-4-may-2015>.



KEEPING THE POWER ON: Cities and Electricity

Cities have various interests relating to how they and their residents get electric service, how cities with municipally-owned electric utilities provide service, and the prices that everyone pays for electricity. Cities also receive franchise fees from utilities that use their rights-of-way, and they have original jurisdiction over the rates of investor-owned utilities located within the cities.

How electricity is provided in Texas is complex and based on many moving parts in an always-changing puzzle. The following questions and answers provide a “primer” on the issues facing cities in this area.

Note: See the section in this magazine issue titled “Cities Refuse to Accept Utility Rate Hikes Without a Fight” to learn more about how cities without their own electric utility keep rates reasonable for their citizens.

What are the different ways that cities and their citizens get their electricity?

Cities and their residents generally get their electricity in one of three ways: (1) from a municipally-owned utility (MOU); (2) from an investor-owned utility (IOU); or (3) from a rural electric cooperative (Coop). Each of those providers usually has a monopoly in the areas they serve, based on a certificate from the Texas Public Utility Commission (PUC). (Note: a few areas of the state are served by river authorities and municipal power agencies. Also, regarding an IOU, only the transmission and distribution component discussed below has a geographical monopoly in the deregulated market.)

After deregulation, MOUs and Coops retain that monopoly status, unless they choose—by a vote of their governing body—to adopt customer choice. The reasons for allowing MOUs and Coops discretion to retain their monopoly status are many, but one of the most important is that MOU and Coop rates are governed by a city council or board of directors—the members of which are elected by the customers. The city council or board of directors is therefore directly accountable to the customers they serve.

IOUs are also governed by a board of directors, but they are accountable to their shareholders, rather than their customers. The rates of investor-owned transmission and distribution utility (discussed below) are regulated by the PUC in a way that should—in theory—cover costs of operation and allow for a reasonable profit.

What is electric deregulation, and why should city officials care?

In 1999, Texas adopted legislation to deregulate the portion of the state that is served by IOUs. MOUs and Coops have the option to participate in the deregulated market by “opting in” to competition. However, to date, no MOU has opted in.

Prior to deregulation being fully implemented in 2002, a single IOU performed all the things necessary to provide service to customers within the IOUs designated service area. In simple terms, the legislation “broke up” or “unbundled” IOU monopolies. Those utilities were divided up into different components: generation, transmission and distribution, and retail service. Some utilities sold one or two of those parts of their business, while others created subsidiary companies to run them.

Generation companies make power with power plants, wind farms, solar panels, and other means. Transmission and distribution companies move power from the generators to other parts of the state through huge transmission lines, and ultimately distribute power to customers through smaller distribution lines.

While the generation and retail portions of the market are now deregulated, the rates of transmission and distribution utilities are still regulated by cities and the PUC. That is necessary because the companies that generate power must have a reliable way to get that power to the retail companies that sell the power to customers.

The numerous retail companies essentially speculate how much generation will cost them. They then offer price plans to consumers accordingly. They are the utilities with which customers in a deregulated area interact. Customers can switch retail companies to try to get the best possible rate.

Certain areas of the state—including the Panhandle, El Paso, and certain areas in the northeast and southeast portions of the state—are served by IOUs but have not been deregulated. Those areas are not a part of the main transmission grid in Texas, so deregulation is impractical.

Whether deregulation has been beneficial to cities and their citizens remains the subject of heated debate. One thing is certain: deregulation has changed the way cities in the deregulated market purchase power for city facilities. One of the ways cities and other political subdivisions do that is by a process called aggregation. Aggregation means just what it says: cities come together or “aggregate” to purchase energy at a better price than they could obtain themselves. (Note: state law also authorizes citizens to aggregate, but the logistics of that process have made it all but useless. Previous legislative efforts to allow cities to automatically bundle-up their citizens and negotiate on the citizens’ behalf have failed.) The most well-known aggregation group is called the Texas Coalition for Affordable Power, which represents more than 100 cities.

Why aren’t MOUs opting into the deregulated market?

Even though they are not required to do so, MOUs have the discretion to opt into the deregulated market. Many state leaders continue to applaud the Texas deregulated market as one that has created lower prices. That is questionable for several reasons. It would also appear that MOUs aren’t

convinced, and that their citizens prefer the consistently lower prices and better service that they provide. It’s a case of “if it ain’t broke, don’t fix it.” MOUs can wait and see if opting into deregulation would really benefit their customers. Also, an MOU that opts in is essentially stuck with that decision. Further, opting into competition would require an MOU to undertake the complex and expensive process of breaking up its service into the three components of the deregulated market (generation, transmission and distribution, and retail).

What are recent criticisms levied against MOUs?

Some MOUs have been recently criticized for transferring some of their profits to the city’s general fund. Interestingly, even larger cities that transfer large amounts of revenue have electric rates that are comparable to, or lower than, IOUs serving the deregulated market.

In addition, cities may or may not charge their MOUs franchise fees for the use of the city’s rights-of-way. Thus, the transfer is often analogous to a franchise payment that the city would receive from an IOU that uses the city’s rights-of-way. In any case, it is currently up to each city’s council to decide how to handle transfers. Another way to look at transfers is that they are very similar to the return on investment that IOUs give back to their shareholders. But in the case of an MOU, the “shareholders” are the taxpayers of the city. Transferred revenue is used to pay for services (police, fire, EMS, and streets) that are used by the customers of the MOU. The transferred revenue is used to keep property tax rates low, which benefits the taxpayers served by the MOU.

What are electric franchise fees?

Electric franchise fees are fees paid by IOUs or Coops (and in some cases, MOUs that provide service in other cities) that use a city’s rights-of-way to provide service. Some argue that franchise fees of any type are a “hidden tax” on utility service. Of course, the municipal position is that the fees are authorized by state law. In fact, the Texas Constitution prohibits a city from giving away anything of value (for example, the use of city property) to a private entity. Thus, the city’s position is that the fees are nothing more than “rental” payments for the use of city property. ★



CITIES REFUSE TO ACCEPT UTILITY RATE HIKES WITHOUT A FIGHT

Texas cities have a long history of participating in the ratemaking process for both gas and electric utilities before State of Texas regulatory agencies. Prior to the enactment of the Public Utility Regulatory Act (PURA) in 1975 and the Gas Utility Regulatory Act (GURA) in 1983, utility rates were set exclusively at the city level, with any appeals of municipal rate ordinances decided in the courts.

Currently, under PURA and GURA, cities have original jurisdiction over gas and electric utility rates within their city limits. Conversely, this means that the Railroad Commission (RRC) and the Public Utility Commission (PUC) have original jurisdiction over gas and electric rates in service areas outside city limits and within the city limits of those cities that have ceded their original jurisdiction to the applicable agency. In addition, the PUC and RRC have jurisdiction to hear appeals over rate ordinances and orders of cities concerning electric and gas utility service within the city limits.

Recognizing the important role that cities play in the regulation of utilities, hundreds of cities across the state participate in ratemaking proceedings at both the PUC and RRC to ensure fair, just, and reasonable rates, as well as adequate and efficient services for the city and its residents.

Historically, cities have formed coalitions to represent the collective interests of cities and their citizens before the regulatory agencies and courts. By forming coalitions, cities

have been able to present a strong voice for consumers for more than 30 years. This has served to reduce the costs that cities and their residents pay for electric and gas service. Cities' active participation in rate cases demonstrates their concern for reliability, quality of service, and the prices their citizens pay for gas and electricity. In numerous instances, without city participation, rate increases would have gone into effect without any party scrutinizing the utility's application.

Both PURA and GURA allow cities to be reimbursed by the utility company for their reasonable rate case expenses associated with participating in ratemaking proceedings. In providing for the reimbursement of rate case expenses in the statutes, the Texas Legislature has acknowledged the important role that cities play in protecting citizens from unreasonable utility costs. Because utility companies ultimately pass these costs on to consumers, cities are always cost-conscious. Cities must balance the cost of participating in ratemaking proceedings against the need to protect their residents' interests. In prior cases, however, municipal participation has resulted in net savings for ratepayers because the utility's rate increase was reduced by an amount far in excess of the expenses incurred by the cities. Cities' participation in utility ratemaking proceedings has proven time and again to be a good value for consumers.

★

City coalitions have found the following expenses that utilities tried to pass on to customers:

- Hotel expenses of nearly \$1,000 per night for executives to stay at a New York City hotel
- Tens of thousands of dollars' worth of art for a utility's office
- Dinners in New York, Dallas, and Philadelphia restaurants costing more than \$200 per person
- More than \$1.5 million in employee "financial incentives"

A private, investor-owned utility is allowed to incur expenses like those listed above, but the company itself (i.e. its shareholders), not the utility customers it serves, should pay for those costs. It's unreasonable to ask to raise customer rates to cover these kinds of expenses, and cities are the first line of defense against such requests.



MARY M. DENNIS

Mayor, City of Live Oak

2022–2024 Chair

TML Risk Pool's Board of Trustees

I'm so excited that my term culminates during the Pool's 50th Anniversary in 2024. The Pool has been partnering with Texas cities since 1974, and — since that time — we haven't just been writing checks. We've been helping cities prepare for and come through some of the toughest times they've ever faced, and we remain STRONGER, TOGETHER!

Mary M. Dennis

THRIVING LIBRARIES REFLECT THRIVING CITIES

Libraries allow children to ask questions about the world and find the answers. And the wonderful thing is that once a child learns to use a library, the doors to learning are always open.

– Laura Bush

The Texas State Library and Archives Commission's (TSLAC) Current Library Directory lists 550 public libraries and 340 branches and bookmobiles in Texas. Taxpayers consistently give public libraries – both city and county – a high rank among community services.

Libraries impact the local economy and workforce development. In a 2008 public opinion survey conducted on behalf of the Texas Library Association (TLA), 83 percent of Texas voters believed that public libraries support the economy through job skills training, career and job information, and resources for local businesses. A recent study conducted for the TSLAC documented various specific examples of libraries (1) enabling businesses and self-employed individuals to improve their economic activities; (2) assisting individuals to obtain employment; and (3) providing educational and occupational programs that meet the needs of Texas communities and regions. Additionally, some businesses—particularly those requiring a highly skilled workforce—look to the city's library as a barometer of local commitment to workforce readiness.

Did you know Americans are happier in states that spend more on “public goods” such as libraries?

In a study published in 2019 in the journal *Social Science Research*, Dr. Patrick Flavin of Baylor University found that Americans are happier in states where governments spend more on things that you can't exclude people

from using (“public goods”). He found another benefit of spending money on public goods is that such amenities generally boost home values.

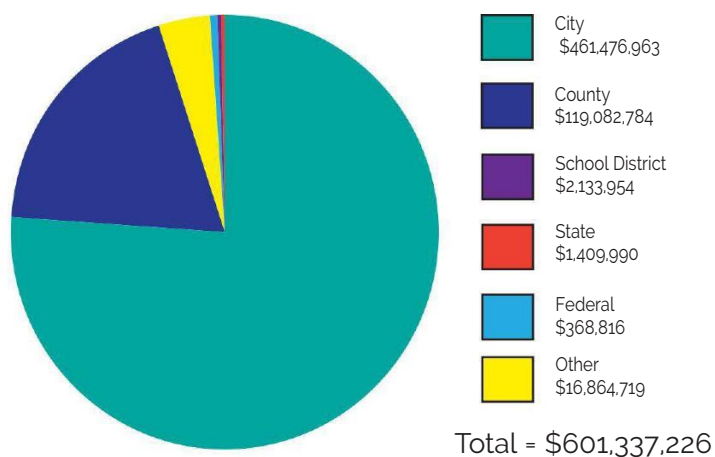
Baylor University. “Americans are happier in states that spend more on libraries, parks and highways: Such ‘public goods’ also are less likely to spark political conflict.” *ScienceDaily*, ScienceDaily, 7 January 2019. www.sciencedaily.com/releases/2019/01/190107075713.htm.

Libraries impact literacy and education. Public library patrons include preschoolers, afterschoolers, homeschoolers, distance learners, and researchers. Through story time hours, reading programs, ESL classes, and other local services, libraries represent the public's bridge to structured educational campuses. The 2008 TLA public opinion poll found that Texas voters were nearly unanimous in their belief that public libraries create educational opportunities for all citizens (97 percent agreed).

Libraries impact communities. Communities value their city libraries as centers of information and learning and a gathering point for ideas and discussion. The 2008 TLA public opinion survey found that 95 percent of Texas voters believed that public libraries improve the quality of life in their community. Approximately 75 percent of public libraries serve communities smaller than 25,000 in population. In small Texas cities, the library may be the only community gathering place.

As shown in the accompanying chart, cities are the largest source of income for public libraries in Texas.

Texas Public Libraries: 2021 Revenue by Source



Source: Texas State Library and Archives Commission, Texas Statewide Public Library Statistics, Statewide Summary: 2021 <https://www.tsl.texas.gov/ldn/statistics> ★

Texas Public Libraries: A Great Investment

A study found that, in 2015, Texas public libraries collectively provided \$2.628 billion in economic benefits while costing \$566 million. That is a return of \$4.64 for each dollar invested. This chart from the study shows how Texas compares to some other cities, counties, and states:

Jurisdiction	Year	Return on the Dollar
STATES		
Minnesota	Fy2010	\$4.62
COUNTIES		
Salt Lake County, UT	2012	\$5.47-\$6.07
Santa Clara County, CA	2012	\$2.50-\$5.17
Toledo Lucas County, OH	2015	\$3.87
CITIES		
Toronto	2012	\$4.63
Texas	FY2015	\$4.64

Table 4.2. Return on Investment in Recent Reports

Texas voters get it! In a 2008 public opinion survey, 94 percent of Texas voters agreed that public libraries are a good value for the tax dollar.

Sources: Jan. 2017, Texas Public Libraries: Economic Benefits and Return on Investment, Prepared for TSLAC by Bureau of Business Research, IC2 Institute, Univ. of Tex. at Austin.
 Fall 2008, KRC Public Opinion Survey conducted on behalf of the Texas Library Association



TEXANS KEEP HEALTHY IN CITY PARKS

THE TEXAS ECONOMY KEEPS HEALTHY IN LOCAL PARKS – FIGURES FROM 2019

- Local parks across the state supported 77,149 jobs (third in the United States).
- By adding the effects of operations and maintenance, capital spending, and tourism, a total gross impact can be derived. Across the state, the total impact of local parks leads to an addition to business activity including \$12 billion in economic activity (fourth in the United States).
- The labor income to the state from local parks activity is approximately \$3.8 billion per year (fourth in the United States).

Source: National Recreation and Park Association; NRPA 2022 Agency Performance Review.

City parks are the front line in the battle of the bulge, and they help keep Texans feeling their best at home and while away. Texas cities face obstacles in promoting fitness, such as extreme weather, modern lifestyles, and funding challenges. In 2022, *WalletHub* included several Texas cities on the nation's fattest cities list. The magazine ranked the nation's 100 largest cities by considering various factors—such as percentage of obese adults, availability of parks and recreation facilities, fruit and vegetable consumption, and high cholesterol percentages—when ranking city health and fitness.

Texas cities provide programs that improve the quality of life for individual participants and the overall community. All Texans, including youth and seniors, benefit from the opportunity to increase their health and reduce stress. Opportunities to build partnerships, enhance diversity, and learn tolerance through teamwork strengthen communities.

Several studies emphasize the importance of park access. Youth with access to places for physical activity are less likely to be overweight or obese, and individuals who live

closer to parks use them more frequently than those who live farther away. Further, evidence also suggests that using recreation facilities and parks may lead to healthy lifestyle choices such as alternative modes of transportation like biking or walking.

According to the American Planning Association, there is evidence that when cities provide parks, it can make communities safer. City parks encourage youth to step away from their televisions and computer games for real social interaction while playing basketball, softball, soccer, gymnastics, or simply enjoying sunshine and wildflowers.

City parks provide outdoor recreation resources such as pools, softball fields, and Frisbee golf courses. Cities also provide indoor recreation activities for sports, arts, and nature programs. While most cities have hiking trails, some cities are investing in new interests such as dog parks and skate parks. Many cities even provide classes to encourage hobbies and various self-help classes such as income tax and language skills. ★

THE ROLE OF PARKS AND MENTAL HEALTH

Parks and trails have always been a place for enjoyment and relaxation. However, they also play an essential role in supporting not only physical, but mental health. According to the National Recreation and Park Association (NRPA), several studies have shown that spending more time in parks and green spaces can help combat mental health issues such as depression, anxiety, and stress. In fact, mental health was of particular concern to the Center for Disease Control and Prevention during the COVID-19 outbreak.

During the first three months of the

pandemic, 190 million people in the United States went to parks, trails, or open spaces. In addition, two in three park and recreation leaders reported increased usage of their agency's parks compared to previous year (with a median rise of 25 percent), while more than 80 percent reported an increased usage of their trails (with a median rise of 35 percent).

In response to the pandemic and statistics showing that one in five adults and one in six youth (ages 6 to 17) suffer from some form of mental illness each year, parks and recreation agencies have found

ways to address this emerging public health issue through programming focused on mental health. These programs continue to be a primary focus of park and recreation agencies, too. A recent NRPA survey indicates that more than half of all park and recreation agencies will continue mental health programs that were developed in response to COVID-19. Some of these programs include yoga, tai chi, mindfulness, social connection opportunities for older adults, and virtual health and wellness programming for older adults.

Sources: Joint Statement on Using Parks and Open Space While Maintaining Physical Distancing (March 18, 2020); 2022 NRPA Engagement with Parks Report; NRPA Parks Snapshot May 2020; NRPA Parks and Improved Mental Health and Quality of Life Fact Sheet; 2021 NRPA Parks and Recreation: Advancing Community Health and Well-Being



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INVESTING IN TOMORROW'S LEADERS: CITY GOVERNMENTS INVOLVE YOUTH



Many Texas cities have created special programs to engage and involve youth. These programs can take many different forms—presentations at local schools, special recognition programs, mentoring or internship programs, and formal youth advisory commissions. At the heart of these programs is a desire to educate youth on the mechanics of city government, provide an outlet for youth to voice their ideas and concerns, and make sure that the city is nurturing their future leaders.

Some of the most comprehensive youth programs are formal youth advisory commissions (YACs). YACs are often

authorized by city ordinance; have a well-defined mission statement, bylaws, and application process; and meet regularly. YAC commissioners participate in community service projects, provide input to city staff and elected officials on city policy matters, develop and organize youth activities, and serve as role models to their peers.

City officials know that, whatever the format, developing relationships with the city's youth is an investment in tomorrow's leaders and in the city's future. ★

THE TEXAS MUNICIPAL RETIREMENT SYSTEM: PROVEN SUCCESS

Many states around the country are faced with huge deficits in public worker pension plans. That has prompted lawmakers in those states to seek large-scale reforms in their retirement systems. Over the last few years, many states have undertaken major efforts to address those deficits by converting public pensions from defined benefit to defined contribution plans, which are similar to a 401(k). As those funding crises across the country continue, the drumbeat for "reform" in Texas pensions will continue to grow louder.

In Texas, the Texas Municipal Retirement System (TMRS) is responsible for the administration of a majority of city retirement plans covering both public safety and civilian city employees. The system is made up of 912 member cities, 140,000 contributing members, and 70,000 annuitants.

TMRS has taken great strides in recent sessions to make improvements in the system that provide retirement

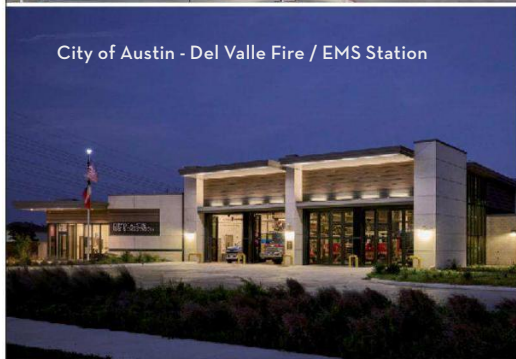
benefits to a majority of Texas city employees. The reforms have stabilized benefits and lowered city contribution rates, while ultimately using fewer tax dollars to fund pensions. They will also require training by pension system employees.

There are numerous reasons why TMRS has been so successful. TMRS relies on an advisory board of 10 members, including TMRS retirees, elected officials, pension experts, as well as representatives from both labor and employer groups. This advisory group thoroughly vets all legislative proposals while moving forward only with those that have consensus. The unified front during session provides for easy passage of the needed reforms.

TMRS has proven to be a well-funded model for pensions around the country. It should not be included in discussion about other, improperly funded pensions. ★



City of Frisco - Municipal Court Adaptive Reuse



City of Austin - Del Valle Fire / EMS Station



City of Pearland - West Pearland Library



- | | | |
|--------------|-------------------|----------------|
| ARCHITECTURE | ALEXANDRIA | HOBOKEN |
| ENGINEERING | ATLANTA | HOUSTON |
| INTERIORS | AUSTIN | LAS VEGAS |
| PLANNING | BOCA RATON | LOS ANGELES |
| | CHICAGO | SALT LAKE CITY |
| | DALLAS/FORT WORTH | SAN DIEGO |
| | DENVER | |

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ADVOCACY IS VITAL

The Texas 88th Legislative Session began on January 10, 2023. Before, during, and after the session, League staff works directly with legislators on items of municipal interest. However, our influence is directly affected by your city's efforts to be heard. Help your city plan an active and consistent role in the League's legislative effort.

Stay Well Informed

The League provides several ways for members to stay informed about legislative issues. The *Legislative Update* is the primary legislative communication between the League and its members. It is sent electronically as part of the *TML Exchange* email to member city officials on Fridays.

The legislative portion of the League website (www.tml.org; click on "Policy" and then "Legislative Information") is another important information source. There you will find a link to the current issue of the *Legislative Update* newsletter, as well as an index to past issues of the newsletter, summaries of legislative hot topics, and the League's legislative program.

The 2023 legislative session will address many issues that will involve Texas cities and their ability to meet citizen demands for services. The League's best advocates for protection of municipal authority are its members—elected and appointed officials from cities of all sizes and geographic areas. TML needs your participation.

Contact Legislators Early and Often

Your legislators need to hear from you, or they're forced to make decisions on local government issues without fully appreciating the impact they will have on cities in their district. Meet formally at least once a year prior to the session to review key issues. Ask if phone calls, emails, letters, or personal contact works best for them during the session. Encourage your legislators to work with League staff, too.

Keep the League Informed

The League lobbying team includes Director of Grassroots and Legislative Services Monty Wynn, General Counsel Bill Longley, Grassroots and Legislative Services Manager JJ Rocha, and **you**. Always send copies of your correspondence to and from legislators to the League. League staff can work more effectively with your legislators when we know what you've said and received in return. It also allows us to incorporate your local circumstances into our commentary. Emails can be forwarded to legislative@tml.org.

Stick to It

It's a fact of life in public policy that things take time. Your consistent participation in the legislative process is essential to long-term success. ★

CALENDAR OF 2023 LEGISLATIVE SESSION

January 10

First day of 88th Regular Session

January 12

Legislative Webinar #1: Legislative Preview – What's Ahead for Texas Cities*

March 10

Deadline for filing bills

March 16

Legislative Webinar #2: Keep Your Finger on the Pulse*

April 13

Legislative Webinar #3: Be Heard at the Capitol*

May 4

Legislative Webinar #4: What to Expect in the Final Days*

May 29

Last day of 88th Regular Session

June 15

Onsite Workshop: Legislative Wrap-Up—Austin*

* Register your city to participate in these essential updates on key legislative actions at <https://tmllegislativeseries.org>

THE LEAGUE LEADS ADVOCACY EFFORTS.

One of the primary functions of the League is to unify cities and speak as the voice for city government in Texas. Each legislative session, the League staff works with city officials to educate state legislators about the needs of Texas cities. The League has developed a toolkit to help city officials successfully advocate at the Capitol. The toolkit can be found <https://bit.ly/TMLToolkit>.



Powering Communities Throughout Texas



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ABOUT TML

EMPOWERING TEXAS CITIES TO SERVE THEIR CITIZENS

Whether you are a city government novice or veteran, the Texas Municipal League (TML) has the resources, tools, and training to help you succeed in your leadership role.

Since its formation in 1913 by 14 cities, the League's mission has remained constant – to serve the needs and advocate the interests of its member cities.

Today, TML serves more than 1,178 member cities. That means about 16,000 mayors, councilmembers, city managers, city attorneys, and city department heads are member officials through their cities' participation.

How Is TML Organized?

TML has 15 regions that were formed in 1958 and are the League's grassroots. Regions work to foster the exchange of information among cities and help the TML Board of Directors develop policy that represents the state's diverse interests. Each region elects officers, including a representative who serves on the TML Board, and conducts meetings at least twice each year.

The League also has 21 affiliate organizations that represent specific professional disciplines in municipal government. For example, the Texas City Management Association (TCMA) is the professional association for city managers in Texas. TCMA is its own association, as well as a TML affiliate with a representative on the TML Board. Each affiliate group has its own membership criteria and dues structure that is separate from the League's.

TML is governed by a board of directors composed of a representative from each of the 15 regions, a representative from each of the 21 affiliate organizations, eight at-large directors (one from each of the state's largest cities), past TML presidents still in municipal office, a president and a president-elect, and two ex officio directors from the TML health and risk pools.

The Board appoints an executive director to manage the affairs of the League under the Board's general direction. Bennett Sandlin is the current executive director and has been serving in this role since October 2010.

TML employs a staff of 32 full-time employees and has seven departments: Administrative Services, Affiliate Services, Business Development, Communications and Training, Legal Services, Legislative Services, and Member Services.

What Does TML Do?

Legislative Advocacy

One of the principal purposes of the League is to advance and represent the interests of Texas cities at the state and federal levels.

The Texas Legislature meets for 140 days each odd-numbered year and meets frequently in special "called" sessions. There are hundreds of bills that adversely impact cities among the thousands of bills introduced each legislative session. Most would erode the authority of Texas cities to govern their own affairs or impose mandates that do not provide a commensurate level of compensation.

The League, working through its Grassroots and Legislative Services Department, makes every effort to assure that bad-for-city bills are defeated and bills that help cities operate more effectively are passed.

Through the years, thousands of proposals that would have undermined city government have been defeated. The League's legislative track record is one of unparalleled success.

Policy Development Process

Protecting the interest of Texas cities during each legislative session requires considerable planning to establish legislative priorities. While the TML legislative philosophy is based on protecting the ability of cities to govern their own local affairs, positions must be taken on dozens of issues that affect cities.

The process of adopting positions on legislation begins a full year before the regular legislative session convenes. In non-legislative years, the TML president appoints delegates to a two-day Legislative Policy Summit, where attendees deliberate and make policy recommendations.

The final report of the policy summit and any resolutions submitted by the general membership are then considered by the TML general membership at the annual business meeting held during the annual conference. Finally, the TML Board adopts a legislative program based on these approved resolutions.

The League uses this process to determine which issues are most important to Texas cities and how best to allocate its legislative resources.

Legal Services

The League employs full-time attorneys who are available to provide legal information on municipal issues to member cities, as well as example documents to assist cities in drafting ordinances and other required legal notices. The legal staff provides cities with information on changes in federal and state laws and regulations, as well as city-related developments in the courts.

In addition, the legal staff is available to deliver workshops on a variety of legal subjects to small cities' problem-solving clinics, affiliate organizations, and regional groups.

Information and Research

One of the main reasons that TML was formed back in 1913 was to provide information to member cities. Today, this remains an important service. TML staff has information on virtually every topic affecting Texas cities and can be reached by email, telephone, or regular mail.

The League offers several publications, most notably *Texas Town & City* magazine, *Legislative Update*, and the *Handbook for Mayors and Councilmembers*, to keep members informed on

emerging municipal issues. In addition, the League provides issue papers on a variety of municipal issues and maintains research files that facilitate services to member officials.

TML also sends out several annual surveys that collect information on salaries, water and wastewater rates, taxation and debt levels, and general fiscal conditions.

Conferences and Training

TML conducts a variety of conferences, workshops, and webinars to enhance the knowledge and skills of municipal officials.

The TML Annual Conference and Exhibition is one of the nation's largest gatherings of city officials. The 2023 Annual Conference will be held October 4-6 in Dallas. In addition to keynote sessions, workshops, and the annual business meeting, the conference features an impressive exhibit hall with more than 350 companies representing products and services that benefit Texas cities.

The League also offers training opportunities designed specifically for elected officials. TML holds several Newly Elected City Officials' Orientations each year. A winter workshop will take place on January 20, 2023 in San Antonio, and the summer orientations



will be held July 20-21 in Round Rock and August 17-18 in San Antonio. These events offer training on the basics of serving on the governing body, and provide an overview on city regulation, land use, ethical governance, economic development, the Texas Open Meetings Act, advocacy, and more.

TML conducts other timely workshops and webinars for both elected and appointed officials throughout the year, including the Economic Development Conference, Public Funds Investment Act Training, Budget and Tax Rate Workshops, Leadership Academy, Small Cities' Problem-Solving Clinics, and the Legislative Series.

Business Development

Working through the League's Business Development Department, TML connects cities with products, services, and solutions offered by the private sector. Engaging the participation of event sponsors, exhibitors, and advertisers, also helps TML provide essential and affordable programs and services to member city officials.

Federal Representation

Through its membership in the National League of Cities, the Southern Municipal Conference, and other similar organizations, TML has a voice in Washington, D.C. working with these groups to ensure that Texas cities are heard in congressional offices and in the headquarters of various federal agencies.

Health and Risk Pools

For more than 40 years, the TML health and risk pools have provided Texas cities with quality coverage specifically designed to meet municipal needs. These pools are separate entities, but maintain a close working relationship with TML.

Benefit coverage for municipal employees and their families has become a major expense item in virtually every city budget. Cities throughout the state are holding the line on these costs by participating in the TML Health Benefits Pool (TML Health).

The TML Intergovernmental Risk Pool (TMLIRP) works to reduce the cost of property and casualty risks in Texas cities. In addition to providing a stable risk financing system, the TMLIRP offers education to its members to avoid and reduce risks, control losses, and stay informed on other aspects of risk management.

The League Today

TML is committed to helping city leaders in Texas meet today's governing challenges. The League prides itself on 110 years of service to Texas cities, and looks forward to providing the resources, knowledge, and advocacy to support city officials into the future. ★

TML Affiliates

- American Planning Association Texas Chapter (APATX)
- Association of Hispanic Municipal Officials (AHMO)
- Building Officials Association of Texas (BOAT)
- Government Finance Officers Association of Texas (GFOAT)
- Texas Association of Black City Council Members (TABCCM)
- Texas Association of Governmental Information Technology Managers (TAGITM)
- Texas Association of Mayors, Councilmembers and Commissioners (TAMCC)
- Texas Association of Municipal Health Officials (TAMHO)
- Texas Association of Municipal Information Officers (TAMIO)
- Texas Chapter of American Public Works Association (Texas Chapter of APWA)
- Texas City Attorneys Association (TCAA)
- Texas City Management Association (TCMA)
- Texas Court Clerks Association (TCCA)
- Texas Fire Chiefs Association (TFCA)
- Texas Municipal Clerks Association, Inc. (TMCA)
- Texas Municipal Human Resources Association (TMHRA)
- Texas Municipal Library Directors Association (TMLDA)
- Texas Municipal Utilities Association (TMUA)
- Texas Police Chiefs Association (TPCA)
- Texas Public Purchasing Association (TxPPA)
- Texas Recreation and Park Society (TRAPS)

TML Regions

- Region 2 Amarillo Area
- Region 3 Caprock – Lubbock Area
- Region 4 Permian Basin Region – Odessa Area
- Region 5 Red River Valley – Wichita Falls Area
- Region 6 Hub of Texas – Abilene Area
- Region 7 Alamo Region – San Antonio Area
- Region 8 Where the West Begins – Fort Worth Area
- Region 9 Heart of Texas Region – Waco Area
- Region 10 Highland Lakes Region – Austin Area
- Region 11 Coastal Bend Region – Corpus Christi Area
- Region 12 Lower Rio Grande Valley – Rio Grande Valley Area
- Region 13 North Central Texas Region – Dallas Area
- Region 14 San Jacinto Region – Houston Area
- Region 15 Tyler-Longview Area
- Region 16 Golden Pine and Oil Region – Beaumont-Lufkin Area

PUTTING THE FUN BACK IN STRATEGIC PLANNING

“LOOKING BACK BEFORE WE LOOK AHEAD”

By **Laurie Hall**, Founder and CEO, New Horizon Strategies, LLC

Most of us wouldn't associate the words “fun” and “strategic planning.” Perhaps that's why our strategic plans aren't paying off the way we'd envisioned.

Failing to plan is planning to fail, especially for city leaders. We need a baseline approach to communicate our vision, bring people together, and create budgets, risks, and implementation plans for the year.

But if we start these visionary planning efforts with the wrong mindset, we're dooming their effectiveness from the start. Do your strategic plans feel more like a task list, or are they inspiring, visionary, and motivating?

Why Looking Back Matters

The first and most important tool in strategic planning is “looking back before we look ahead.” This is critical in understanding what we want to achieve in the coming year. Unfortunately, it is the piece most of us leave out when trying to determine goals for the new year.

Why is this critical? What happens when we jump into new goal setting without appreciating the many events and experiences contributing to our current state? You already know.

We carry an emotional weight into the new year which sabotages our progress moving forward.

For example, that might look or sound like...

“Maybe I should just list all the things I didn't get done last year.”

“What good is strategic planning anyway when there's so much happening we can't control?”

“I'm scared to write down what I really, really want because I'll feel bad if it doesn't happen.”

“What if I say I'm going to do this out loud, and then others hold me accountable for it? I don't want to be punished for not getting it done.”

All these thoughts and feelings are real. When we look back before we look ahead, we can appreciate everything we didn't write down as a goal last year but accomplished, nonetheless. Take a moment to consider what percentage of things your city accomplished were not specifically written down on your strategic plan at the beginning of the year (or whenever you last wrote one). It's probably less than 25 percent, and maybe even less than 10 percent. In our lives, most of what we accomplish was not on a goal list anywhere. We forget to take credit when we think about how successful we are. Imposter syndrome is real, and not taking credit for the unique learning at every step contributes to feeling like we're not doing enough.

Looking back before we look ahead enables us to see our successes, and helps us see why we are motivated to do what we're so intrinsically drawn to accomplish in the short time we have on the planet. Looking back often changes the goals we thought we “should” do this year and helps us realize what we really want to do.

Strategic Planning Isn't Just for Business

Before we get started, there's one more paradigm to shift to mine that fun. Strategic Planning is only for business, right?

Focusing on ourselves first is critical before we jump into what our teams, organizations, and cities can do next year. Strategic planning often isn't fun because it feels like it's just another list of things we have to do. We don't see our own hopes, dreams, and goals aligned with our organization or team. This makes us feel like we're on an endless cycle of work, work, and more work, eventually wondering, “what's the point?”

When we don't see ourselves in what we're doing, it steals our joy.

One of the top five most watched TED talks of all time is presented by Simon Sinek on “How Great Leaders Inspire Action”. He helps us see when we connect to each other's WHY it sparks the passion within us, too. We become rooted in the mission when it aligns with our own values, hopes, and goals. *(If you haven't watched this TED talks, Google Simon Sinek and TED. Consider what your WHY is.)*

These instructions are geared for you to consider your own accomplishments but can easily be converted to group activities.

Looking Back Before We Look Ahead Instructions

1. If you did write down goals last year, pull those up to briefly review what happened. Consider grading your goals this way.

- ✓ Accomplished
- ✓ Partially Accomplished
- ✓ Not Accomplished
- ✓ Overcome by Events (or Not Applicable Anymore)

Don't overthink this part; just see what your best intentions were a year ago. What did you learn from each of your goals regardless of how completely you accomplished them?

2. Next use your favorite modality to create 12 columns representing each month of last year (January through December, or whatever timeframe aligns best to your planning). Within each column of last year, review your calendars (personal and professional) to see what you did, tried, hoped for, and brain write what actually happened in that month. Brainwriting means that we freely write without worrying about any editing or rationalizing. Consider the emotions and thoughts you had at the time versus writing about it when it ended up working out. You may want to go through emails or your social media posts to determine what else happened that month. Use the resources that work for you.

For example, this is what I captured in May 2020 *"Asked to speak at a leadership summit (lots of last-minute planning), marketing change leadership vs. management, asked to speak at HR full day workshop on Navigating Change Leadership (again at two huge companies), replaced the garbage disposal, jet flyovers to commemorate 2020 COVID shut down, our dog not walking well, experienced grace on a walk in my neighborhood (saw two greyhounds right when I was feeling sad about losing ours in January), chased the sun to the beach and toured a house for sale on the Bayside (maybe we'll buy a beach house someday?). Awarded two more huge contracts! Went to my favorite restaurant to celebrate and had a small Birthday party with keto cake (is the world is starting to open up?). SpaceX successfully launched US astronauts from US soil after 9 years. Pretty sure we need to put our last dog down (frustration with the vet over not listening to us)...on my birthday? No, it was 2 days later, on May 28th. Sad month but also filled with lots of big breakthroughs."*

3. After you've taken the time to do this notice your feelings from each month's reflection and the overall year. We tend to forget the details of what we did within a month unless it had a deeply significant emotional impact. Putting it all together allows us to make connections in how things flowed together that we could not see until we look back on it.

The seemingly disconnected events of our lives tend to make sense when we look at them in the rear-view mirror.

We can see how things happened that enabled us to be right where we needed to be for an opportunity we had not expected.

This is true for both good and painful experiences. Sometimes it is the painful times that help us grow the most. Innovation doesn't happen in harmony. Few things in life are fully good or bad, they're just necessary to get us to the next step of our lives.

As you review your looking back creation, consider some questions.

- When was I the happiest last year? What made me happy?
- When was I the most stressed last year? What stressed me?
- When was I the busiest? When was it the slowest? Is there a correlation to happiness or stress for me in how busy or slow it was?
- What felt so important last year before I accomplished it, but I almost forgot to list it looking back? Why did I think that was so important?
- What feels really important looking back on it now that at the time didn't register as being significant?
- Are there any correlations to the order of events when I look back on last year in hindsight?
- What would I like to repeat? What do I definitely not want to repeat?

Now you're in the open, appreciative, creative mindset to consider what you really want next year. You may not have the same goals as before you looked back. Or maybe you do, but with a more deeply rooted sense of purpose and aspiration.

We highly recommend this activity with organizations to connect teams together beyond tasks and budgets. Consider how much time alignment with your needs, wants, and motivations is worth to those huge goals you have both personally and professionally.

Happy Planning!

Laurie Hall – a certified coach, certified facilitator and seasoned speaker – founded *New Horizon Strategies, LLC* in 2011 to inspire sustainable change in the professional world. *New Horizon Strategies* guides leaders who are facing a change by themselves – and feeling stuck. *Through our executive coaching, facilitation, and consulting, leaders move from transition to transformation using philosophies such as Lean Six Sigma and Strategic Planning to Cultural Values Assessments and Team Building.* ★

OPPORTUNITIES ABOUND IN THE STATE OF TEXAS

Founded in 1828, Bureau Veritas is a global leader in building, civil, and fire and life safety code compliance solutions. Our expanding team of exceptional code experts are here to partner with you as Texas enters into a prosperous future.

BUREAU VERITAS is welcoming strong professionals to our team as our flourishing state continues to attract numerous high profile projects and benefits from sustained economic development. Recent projects the firm has been a part of include:

- Texas Instruments Facility (City of Sherman)
- Google Data Center (City of Midlothian)
- SpaceX Raptor Engine Facility (City of McGregor)
- Globe Life Field (City of Arlington)
- Amazon Distribution and Fulfillment Centers (Houston and Waco)
- And more...



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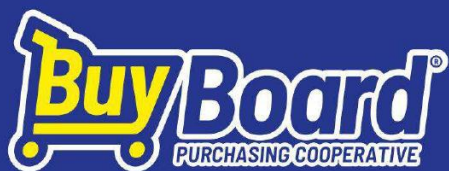
BUREAU VERITAS Offices Located in **North and South Texas**
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