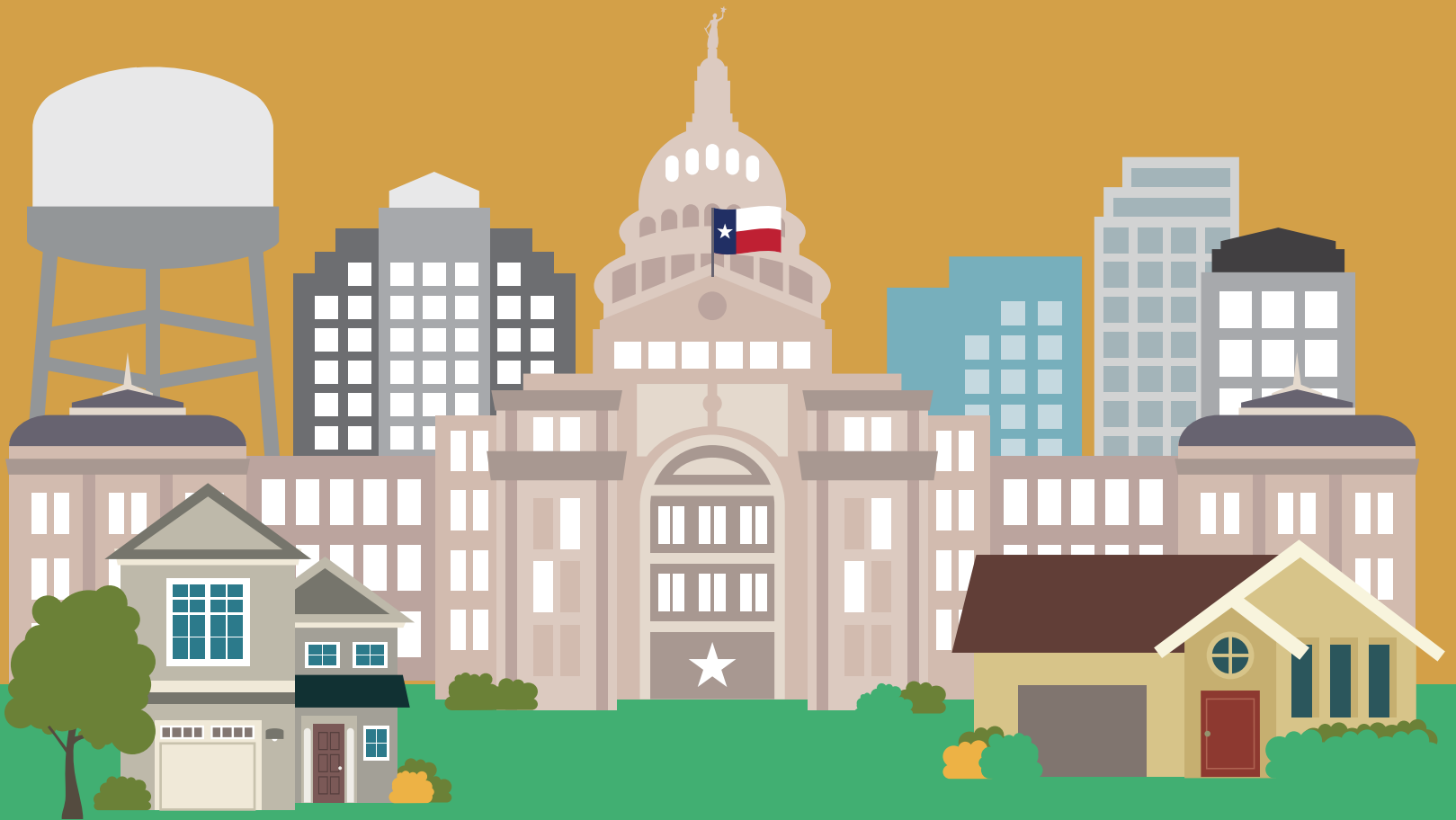


OFFICIAL PUBLICATION OF THE TEXAS MUNICIPAL LEAGUE

JANUARY 19  
VOLUME CVI  
NUMBER 1

# TTC

TEXAS TOWN & CITY



## HOW TEXAS CITIES WORK

# ENGINEERING TEXAS



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## **Our Home, Our Decisions: Safe Communities, Essential Infrastructure, Vital Services**

Cities, the government closest to the people, embody the idea that “We the People” should be in control. Cities provide the services that we cannot do without. Those services reflect the will of the local taxpayers. They are not the kind of services people think of when they say they want less government. **Put simply: City services are the nuts and bolts of our society.**

Starting with Texas’ statehood in 1845, the legislature began creating cities to do its local work. **The Texas Municipal League now represents more than 1,155 cities of every size, shape, and service level.** The locally-elected city councils in those cities decide – based on the wants of their citizens – how to provide appropriate services.

They provide police and fire protection, the roads we drive on, local business development, the utilities we need to survive and prosper, the protection of property values through thoughtful rules that benefit everyone, and more. It costs money to provide these services, but **keeping taxes low while meeting citizens’ demand for services** is a core value of city officials.

Cities don’t typically seek funding from the state, and they receive virtually nothing from the state. What cities need in lieu of state funding is **to be allowed to make their own decisions about how to keep the “Texas Miracle” alive.** They want to continue providing local services in the way they were elected to do. That leads to the following legislative priorities:

1. Ensure that local decisions are made locally by supporting reasonable enhancements to regulatory authority and by opposing attempts to harm the ability of cities to protect property values by imposing reasonable development standards.
2. Protect and enhance essential infrastructure by opposing efforts to diminish municipal revenue and by supporting initiatives that will meet the needs of our cities for: (1) streets, roads, and bridges; (2) clean water; (3) safe and effective wastewater treatment; (4) stormwater management; and (5) sustainable solid waste collection and disposal.
3. Ensure funding for vital community services by vigorously opposing efforts to erode revenue needed to: (1) keep cities safe from crime; (2) respond to emergencies; (3) enhance economic growth and job creation; and (4) provide recreational facilities, parks, and libraries.

### **The City Message to Legislators is Clear: Our Home, Our Decisions**

To learn more, visit [www.tml.org](http://www.tml.org) or call 512-231-7400  
Legislative direct contact: Shanna Igo 512-750-8718



## Texas Cities: Did You Know?

1. Texas cities **lead the nation in population growth**. In fact, seven of the 15 fastest growing cities in the nation are in Texas and three of the top five cities with the largest population gains are in Texas. On average, somewhere around **1,100 people are added to the Texas population each day**. [*U.S. Census Bureau.*]
2. **Seventy-four percent of Texas residents live in incorporated cities** (of which there are 1,215) and 89 percent of Texans live in urban areas. [*U.S. Census Bureau.*]
3. **From 1996 to 2015, the total city property tax levy rose an average of 5.82 percent per year**. This increase is closely aligned with Texas' population growth plus inflation over the same period of time, which averaged out to a 4.01 percent average yearly increase. [*Texas Comptroller, Biennial Property Tax report for 2014 and 2015, U.S. Census Bureau,, and U.S. Bureau of Labor Statistics*]
4. From 2013-2017, **total outstanding state debt increased by 21.2 percent**, total outstanding local debt increased by 18.9 percent, and **total outstanding city debt increased only by 15 percent**. [*Texas Bond Review Board, 2017 Annual Report and 2017 Local Annual Report.*]
5. Sixteen percent of property taxes statewide go to cities. **The majority of property taxes (54 percent) go to fund public schools**. Of the remainder, seventeen percent goes to counties, and 13 percent goes to special districts. [*Texas Comptroller, Biennial Property Tax report for 2014 and 2015.*]
6. **Texas cities receive virtually no financial assistance from the state**. In fact, Texas ranks 47th out of the 50 states in the amount of general revenue it receives from state government. [*National League of Cities, City and State Fiscal Structure (2015).*]
7. Using a unique concept dubbed "reverse intergovernmental aid," the Texas Legislature requires **cities to generate and remit to the state over \$200 million annually to fund state programs**. [*TML article, Reverse Intergovernmental Aid Revisited, Again (2019).*]
8. In fiscal year 2017, **cities pitched in more than \$70 million** in cash and much more in right-of-way donations and in-kind services **for state highway projects initiated by TxDOT**. [*TML article, Reverse Intergovernmental Aid Revisited, Again (2019).*]
9. **Local economic development incentives dwarf the economic development incentives offered by the state**. [*Committee Testimony by Executive Director of Governor's Office for Economic Development and Tourism, House Economic and Small Business Development Committee (2014).*]



[www.tml.org](http://www.tml.org) | 512-231-7400

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**ABOUT THE COVER**

**How Cities Work**

Learn what Texas cities do and how they do it in this month's issue.

Cover illustration by 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](http://www.tml.org).

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# MESSAGE ★ FROM THE PRESIDENT



**JOHN B. LOVE III**  
COUNCILMEMBER  
CITY OF MIDLAND

Dear Texas City Official,

Our friends in the Texas Legislature are already back at work passing laws that will affect everything we do as Texans and the cities in which we live. And many of them are indeed very good friends—committed to the idea that so many decisions are best made at the level closest to homeowners and local businesses. And others...well, we have work to do to bring them around to the important concept of "Our Home, Our Decisions."

In this issue, we explain in detail to our legislators and others "how cities work." It's an important basic concept, because as city officials close to the action we tend to forget that folks in other levels of government, particularly state government, often know very little about what cities do and how they do it. This magazine, if you choose to share it with your legislators (and I hope you will), can serve as their comprehensive textbook on our very own Texas towns and cities!

Every topic that matters to Texas city officials is spelled out in a simple, easy-to-understand way: streets, revenue, zoning, economic development, public safety, annexation, and the list goes on.

Some of the bills that would restrict city authority are often based on misunderstanding about how cities operate. For instance, the fact that Texas cities get virtually no state aid, unlike in other states, goes a long way in changing minds at the Capitol about the wisdom of artificial limits on cities' own ability to raise revenue for basics like police and fire operations. That fact and many others are laid out in this issue. I hope you'll keep it handy as you begin to make the rounds to visit with your delegation. I know I will.

Please call on me any time over the next four plus months as we, through the League, work to build a stronger partnership with those now meeting in Austin. Rest assured, I will be calling on many of you!

A handwritten signature in black ink that reads "John B. Love III". The signature is fluid and cursive.

**John B. Love III**  
Councilmember  
City of Midland  
TML President



# Our Home Our Decisions

## In this Issue: Our Home, Our Decisions

By **Bennett Sandlin**, TML Executive Director

As you read this issue of *Texas Town & City*, the 86th Texas Legislature has convened and is hard at work. The 2019 regular session will not end until Monday, May 27, 2019. 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.

## For that reason, the city message to legislators is clear: Our Home, Our Decisions.

Cities, the government closest to the people, embody the idea that “We the people” should be in control. Cities provide the services that we cannot do without. Those services reflect the will of the local taxpayers. They are not the kind of services people think of when they say they want less government. City services are the nuts and bolts of our society.

Starting with Texas’ independence in 1845, the legislature began creating cities to do its local work. The Texas Municipal League now represents more than 1,150 cities of every size, shape, and service level. The locally-elected city

councils in those cities decide how to provide appropriate services based on the wants of their citizens.

Texas cities provide police and fire protection, the roads we drive on, local business development, the utilities we need to survive and prosper, the protection of property values through thoughtful rules that benefit everyone, and much more. It costs money to provide these services, but keeping taxes low while meeting citizens’ demand for services is a core value of city officials.

Cities don’t typically seek funding from the state, and they receive virtually nothing from the state. What cities need in lieu of state funding is to be treated as partners in keeping Texas great. Citizens want their officials to continue providing local services the way they were elected to do.

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 in which 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 cost of providing public safety services.
- The idea that annexation authority is still worth fighting for.
- 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 2019/2020 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, 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 all of 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.

If you want to learn more about Our Home, Our Decisions, visit [www.tml.org/ourhomeourdecisions](http://www.tml.org/ourhomeourdecisions).

Thank you for your support and assistance. ★





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When the TML Intergovernmental Risk Pool (Pool) was established almost 45 years ago, members determined that the Pool would be a long-term solution for meeting the members' coverage needs. Critical to meeting this promise is financial strength. This year's financial results and current financial position are an example of this strength as the Pool ended the 2017-2018 fiscal year with a strong financial gain of over \$12.7 million. Based primarily on growth in the property fund, gross earned contributions increased by \$10.2 million to over \$190 million. Total losses and loss adjustment expenses were in line, just over \$145 million, the reinsurance expense was \$10.5 million, and operating expenses were about \$43.1 million. Investment income at \$21 million represented more than 10 percent of the Pool's revenues and enable lower rates for members year after year.

For the two years prior to 2017-2018, the Pool worked closely with members to resolve an extraordinary amount of hail and flood losses. In August 2017, the Pool endured Hurricane Harvey, the largest natural disaster in Texas history. That hurricane's loss alone was reserved at just under \$115 million. Fortunately, because of the Pool's reinsurance program, \$77.2 million (67.1 percent) of that loss was paid by the reinsurers. The remainder was paid from reserves that the Pool built up over the years for such an occurrence. As a result of its solid financial structure, the Pool was able to manage through that catastrophic event and end the year with strong financial results.

The Pool presents its financial information in two ways. The audited financial statements, which are available online to its members, are presented in a manner that complies with the Governmental Accounting Standards Board (GASB) Statement 31. Statement 31 requires the Pool to report unrealized investment gains and losses as part of the Pool's financial results. The Pool however makes all of its management decisions without considering unrealized gains or losses. Unrealized gains and losses are "paper" gains and losses caused by fluctuations in the market price of securities. Since the Pool generally has the intent and ability to hold investments until maturity, unrealized gains and losses do not impact the financial position of the Pool. So to present the Pool's position in a meaningful and useful way, the Pool also presents its financial statements without considering unrealized investment gains or losses.

Periodically, the Pool has an independent actuary conduct a *Target Fund Balance Review*. This study measures the Pool's major risks that could require funding against the probability that the risk will actually occur, and then provides a recommendation on a minimum and maximum range of equity that the Pool should maintain. The most recent 2017-2018 study indicates that the Pool's equity level is within the range limits. Besides assisting the Pool in deter-

mining the proper amount of required equity, the results of the study are also a way for the Pool to provide assurance to its members that its equity balances are appropriate and that the Pool is financially sound.

To maximize on generating operational efficiencies, enhance analytical capabilities, and improve access of information by members, the Pool has embarked on a program to replace its legacy business systems and technologies with advanced, efficient, and more powerful data-driven systems. This has led to an investment in technology of over \$20 million. Throughout the fiscal year, the Pool has been developing and installing the best-in-class underwriting, billing, financial, and medical bill review systems. A couple of these systems are already online and the remaining systems are on track to be operational in 2019. One of the enhancements was the creation of a new, informative, and user-friendly website and member portal which was launched in mid-September. These investments are for the purpose of providing enhanced member service and strengthening the pooling partnerships that exists between the members and especially between members and the Pool.

In addition to assisting members to more accurately determine the proper value of their facilities and high value properties, the Pool expanded its utility property valuation program, whereby contracted firms conduct expert property valuations on selected water and sewer plants, lift stations, and electrical substations. To provide additional financial strength and bring the Pool in-line with common and customary reinsurance coverage provisions, the Pool also implemented property coverage changes that clearly define the extent to which flood losses will be covered and the maximum amount that will be paid on losses for under-valued and non-declared property.

The 2017-2018 fiscal year has been one filled with accomplishments and positive results. Through the actions noted above, the Pool enacted programs that strengthened its already sound financial position, and provided long-term ways to better service claims, manage revenues and expenses, and control losses.

The Pool makes every effort to be transparent in providing information concerning its financial management. The Annual Financial Reports and Budgets are posted on the Pool's website at [tmlirp.org](http://tmlirp.org). If you have questions or would like more information on the Pool's finances, please contact the Pool's Chief Financial Officer Hank Domeracki at [hdomeracki@tmlirp.org](mailto:hdomeracki@tmlirp.org) or 800-537-6655. ★



## A NEW SPIN ON YOUR NEW YEAR'S RESOLUTION

By President's Council on Sports, Fitness & Nutrition

Although New Year's Day has come and gone, it is not too late to start on your resolutions! If you're like many other Americans, you may be thinking of trying to be more physically active, eating healthier, or losing weight in the coming year. While these are great resolutions, consider the following tips for putting a fresh spin on your health related goals for 2019.

### **Instead of making a general goal such as "I want to be more physically active this year"...**

Try using the SMART method to set a goal that is focused and measurable. SMART, which stands for Specific, Measurable, Attainable, Realistic, and Time-Specific, guides people through a series of steps to create a goal that considers potential barriers and is focused on realistic individual outcomes. For example, instead of setting a general goal to become more physically active, a SMART goal would specify, "In the next three months, I'd like to log 10,000 steps or more at least four days per week."

### **Instead of looking at the big picture when making your resolution...**

Try setting mini-goals to keep you motivated. Setting and achieving mini goals keeps you engaged and focused on your SMART goal as you work your way up to your larger goal. Building on the previous example, small goals may include setting aside 30 minutes, three days a week, to walk

outside or on a treadmill at the gym. Once this mini goal has been reached, you can expand your bouts of physical activity to four days per week, or you could extend the length of your workouts from 30 to 40 minutes.

### **Instead of exercising specifically for weight loss or forcing yourself to log long hours at the gym...**

Try exploring new activities to make physical activity fun! If you do not like walking on a treadmill, don't do it! Try something new like swimming laps at the pool, taking a ballroom dancing class, or kickboxing. Working out with a buddy or jamming to your favorite music playlist can also make the experience something you look forward to and enjoy.

### **Instead of focusing only on physical activity and nutrition related resolutions...**

Try looking at other health and wellness behaviors, such as sleep or stress management. There is more to a healthy lifestyle than physical activity and healthy eating. Getting enough rest each night and properly managing stress are key to individual success. Lack of sleep and excessive stress can impact your ability to focus on your physical and nutritional health. The impact of these two behaviors can affect your clarity, attention span, and energy level throughout the day. The most important things to remember about making New Year's resolutions are to set goals that are realistic and achievable, that will work for your schedule, and that are enjoyable so you will want to keep them! ★

We're celebrating  
40 years of service  
and ready to turn  
the page on a new  
chapter...



**TML MultiState**  
*Intergovernmental Employee Benefits Pool*

# George H.W. Bush's Life Embodiment of Texas Spirit

By **Juan A. Lozano**, Associated Press  
Copyrighted 2018 Associated Press 292683:1218PF

Although he was born and grew up on the east coast, former President George H.W. Bush was the quintessential Texan. He found early success in the state's oil fields, helped change the landscape of Texas politics, and loved Tex-Mex food. And in his adopted hometown of Houston, Bush (who died on November 30) and his wife Barbara endeared themselves to the city and its residents through their kindness, accessibility, and support of charitable causes and local sports teams.

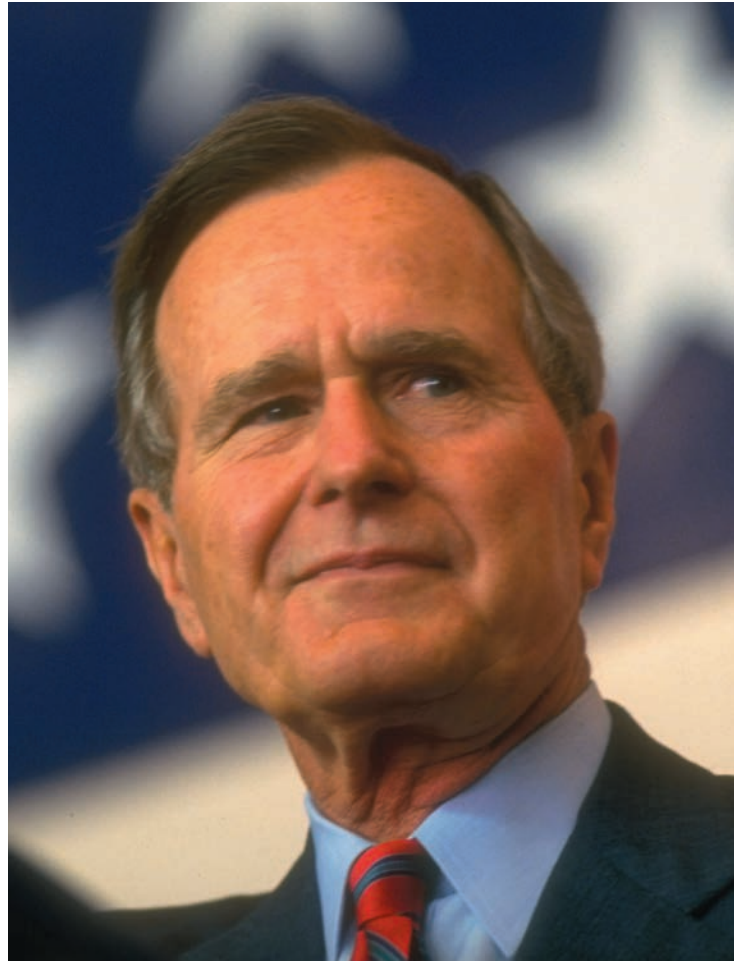
"His roots are here and he's considered a Texan even if he doesn't have the accent," said Jim Granato, executive director of the University of Houston's Hobby School of Public Affairs.

Along with his wife and their young son George W., the family came to live in Odessa. Bush took a job as an equipment clerk for the International Derrick and Equipment Co. He eventually achieved success in the oil business, forming Zapata Petroleum Corporation.

Ricardo Molina, whose family owns Molina's Cantina, one of Bush's favorite Tex-Mex restaurants in Houston, said the former president was an individual who exemplified a popular saying often heard or seen on bumper stickers in the Lone Star State: "I wasn't born in Texas, but I got here as fast as I could."

In 1958, Bush and his family moved to Houston, where he began planting the seeds of a political career that would help change the face of Texas politics.

In 1963, Bush was elected chairman of the Republican Party in Harris County, where Houston is located. He unsuccessfully ran for a United States Senate seat in 1964 before being elected to the United States House of Representatives



in 1966. Bush was the first Republican to represent Houston in Congress. He won re-election two years later.

After a second unsuccessful bid for the United States Senate in 1970, Bush served in various positions in the federal government, ultimately serving as vice president and later president in 1989.

But Texas and Houston were never far from his mind. Molina said when Bush was president his restaurant would periodically ship food to the White House.

"That would happen whenever the mood hit him," Molina said.

After his time as president, Bush and his wife, who died last April, returned to Houston, where they became fixtures at



Astros games and other sporting events. The Bushes also supported various local charitable causes and fundraising campaigns for organizations, including The University of Texas M.D. Anderson Cancer Center.

"The Bushes could have moved anywhere after his time in public office, but they chose to return to their beloved city where he started his political career," said Houston Mayor Sylvester Turner.

While Houston's largest airport, as well as a park and an area high school have been named after him, residents say Bush solidified his place in their hearts through his humility and easygoing nature.

During a December mass at his longtime church, St. Martin's Episcopal, Bush's pastor, the Reverend Russell J. Levenson Jr., acknowledged the former president's death but told parishioners that Bush would have wanted the attention not focused on him, but on the church service.

"He'd take a moment just to shake your hand. He'd remember people's names and that was something that really surprised our staff, that he would remember them and was real open with them. It was great," Molina said. ★





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 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 2019 legislative session. One tool that has proven to be highly effective is the Grass Roots 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 2019 legislative session, please participate in the GRIP survey by visiting <http://bit.ly/TMLGRIP2019>.

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 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 legislator, go to the TML website at [www.tml.org/links\\_texas](http://www.tml.org/links_texas). If you have any questions about the GRIP survey, contact JJ Rocha at [jj@tml.org](mailto:jj@tml.org) or 512-231-7400. ★





# The 86th Texas Legislature

## Stay Informed on the Issues that Matter to Your Community



The 86th session of the Texas Legislature begins in January 8, 2019. This is an important legislative session for Texas cities given the state legislature's increasing attacks on cities and your ability to make decisions for your residents and community. Help your city plan an active and consistent role in the League's efforts by participating in the 2019 Legislative Series Webinars and Workshop.

**Legislative Session Preview  
What to Expect for Cities**  
February 7 - Webinar

**Legislative Status Report #1  
Keep Your Finger on the Pulse**  
March 14 - Webinar

**Legislative Status Report #2  
Be Heard at the Capitol**  
April 11 - Webinar

**Legislative Status Report #3  
What to Expect in the Final Days**  
May 9 - Webinar

**Legislative Wrap-Up  
An Insider's Perspective**  
June 24 - Workshop, Hilton Austin

*The legislative webinars will not be recorded.*



For more information about the series and to register, visit [tmllegislativeseries.org](http://tmllegislativeseries.org).

# LEGAL ★ Q&A



**Scott Houston**  
TML Deputy Executive  
Director and  
General Counsel



**Bill Longley**  
TML Legislative  
Counsel



**Christy Drake-Adams**  
TML Assistant General  
Counsel



**Zindia Thomas**  
TML Assistant  
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**Evelyn Kimeau**  
TML Assistant  
General Counsel



**Amber McKeon-Mueller**  
TML Assistant  
General Counsel

## **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 General Counsel, the current staff of five 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. Four worked previously for the Texas attorney general's office, two have worked for municipal law

firms, and two worked for a city (one as deputy city attorney and one as a prosecutor). One served as law clerk to the League while attending The University of Texas School of Law.

## **Q** What is the most important service that the department provides?

**A** The key service that the League's legal services department provides 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 1,150 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, testimony on city-related bills, and coordination of city officials' testimony, among other things. During the 2017 regular session, TML attorneys reviewed and analyzed more than 6,200 bills and testified on bills before almost every committee of the Texas Legislature.



**Q** What other services does the department provide?

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

- Writing and updating the TML *Home Rule* and *General Law Handbooks*. 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 two years, TML has filed almost 30 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. Recently, the League participated in rulemakings or provided other input at the following state agencies: (1) Commission on Environmental Quality; (2) Public Utility Commission; (3) Department of State Health Services; and (4) Railroad Commission.
- 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?

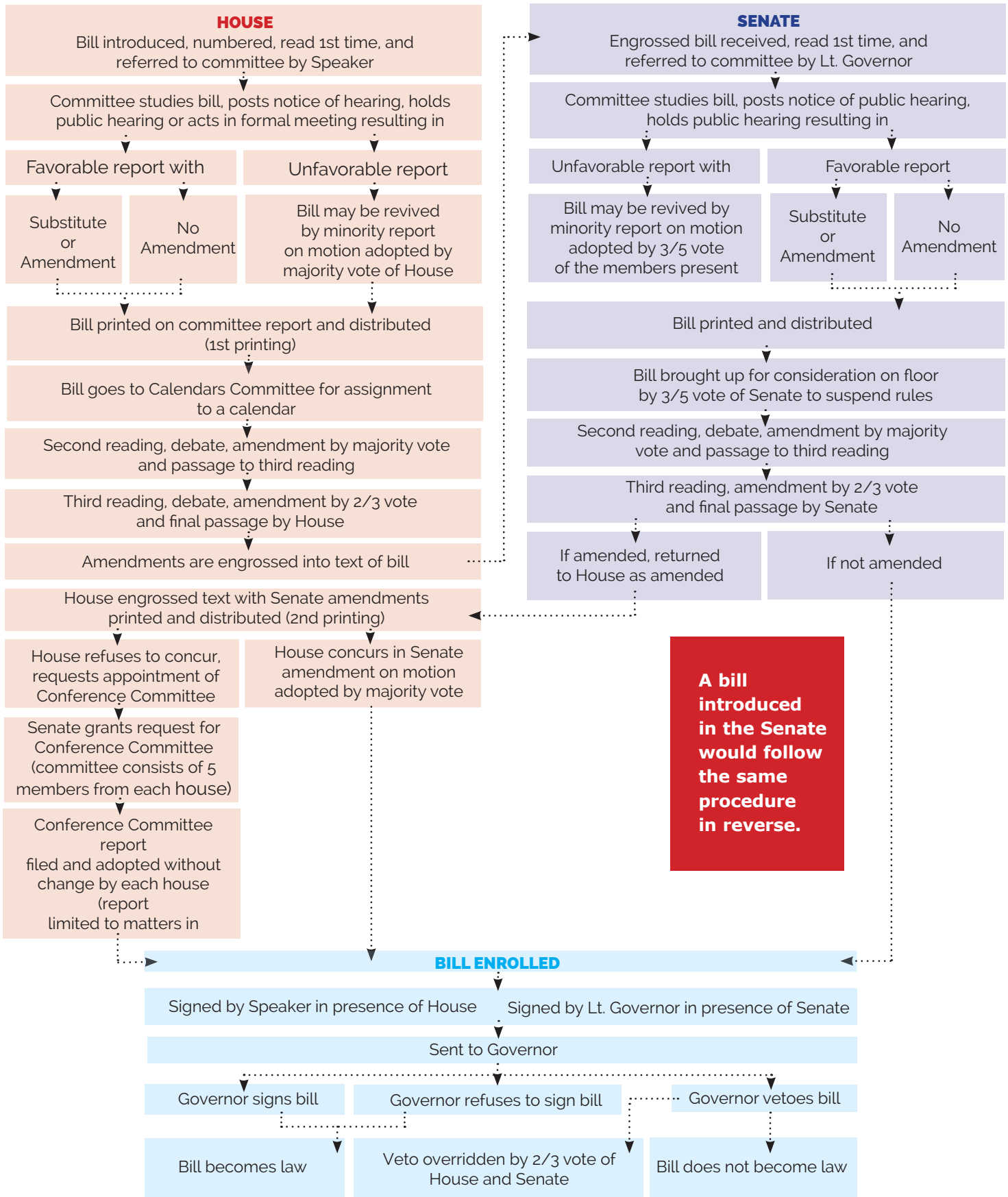
**A** The legal staff is available for phone consultation at 512-231-7400 from 8:00 a.m.-5:00 p.m. Monday through Friday. The most common way that city officials submit inquiries is through emails to [legalinfo@tml.org](mailto:legalinfo@tml.org). A great deal of information is also located on the League's website at [www.tml.org](http://www.tml.org).

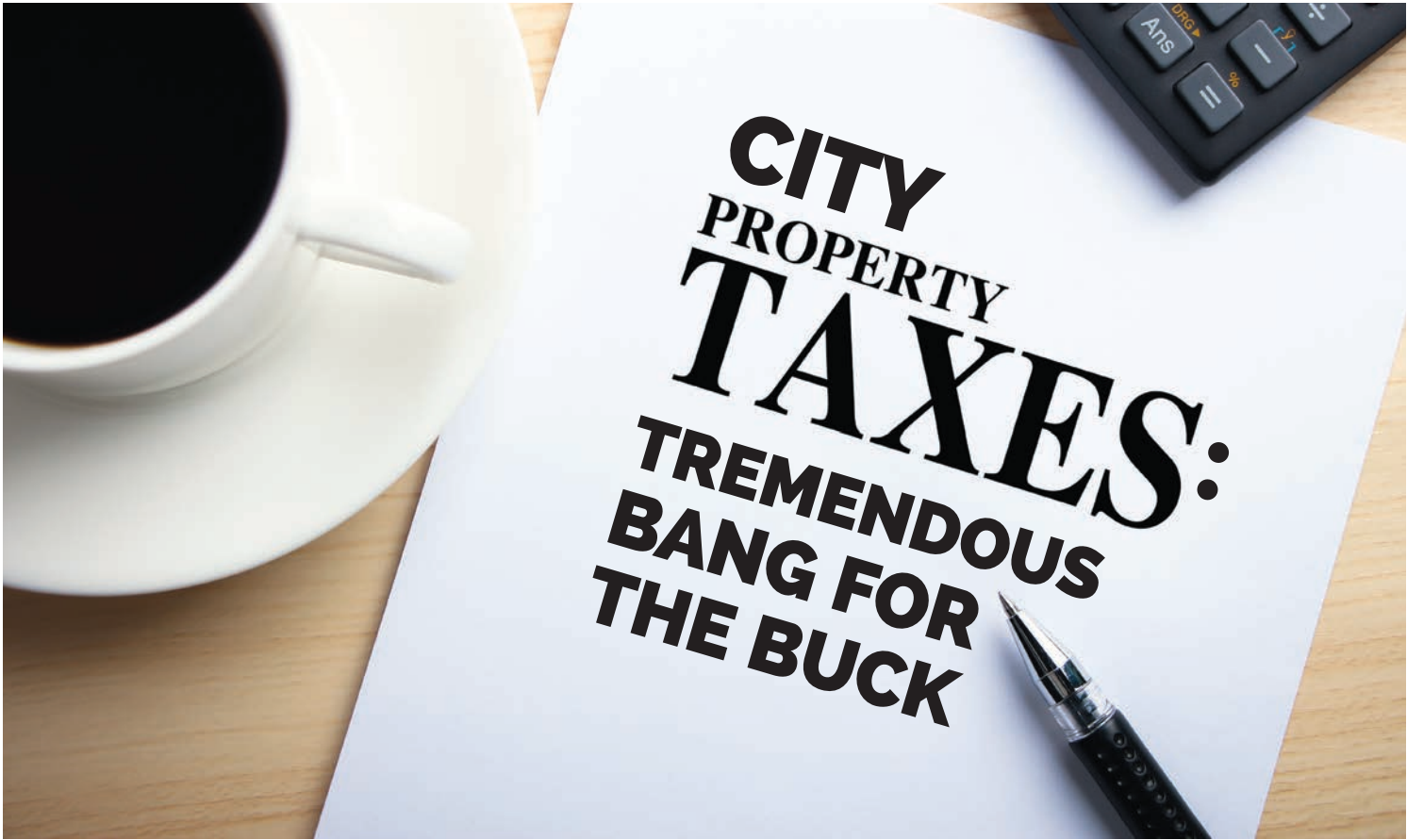
**Q** What else do I need to know about the legal department?

**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. ★

# The Texas Legislative Process for 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.



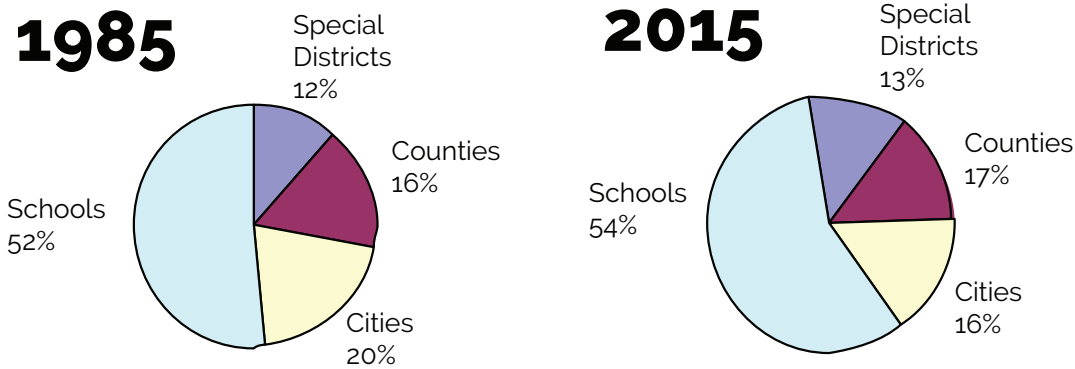


Texas cities depend heavily on property tax revenue. Property taxes help fund many of the services that residents demand including police, fire, streets, and parks. But as Chart 1 shows, city property taxes constitute a small portion of a typical homeowner's property tax bill.

## Chart 1

### Distribution of Property Tax Collections

Source: Texas Comptroller's Biennial Property Tax Report



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.

## Chart 2

**State and Local Government Tax Revenue, 2015**  
Source: U.S. Census Bureau

	U.S.	Texas
Per capita state and local	\$4,881	\$4,122 (29th)
Per capita state	\$2,837	\$2,007 (42nd)
Per capita local	\$2,043	\$2,116 (15th)
Percent local	41.8%	51.3%

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 inter-governmental aid, it comes as no surprise that Texas ranks second the nation in municipal own-source capacity.

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 the property tax, it is also true for cities and counties. In fact, of the \$2,116 shown in Chart 2 as per capita local government tax revenue in 2015 in Texas, a whopping \$1,732 (81.9 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 the public school funding reforms of 2006.
2. Open more revenue sources for counties and cities.

Any other 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. ★

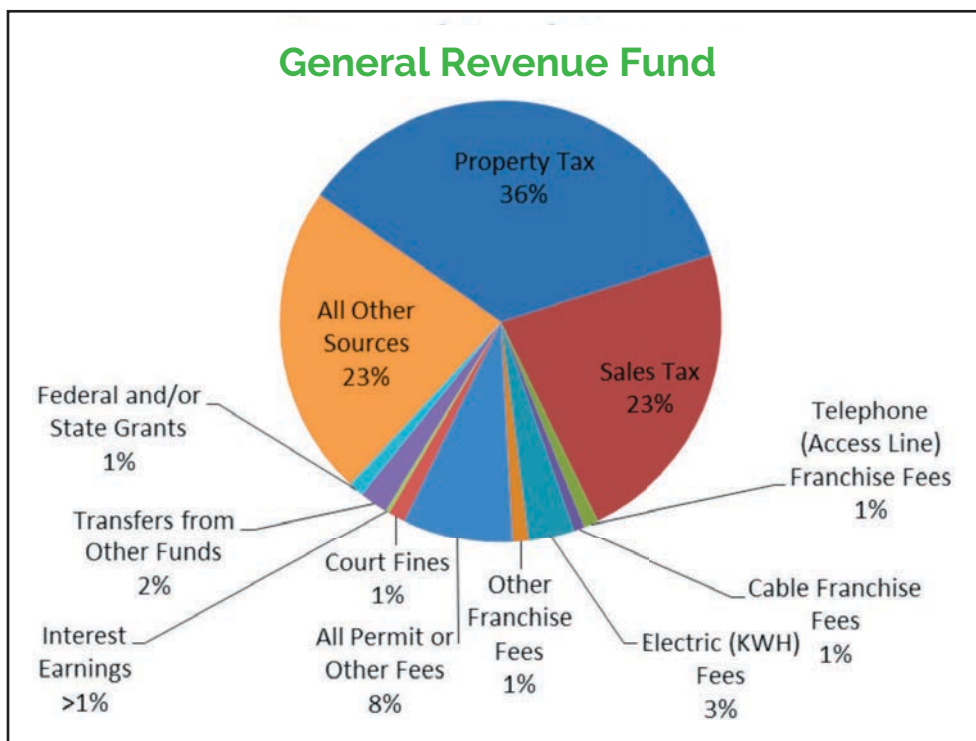


# WHERE DO TEXAS CITIES GET THEIR MONEY?



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 2018 TML survey shows that municipal general fund revenue in Texas is made up of the sources shown in the graph below.



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. (See the article on “Reverse Intergovernmental Aid” in this magazine issue.)

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 revenues.

## 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 2017.

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.

### 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.

### 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.

### 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.

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.

### Other Sources

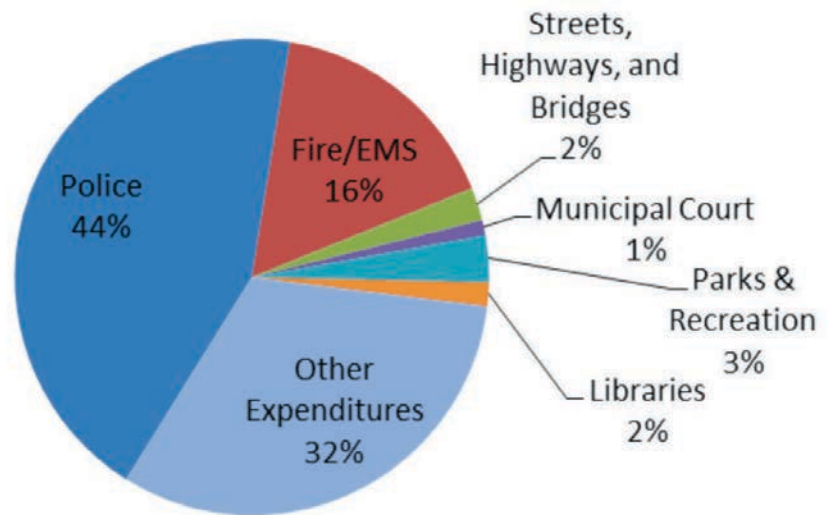
City revenue can take various other forms, including user fees for some services, amusement taxes, and hotel occupancy taxes.

### 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.



## General Fund Expenditures



## 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 2013-2017, total outstanding local debt increased from \$199.98 billion to \$218.03 billion, a 9.03 percent increase. Meanwhile, total outstanding city debt increased from roughly \$65 billion to \$79 billion, a 22 percent increase during the same time frame. For the same period, total outstanding state debt increased from \$43.54 billion to \$53.01 billion, a 21.8 percent increase. In other words, local debt (and city debt) is increasing at a similar rate as state debt in recent years.

At \$218 billion, the amount of total local debt is certainly significant. However, only a small portion of that—\$31 billion—is tax-supported city debt. Another \$40 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 \$79 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 \$79 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 \$79 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 show it clearly 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 recent 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 within that partnership. ★



# REVERSE INTERGOVERNMENTAL AID: CITIES PARTNER WITH THE STATE TO SUPPORT STATE PROGRAMS

Regular readers of the Texas Municipal League's *Legislative Update* newsletter will likely recognize this article. It first ran in 2008, and is updated annually. The 2017 numbers show that cities are still net donors of money to the state. The State of Texas, unlike almost all other states, provides virtually no financial assistance to its cities. State aid, defined as a grant made by the state to cities from revenue generated by the state, is practically non-existent in Texas. Research conducted by numerous entities over many years has

shown this to be true. The most recent study, released in 2015 by the National League of Cities, found that Texas trails only Georgia, Oklahoma, and West Virginia in state aid to cities.

State aid flows readily in other states, particularly in populous states. For instance, it is not uncommon for states to share state gasoline tax revenue with cities, or to split other sources of state general revenue with municipal governments.

While city officials in Texas have seldom asked for state

financial aid, they are increasingly aware of the numerous ways in which they are compelled to share city-generated revenue with the state in what can be described as a system of reverse intergovernmental aid. That's not necessarily a problem, so long as the legislature continues to treat cities as partners in keeping Texas great.

Of the numerous ways in which cities transfer revenue to the state, three stand out:

1. The state's charge for administering the municipal sales tax.
2. "Local participation" in the cost of building and improving the state highway system.
3. State fees imposed on municipal court convictions.

### The State's Charge for Administering the Municipal Sales Tax

When a Texan purchases a product that is subject to the state and local sales tax, the merchant collects the entire tax due and remits it to the state comptroller. The comptroller, in turn, remits the local share back to the appropriate local government (city, metropolitan transit authority, county, and/or special district). For providing this service and for performing other administrative, enforcement, and reporting duties, the comptroller deducts two percent of the local share of the sales tax and deposits that amount in the state's general revenue fund.

The two-percent fee is high compared to the same fee in other states. Many states charge one percent or less; five states impose no charge at all. In Texas, the two-percent fee generated over \$170 million in 2017, of which cities paid more than **\$110 million**.

In 2008, TML undertook an effort to determine how much the comptroller's office spends annually to provide sales tax services to local governments. The comptroller's office informed TML that "(t)here can be no separate accounting of what costs are ultimately attributable to local tax administration that would not be arbitrary and potentially misleading." A TML committee was then formed to try to estimate the cost of collection to the state. The committee's estimate was at most \$27.7 million per year, far less than the \$107 million paid by cities during that year, generating a "profit" of more than \$79 million to the state.

The comptroller's baseline budget is in the neighborhood of \$290 million per year. Thus, the total local government fee of more than \$170 million is enough to cover almost 58 percent of the entire agency's total expenses.

### Local Participation in State Highway Projects

The best way to describe "local participation" is to quote from a state document titled "Background and Need for Partnering." This state document makes the case that the Texas Department of Transportation (TxDOT) faces a funding shortfall because growth in population, vehicle-miles per capita, and total vehicle miles have grown at faster rates than growth in the highway system and growth in revenue available for highway projects. Those trends, according to the document, will continue.

To help address this dilemma...

*TxDOT continues to seek additional ways to fund the state transportation program. For years, TxDOT has partnered with local public agencies to make transportation improvements on state highways. This local participation has come in many forms, including provision of right-of-way, financial contributions, maintenance agreements and other forms... Cooperative partnering between state and local agencies will be needed to meet future transportation needs. TxDOT will depend on local and regional leaders to provide both leadership and commitment to help carry projects forward...TxDOT is currently suggesting to local agencies that they consider increasing their participation in **TxDOT projects in order to expedite scheduling of locally desired projects.** (Emphasis added.)*

In short, "local participation" may become 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."

How much do cities annually contribute in local participation? In fiscal year 2017, cities pitched in more than \$77 million in cash and much more in right-of-way donations and in-kind services each year. In addition, the state gasoline tax paid by cities accounts for many more millions of dollars paid by cities for the state transportation system.

Here's the bottom line. In most states, the state government makes grants to cities to help those cities build and maintain city streets. In Texas, city governments transfer municipal revenue to the state to help pay for the state highway system.

### State Fees on Municipal Court Fines

Municipal courts in Texas collect funds on behalf of the state for a wide variety of state programs. These state programs range from the Criminal Justice Planning Fund to the Crime Victims' Compensation Fund. In most cases, the fees are imposed on persons convicted of any criminal offense. For these collection efforts, cities are generally allowed to keep some small amount of revenue as reimbursement for the costs incurred to collect the fees and remit them to the state.

Many city officials contend that state court costs adversely impact municipal courts in two ways. First, the state's court costs are complicated to administer. While cities can keep a small percentage of the costs as an administrative fee, that amount is not sufficient to reimburse the cities for the bookkeeping and administrative problems connected with this function. Second, when setting an appropriate

fine for an offense, a judge must consider the fact that the defendant will also be paying state court costs. As a result, municipal fine revenue is often lower than it would otherwise be because the judge has considered the state court costs when setting a defendant's total fine.

Municipal court clerks also point out that the state requires that in the event of a partial payment, the state court costs must be paid first before the city can keep any of the fine. This means that cities must do all of the work collecting fines, but are not allowed to keep any money until the state court costs have been fully satisfied.

In recent years, the number and amount of state fees collected by municipal courts have grown rapidly. For example, on a typical traffic offense conviction, a municipal court defendant must currently pay \$84 in state-imposed fees before any city fine is collected. The following chart is a comparison of the present situation with fees imposed in 2002.

In many ways, municipal court collection of state fees is similar to the state's collection of municipal sales tax. In each case, one level of government is processing a tax or fee levied by another level of government, is remitting it,

	January 2002	January 2019
Crime Victim Compensation	\$15.00	\$15.00
Judicial/Court Personnel Training	\$ 2.00	\$ 2.00
Fugitive Apprehension Fund	\$ 5.00	\$ 5.00
Consolidated Court Costs	\$17.00	\$17.00
Juvenile Crime/Delinquency (Prairie View A&M)	\$ 0.50	\$ 0.50
Correction Management Institute (Sam Houston State)	\$ 0.50	\$ 0.50
State Traffic Fine	--	\$30.00
Jury Pay	--	\$ 4.00
State Judges' Salaries	--	\$ 6.00
Indigent Defense	--	\$ 2.00
Truancy Prevention Fund	--	\$ 2.00
<b>Total</b>	<b>\$40.00</b>	<b>\$84.00</b>

and keeping a fee for providing those services.

While there are similarities, there are also substantial differences.

For example, the state doesn't really "collect" the municipal sales tax; it's collected by the merchant. With regard to state fees on municipal court fines, however, a municipal court employee actually collects the fees and bears the brunt of any resulting fee-payer anger.

Second, the state controls the level of the municipal sales tax, but cities certainly don't control the level of state fees on municipal fines. So while cities can't unilaterally raise the city sales tax without permission from the state, the state can (and frequently does) increase the amount of state fees that cities must collect and remit.

How much state fee/fine revenue do municipal courts collect annually? For 2017, the amount was just over \$196 million.

### Conclusion

What's the grand total amount of reverse intergovernmental aid in Texas? After making various adjustments, the annual total is more than \$227 million just from these three sources of reverse intergovernmental aid. (Please note that simply adding the totals from the previous sections yields a much higher amount. Certain adjustments were made to that number in relation to sales tax administration and court fees to arrive at \$227 million.)

And why does this transfer of revenue from cities to the state matter? It matters because these transfers of resources result in either reductions in municipal services or increased local fees or taxes—most often the local property tax, which is the only general-purpose municipal tax that a city council can raise or lower.

Texas taxpayers remain concerned

about property taxes. It is clear that some of the pressure on the property tax results from reverse intergovernmental aid, a system under which governments that must depend on the property tax (cities) transfer revenue to a level of government (the State of Texas) that has many revenue sources.

It's easy to grasp why some state

legislators are tempted to turn to cities and ask them to generate revenue for the state. It's much harder to understand why some of those same legislators have been trying for several years to limit the revenue-generating capacity of cities by placing caps on the municipal property tax. The message to legislators should be clear: continue partnering with cities to do the state's local work. ★

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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 and the National Electrical Code as the standard building codes for residential construction in Texas cities. Under the statute, cities are authorized to make amendments to these codes to meet local concerns. The legislature also adopted requirements that homes and buildings meet energy conservation standards.

In 2005, the Texas Legislature adopted the International Building Code for most commercial and multi-family construction, but nothing in the bill prohibits a city from adopting local amendments to the International Building Code. 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 is allowed to amend codes to meet that city's needs. In 2009, the legislature added procedures that larger cities must follow when reviewing or amending their building codes.

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, a city is not limited by statute as to the amount the city can charge

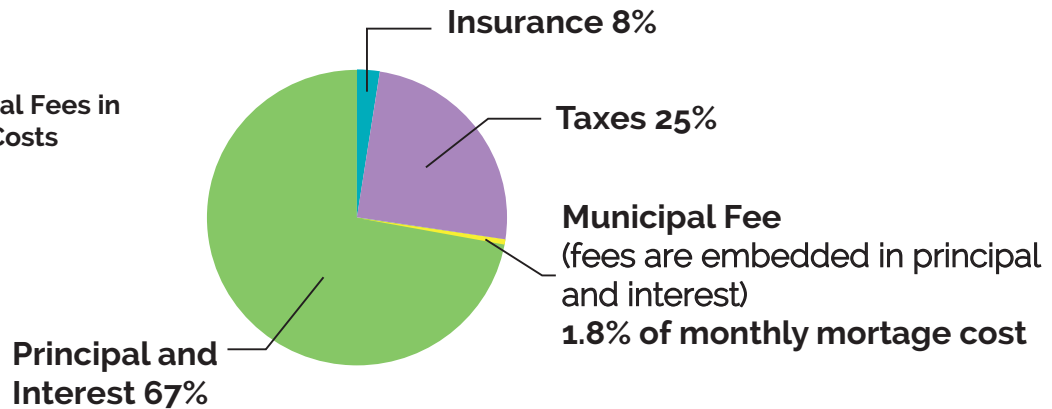
for building and related permits. Fees vary widely based on several factors, including the number and type of inspections and the sophistication of the city's permitting process. While some have claimed that city fees are responsible for the rising

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). ★

## 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. 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. Though 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, H.B. 2912, passed in 2003. H.B. 2912 scaled back the authority of some Type A and Type B economic development corporations. Following the passage of H.B. 2912, the 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.

## **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.

## **Tax and Appraisal Caps Threaten Economic Development**

Proposals to cap, limit, or freeze municipal property tax revenue or property appraisals will have the unfortunate side effect of undermining the rationale behind many economic development tools. While the purpose of economic development is often to put new taxable value on the rolls, tax caps will impede those efforts. Tax and appraisal caps restrict the very growth in appraised value that tax incentives are designed to generate, undermining the important role that cities play in facilitating job creation in Texas. ★





As fellow and former Mayors, CMs, ACMs, Finance Directors, and other city staffers we—the Executives and Board of TCAP—have been there too, having to decide big budget issues outside our comfort zones, just as you have.

## We've walked a mile in your shoes

Trying to buy electricity in Texas' deregulated market with all its acronyms, buzzwords and hidden gotchas can seem like torture, so we created this special section just for you so that, regardless of whether you choose to partner with us or not, we think you'll find the next couple of pages helpful.





## ERCOT & The Deregulated Market

In 1999, some years after deregulating the state's wholesale power system, the Texas Legislature adopted a law that deregulated much of the retail electric system, taking effect in 2002. So, today in Texas we have competition in the electricity wholesale market — that is, between owners of big power plants — and among providers of electricity at the retail level. However, the transmission and distribution (wires) system remains regulated.

### Deregulated Market Glossary

1. **AGGREGATOR** An entity that aggregates the load of its individual customers to obtain better prices and services. Few true aggregators exist in the market (unfortunately, many brokers claim to be but are not).
2. **AMR METER** An automated meter — used to measure daily and inter-day account usage and provide real-time meter data.
3. **ANCILLARY SERVICES** Ensure that the interconnected electric system is operated in a reliable manner, providing satisfactory levels of service.
4. **BILLING DEMAND** A measure of demand that is often used for billing purposes but may differ from actual metered demand for that account.
5. **BLOCK ENERGY** A purchase structure designed to stabilize electricity cost wherein the buyer purchases a fixed amount of power for a specific time period at a fixed rate—often used to meet minimum needs for that period.
6. **BROKER** A broker arranges the sale of an energy commodity as an agent for one or many REPs, and is directly compensated by the energy supplier.
7. **CAPACITY** Capacity can refer to the peak measure of electric usage, amount of generation available, maximum transferred on an electric line, etc.
8. **COMBINED CYCLE** The combination of gas and steam turbines in an electric generation plant.
9. **CO OP (OR CO-OP)** A cooperatively member-owned utility, typically serving rural/suburban areas. Co-ops serve 2 million Texas homes and businesses.
10. **CRR** Congestion Revenue Rights (CRRs) are financial instruments that result in a charge or a payment to the owner when the ERCOT transmission grid is congested in the Day Ahead Market (DAM) or the Real-Time market.
11. **DAM** The Day Ahead Market (DAM) matches buyers and sellers to co-optimize energy with Ancillary Services and certain CRRs.
12. **DISTRIBUTION COST** Local utility charges for delivering electricity through the local distribution system (wires) – a portion of the total electric bill.
13. **DEMAND** The amount of instantaneous electric power in MW being utilized by customer(s) at any specified point or collection of points on a system.
14. **DCTIE** Direct Current ties between ERCOT and non-ERCOT electric transmission systems are used to transfer power in and out of the ERCOT grid so as to avoid federal regulation.
15. **ESIID** Electric Service Identifier ("Easy ID") - is the identifier assigned to each Service Delivery Point (meter) used in the registration and settlement systems managed by ERCOT.
16. **ERCOT** The Electric Reliability Council of Texas is a nonprofit corporation certified by the PUCT that manages both the power grid and wholesale and retail electric market in the majority of Texas.
17. **ERS** This Emergency Response Service is procured by ERCOT from end users to reduce system demand during an Energy Emergency Alert (EEA), to assist in maintaining or restoring the ERCOT System. Users bid into the ERS program and, if chosen, are paid to stand ready to temporarily reduce demand if requested.
18. **ESCO** Energy Service Company - An ESCO provides services to end users that allow them to reduce energy usage and/or save money on their electric bills through facilities retrofits and industry programs.
19. **FERC** Federal Energy Regulatory Commission. A US federal agency created to regulate rates, markets and operations of interstate wholesale and retail gas and electricity transactions.
20. **FORWARD MARKET** Prices of energy today for delivery in the future. Prices available on futures exchanges such as NYMEX.
21. **FULL REQUIREMENTS** Contract structure whereby supplier provides all usage requirements for a customer for a specific term at an agreed price.



- 1 Power Plant:** Electricity is usually generated by a steam or hydro-driven turbine at the powerplant.
- 2 Step-Up Transformer:** The power is ramped up to high voltage for long distance transmission.
- 3 Transmission:** Next, a series of high voltage lines transmit the electricity throughout the power grid.
- 4 Step-Down Transformer:** Power is then reduced to lower voltage for use in businesses and homes.
- 5 Subtransmission:** The electricity passes through a series of switches to distribution lines.
- 6 Customers:** Power is finally delivered to homes and businesses via local lines.

## ERCOT By The Numbers:

*90% of Texas total load*

*24 million customers in the ERCOT region*

*75% competitive-choice customers*

*78,000+ MW peak capacity*

*Highest peak: 71,110 MW*

*570+ generating units*

*46,500+ miles of transmission lines*

*556 MW utility-scale solar*

*17,000 MW wind generated*

22. **INDEPENDENT CONSULTANT** Energy consultant who is objective and is compensated directly and solely by the end user and not the supplier.
23. **IDR METER** An Interval Data Recorder is a metering device capable of recording energy usage in discrete intervals.
24. **IOU** A for-profit, Investor-Owned Utility company that provides sales and/or transportation of electricity to end users.
25. **KILOWATT (KW)** A measure of usage equal to one thousand watts used for purposes of billing.
26. **KILOWATT HOUR (KWH)** The amount of kilowatts used in one hour often used as a component of billing.
27. **LOAD PROFILE** The energy used by a customer over time, showing hourly demand fluctuation. Since the price of energy varies by hour the usage pattern is important in determining the cost of power.
28. **LMP** Locational Marginal Price. See definition of Nodal Market.
29. **MEGAWATT (MW)** A measure of demand equal to 1000 kW.
30. **MEGAWATT HOUR (MWH)** A measure of usage equal to 1,000 kWh.
31. **MIL** A unit of measure for electric rates equal to one tenth of a cent (\$.001).
32. **MOU** A Municipally Owned Utility is operated and controlled by a City or political subdivision and is typically exempt from electric deregulation. In Texas, jurisdiction over MOU rates resides at the City level but can be appealed to the Texas Public Utility Commission.
33. **NERC** The National Energy Regulatory Commission oversees the Regional Transmission Organizations around the country that engage in interstate commerce. ERCOT is exempted from NERC oversight.
34. **NODAL MARKET** The nodal market establishes Locational Marginal Price (LMP) for energy at individual nodes of the electric grid. Based on generator bid prices and computer modeled flow dynamics of the transmission system.
35. **NOIE** In ERCOT a Non-Opt-In Entity (NOIE) is a utility that has not opted into the retail market—limited to MOUs, Co-ops and River Authorities.
36. **PEAK DEMAND NCP** Non-Coincident Peak Demand (NCP) is the highest use recorded on the metered account over a period of time, usually a month.
37. **PEAK DEMAND 4CP** 4CP (Four Coincident Peak) Demand measures an electric account's individual demand average during the 4-month system-wide peak demand interval for the entire electric grid (ERCOT) or TDSP. ERCOT's 4CP period spans June, July, August and September.
38. **POLR** Provider of Last Resort – Electric supply supplied by PUC designated REPs at PUC approved rates to end users who do not contract with a supplier in the competitive market.
39. **powertxchoose.org** The official electric choice website of the PUC for residential rates.
40. **PUC (OR PUCT)** Public Utility Commission of Texas.
41. **PURA** Public Utility Regulatory Act, Title II, Texas Utilities Code.
42. **REP** A Retail Electric Provider (REP) sells electric energy to retail customers in Texas, providing customer service and billing services. They do not own or operate generation assets and are not MOUs.
43. **RTO** Regional Transmission Organization – An aggregated group of TDSPs that are typically well interconnected and use an RTO structure to ensure reliability by operating the RTO as a single entity that can utilize the assets of the member TDSPs. ERCOT is an RTO.
44. **TAC** A Technical Advisory Committee is part of the ERCOT governance structure reporting to its Board of Directors
45. **TDSP** A Transmission and Distribution Service Provider (TDSP)—“the wires and poles company”—is responsible for transmitting electricity across a network of high voltage lines, and transformers from generation sources to homes and businesses.

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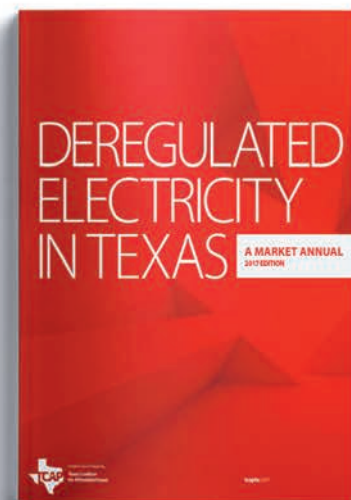
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# CITIES KEEP THE GARBAGE FROM PILING UP

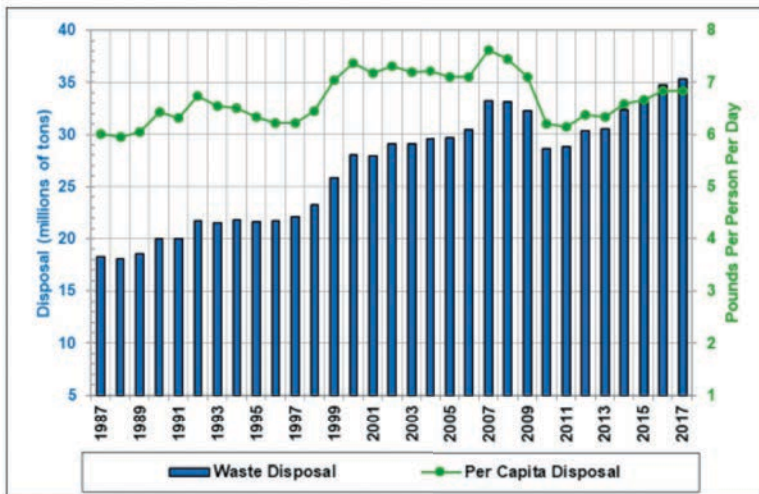
Garbage collection and disposal is one of the most recognizable and widely used city services. This vital service protects the public health and the environment. A city can choose to operate its own garbage collection and disposal system or grant a franchise to a private company (or companies) to handle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

**Texas Total and Per Capita for MSW Landfill Disposal**



## 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.

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 35.31 million tons of municipal solid waste in 2017. That's about 6.84 pounds per person per day, a slight increase above the 2016

rate of 6.83 pounds. During this period, the state's population increased by 1.6%.

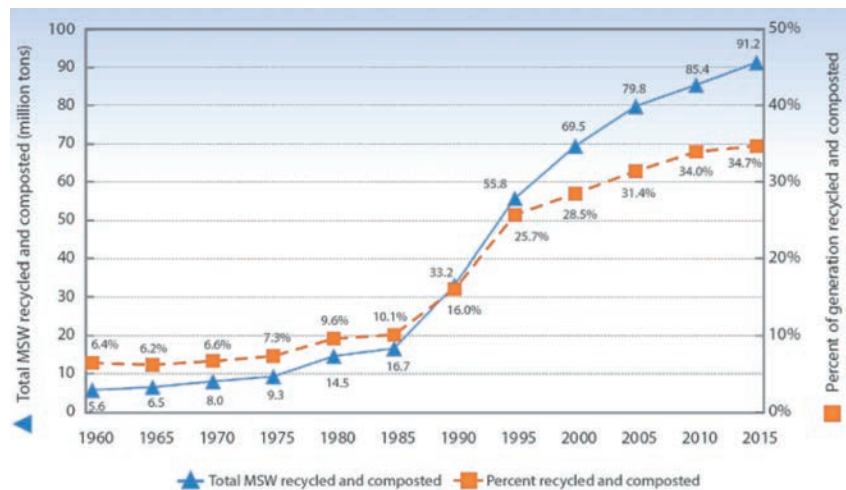
Cities have statutory authority to offer recycling programs to their citizens. Recycling helps reduce the production of solid waste that a city must dispose of and reduces the costs of operating a municipal solid waste disposal

system. In addition, recycling may also create more jobs than disposal programs do. Of course, state-wide 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. ★

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

**-The Lorax by Dr. Seuss**

### Recycling of Municipal Solid Waste (MSW) in the United States 1960-2015



Source: EPA, Advancing Sustainable Materials Management: 2015 Fact Sheet (July 2018)

### 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 2015, 52.5 percent of municipal solid waste generated in the United States was ultimately disposed of in landfills; 12.8 percent was disposed of through waste incineration with energy recovery; and 34.7 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 U.S. consumers when compared to other utilities and services like cellular phone and cable television service.

# 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 street lights, 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 of up to ¼-cent 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 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 to cell phones and other devices at a very short range. They are, by definition, deployed in dense-

ly-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 businesses 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. Because of that, a coalition of cities filed a lawsuit challenging that unconstitutional cap. The low fee is a taxpayer subsidy to the cellular industry because it allows nearly free 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 providers. Adding fuel to those flames, the Federal Communications Commission (FCC) also adopted an order relating to small cells in 2018. The FCC order further usurps local ROW authority and caps rental 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.

## 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 participa-



tion 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. ★

#### 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.

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.

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# THE GROWING NEED FOR WATER AND WASTEWATER SERVICES

The population in Texas is expected to grow to at least 50 million by 2070. By 2070, municipal water use is expected to constitute the highest demand of all water uses. Providing safe, clean, and reliable drinking water to meet this demand presents a challenge for most Texas cities. Investments in drinking water and wastewater systems protect public health, aid in protecting the environment, provide fire protection, and ensure that there is an adequate water supply to support the state's growing population, businesses, and industries.

Adequate water supply is often a determining factor in economic development. Businesses and industries are going to choose locations with a stable and sufficient water supply over those states or regions without quality and adequate supplies of water.

The Environmental Protection Agency (EPA) estimates that America's drinking water systems alone will have to invest up to \$271 billion over the next 25 years to keep up with the growing demand for drinking water and the nation's

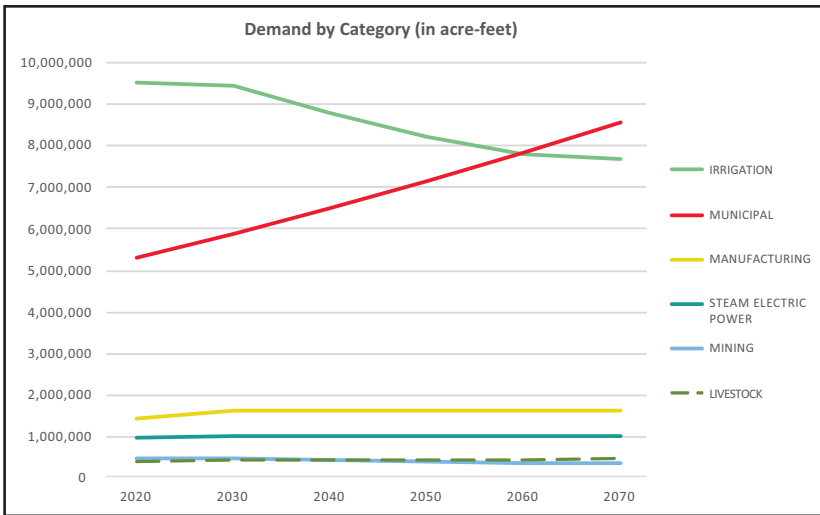
aging drinking water infrastructure. Over the next decade, Texas cities will have to expend millions of dollars on waste and wastewater systems to keep pace with the tremendous population growth in Texas, especially since the United States Conference of Mayors estimates that 95 percent of spending on water infrastructure is made at the local level. In addition to meeting the growing demands for water services and replacing aging infrastructure, the investment is also necessary to ensure compliance with the federally-mandated Clean Water Act and Safe Water Drinking Act.

Many water utility systems in Texas are decades old. Some systems have come to the end of their useful lifespan, and upgrades may no longer be sufficient. Some cities may even have to replace these essential utilities completely. Upgrading or replacing a water or wastewater system is a costly undertaking that requires the commitment of large sums of capital investment. However, the return is generally well worth the large expenditure. ★

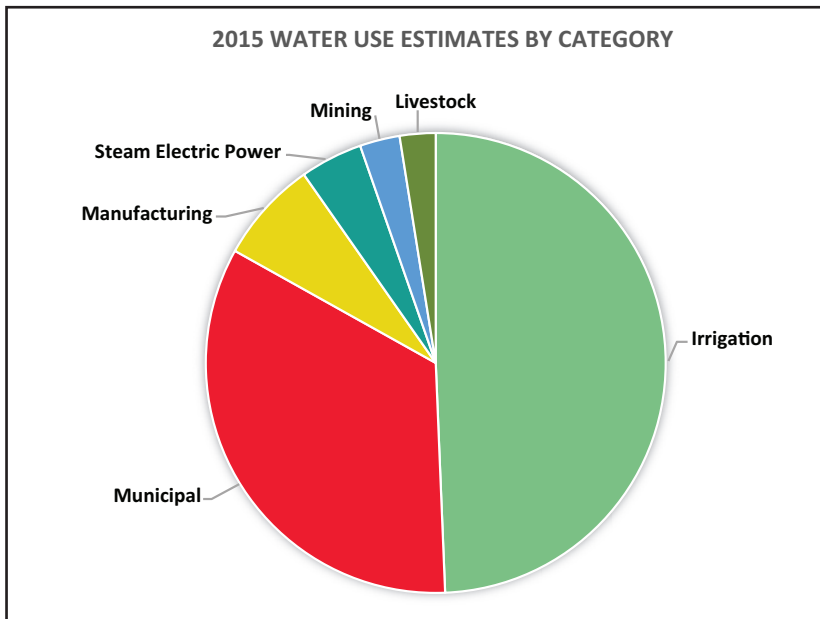
See Funding the State Water Plan on page 44 for how some of these needed improvements should be funded.

Municipal wastewater treatment plants prevent billions of gallons of pollutants from reaching our rivers and lakes each year. Additionally, the provision of safe drinking water to our suburban areas has allowed our state to grow at unprecedented levels.

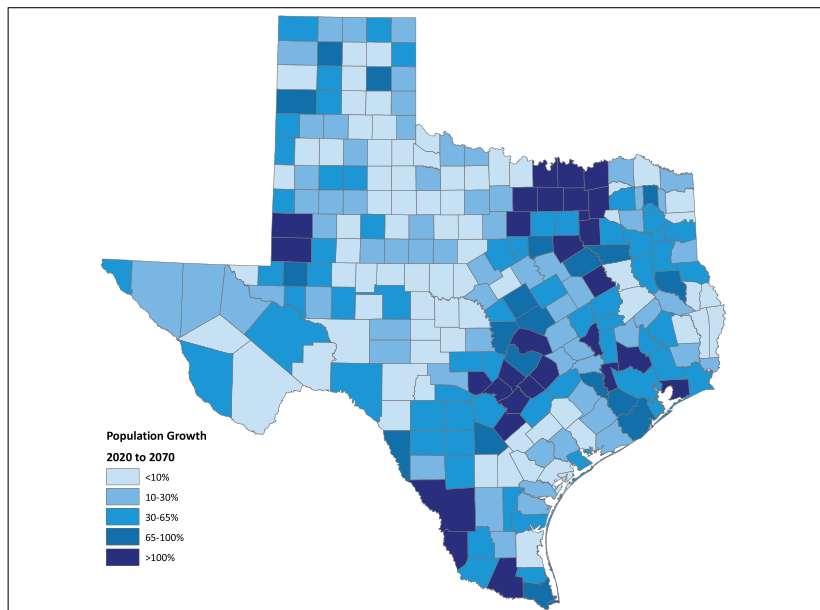
Unfortunately, many Texas cities are struggling to keep up with the costs of complying with increasingly stringent federally and state-mandated regulations. The budget pressures associated with meeting these new standards or facing stiff fines from regulating agencies often force cities to delay needed expansion of their water utility systems.



Source: Texas Water Development Board, State and Regional Population Projection for 2020-2070



2021 RWP & 2022 SWP Population Projections





# WATER CONSERVATION

Although water conservation is an important issue for Texas, city officials have generally resisted the imposition of a uniform, statewide water conservation program that does not take into account the needs, financial and otherwise, of different parts of the state.

In past years, the Texas legislature has 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 has

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](http://www.twdb.texas.gov/conservation/BMPs/index.asp).

In addition, the Texas legislature has, 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 [www.twdb.texas.gov/conservation/doc/SB181Guidance.pdf?d=4490.499999956228](http://www.twdb.texas.gov/conservation/doc/SB181Guidance.pdf?d=4490.499999956228).

Another water conservation issue is that of mandatory water conservation rates. The legislature has, 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, fewer water-related bills were filed in the 2015 legislative session, and a handful of water conservation bills were passed in the 2017 legislative session. No interim charges relating to water conservation were issued for study prior to the 2019 legislative session.

Water restrictions, conservation education, and higher prices have resulted 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 6,404 gallons in 2016 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**



# FUNDING THE STATE WATER PLAN

The Texas State Water Plan is designed to provide for the orderly development, management, and conservation of water resources in the state. The plan is intended to provide that sufficient water will be available at a reasonable cost to ensure 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 2017 State Water Plan, adopted on May 19, 2016.

The 2017 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 29.5 million to 51 million, with over half of this growth occurring in Regions C and H. Water demands are projected to increase less significantly, by approximately 17 percent between 2020 and 2070, from 18.4 million to 21.6 million acre-feet per year. Notably, municipal demands are anticipated to grow by the greatest total amount, from 5.2 million acre-feet per year in 2020 to 8.4 million in 2070. Steam-electric (power generation) demand is expected to increase in greater proportion than any other water use category, from 953,000 acre-feet per year in 2020 to 1.7 million in 2070. Agricultural irrigation demand is expected to decrease, from 9.4 million acre-feet per year in 2020 to about 7.8 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.

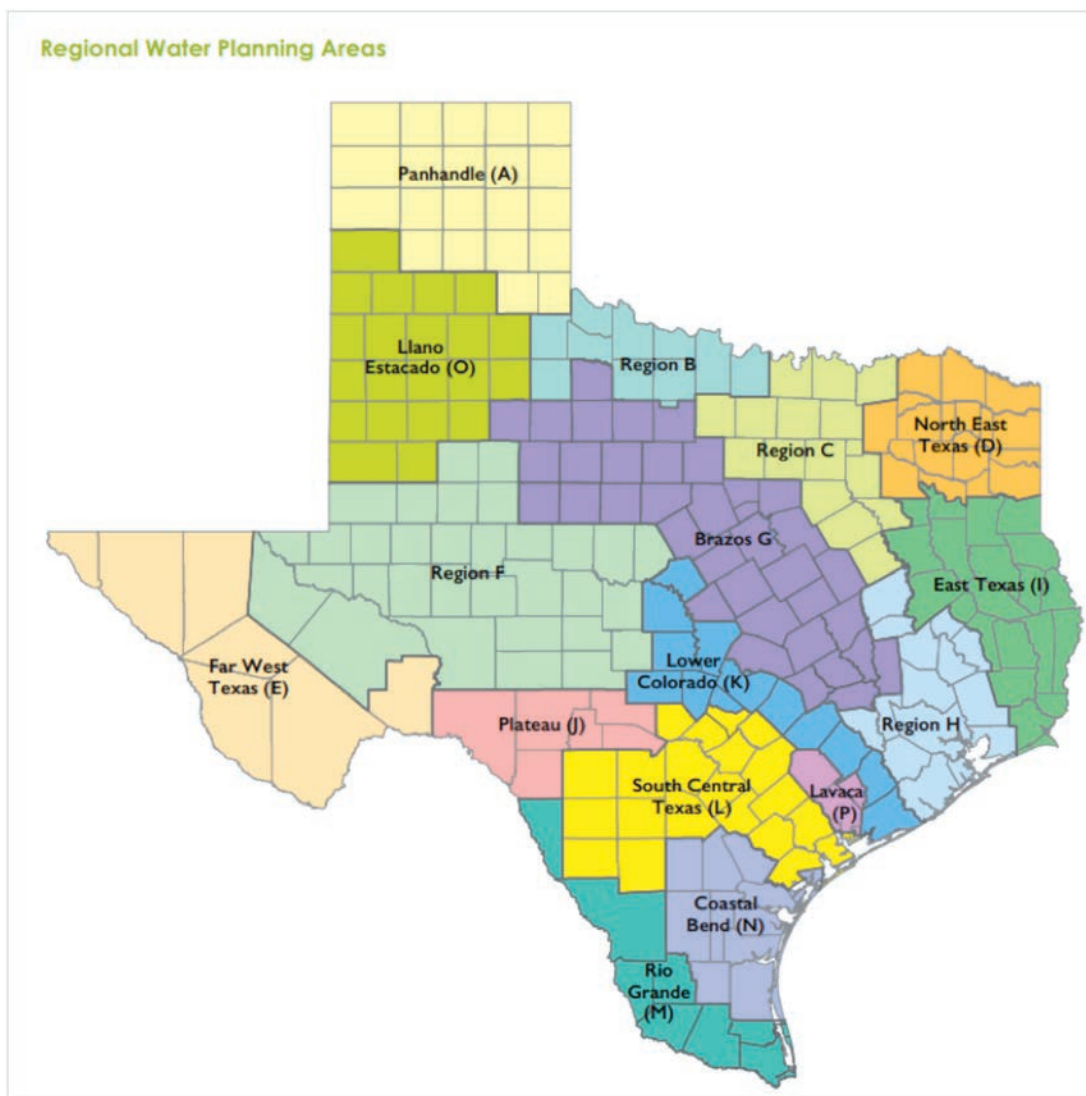
Texas' existing water supplies — those that can already be relied on in the event of drought — are expected to decline by approximately 11 percent between 2020 and 2070, from 15.2 million to 13.6 million acre-feet per year. Water user groups face a potential water shortage of 4.8 million acre-feet per year in 2020 and 8.9 million acre-feet per year in 2070 in record drought conditions.

The 2017 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 all across the state. Approximately 5,500 water management strategies recommended in the 2017 plan would provide 3.4 million acre-feet per year in additional water supplies to water user groups in 2020 and 8.5 million acre-feet per year in 2070. The estimated capital cost to design, construct, and implement the approximately 2,500 recommended water management strategy projects by 2070 is \$63 bil-

lion. Water management 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 both now and in the future. If strategies are not implemented, approximately one-third of Texas' population would have less than half 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 \$73 billion in 2020 to \$151 billion in 2070.

For more information on the 2017 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](http://www.twdb.texas.gov). ★





# THE CONNECTION BETWEEN INFRASTRUCTURE AND REVENUE CAPS

With the exception of 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 on their own when it comes to paying for these infrastructure projects. The paucity of state aid to Texas cities is well-documented. While most states (including virtually all of the most populous states) provide substantial financial assistance to cities to help pay for infrastructure, such grant programs generally do not exist in Texas.

In fact, it can be argued that funds flow the other way—from local entities to the state. In recent years, the Texas Department of Transportation received almost \$77 million annually in revenue called “Local Participation” 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.

**Chart 1**  
**Cost-Saving Measures**  
 Percent of All Cities

	2011	2012	2013	2014	2015	2016	2017	2018
Hiring freeze during past two years	17.9%	15.8%	7.6%	4.4%	3.8%	2.9%	3.2%	3.2%
Wage freeze during past two years	23.8%	16.2%	5.9%	4.2%	3.4%	3.5%	4.5%	2.9%
Reduced services	6.7%	7.6%	3.2%	2.6%	1.3%	2.5%	2.1%	2.0%
Eliminated services	2.9%	3.4%	1.7%	1.5%	1.3%	0.6%	0.8%	1.3%
Reduced salaries	1.7%	1.7%	1.3%	0.9%	0.4%	0.4%	3.2%	3.1%
Laid off employees	10.7%	10.2%	4.5%	3.8%	3.0%	1.4%	26.4%	24.4%
Postponed capital spending	49.4%	50.0%	52.4%	43.1%	36.9%	29.7%	36.0%	28.7%



Much of the local revenue that is used to fund infrastructure projects comes from the property tax. That fact raises an interesting question: if the Texas Legislature passes legislation that limits or caps municipal property tax revenue, will municipal investment in infrastructure decrease?

**The answer is: yes.**

The evidence is in the Texas Municipal League's biennial fiscal conditions survey. When asked which cost-cutting measures were employed to balance the current-year budgets, cities consistently identify "postponed capital spending" as the most commonly used tactic. (Please see Chart 1 on page 46.)

Similarly, when asked to identify how they would respond to diminishing revenue in future years, city officials almost always select "postpone capital spending" as the top choice. (Please see Chart 2.)

Here's the bottom line: Any legislation that would place new restrictions on the ability of cities to generate property tax revenue will result in reduced spending on infrastructure, particularly city streets and bridges. Those spending cuts will harm regional economies and the state's economy.

Without municipal investment in the infrastructure needed for industrial and commercial activity, the state's job creation and economic growth will be severely damaged. And the most certain way to limit the construction and maintenance of infrastructure is to restrict the growth of tax revenue. ★

## Chart 2

### If Revenues Remain Constant or Diminish, What Will Cities Do?

Percent of All Cities

First Response	2011	2012	2013	2014	2015	2016	2017	2018
Postpone capital spending	22.6%	24.6%	24.1%	27.6%	28.5%	29.4%	23.1%	27.4%
Impose hiring freeze	42.3%	32.7%	32.1%	26.6%	22.0%	16.4%	17.6%	18.2%
Increase user fees	12.4%	10.6%	10.9%	10.2%	14.5%	10.5%	11.3%	13.4%
Raise property tax	6.2%	4.2%	8.2%	7.6%	8.0%	6.6%	9.7%	7.6%
Impose wage freeze	10.6%	9.3%	7.3%	6.7%	6.5%	5.1%	3.5%	5.1%



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

# 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 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. Public safety includes traditional fire protection, (fighting house fires), traditional 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 now encompass:**

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

- border security;
- hazardous materials response;
- response to pandemic disease and other public health disasters;
- drug task forces;
- search and rescue; and a host of other activities.

Police, fire, and EMS are now expected to 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. ★

### Median Salary for Police Officer and Firefighter

Police Patrol Officer:  
\$60,270.00 plus  
benefits annually

Firefighter:  
\$46,870.00 plus  
benefits annually

Source: United States  
Department of Labor

### 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. The city 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, revitalize the business community, and much more. Even though some of these expenditures were ultimately reimbursed by the federal government, 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 not only paid the price of emergency response in dollars, but also lost many of its volunteer firefighters, one of which 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. Cities also play a major role during public health emergencies. For example, in 2014, cities like Dallas were asked to assist with the costs of Ebola response. The costs for public health emergencies will continue to fall on cities because urban populations are often the most affected.



Helmet  
and hood  
\$381

"PASS" alarm to  
monitor firefighter  
while deployed  
\$495

Firefighter pager  
\$459

Self-contained  
breathing apparatus  
\$2,928

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

Gloves  
\$87

Heat-reflective,  
fire-resistant pants  
\$600

Puncture-proof,  
heat-resistant boots  
\$370

**Total cost of Firefighter Equipment \$6,520**



# ANNEXATION: IT'S STILL WORTH FIGHTING FOR

Texas cities, unlike the cities of other states, don't receive general state financial assistance or state revenue-sharing. They don't ask the state to help fund the facilities and services on which regions and the entire state rely. But cities do ask that their authority to take care of themselves not be eroded. The power to annex is one of those key authorities. In 2017, the legislature stripped cities in the state's largest counties (those with 500,000 population or more) of their unilateral annexation authority. That action could end up being detrimental not only to those cities, but to the economy of the entire state.

Evidence of the importance of unilateral annexation exists in other states where cities do not have that power. The broad power of Texas cities to annex permitted cities to share in the benefits of growth in the surrounding areas. According to many national authorities, this annexation power has been a key difference between the flourishing cities of Texas and the declining urban areas in other parts of the nation. If San Antonio, for example, had the same boundaries it had in 1945, it would contain more poverty and unemployment than Newark, New Jersey.

## Did You Know?

Current law provides numerous protections for rural landowners on the outskirts of cities. For example, a city is prohibited from annexing property that is appraised as agriculture or wildlife management unless a city first offers a "non-annexation agreement" to the landowner. Many landowners have accepted the agreements, which provide that the land won't be annexed unless development of the property commences. If a landowner declines an agreement and is annexed, both the Agriculture Code and the Local Government Code prohibit a city from enforcing most regulations that would interfere with farming, ranching, and certain other operations.

A 2003 report issued by The Perryman Group, a well-respected economic and financial analysis firm, showed that overly-restrictive annexation policies would harm the Texas economy by reducing gross state product, personal income, sales, employment, and population. The study concluded that voter approval of annexations would essentially eliminate annexations and thus severely damage the state's economy.

The Perryman report concludes that restrictions on annexation would 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 that forecast was 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. Sixty years later, in 2010, all four cities had about the same number of square miles they had in 1950.

Over the six decades from 1950 to 2010, Detroit suffered a population loss of 61 percent. Baltimore's population declined 35 percent. Cleveland lost 57 percent of its population and St. Louis lost 63 percent of its population. Without the ability to take in areas of growth, those cities died.

	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

In contrast to the four cities that experienced a death spiral due to annexation limitations, look at what happened in four Texas cities between 1950 and 2010 without similar restrictions on their ability to grow.

	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	2,009,453	252%	\$45,010
San Antonio	70	451	25	7	408,442	1,327,407	225%	\$45,722
Dallas	112	341	22	9	434,452	1,197,816	176%	\$42,846
Austin	32	297	73	14	132,459	709,390	497%	\$53,946

Certainly other factors were at play, but it seems clear that annexation authority played a big role in the success of a city (and therefore the state). More recently, the League commissioned a study of only 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 actually 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 that drives the Texas economy, and turning off that engine may be detrimental to the state's financial future. ★

### Did You Know?

San Antonio's annexation of land on the south side of the city set the stage for Toyota's decision to build a new manufacturing plant in the city.



# ZONING

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

**What is zoning?** Zoning is arguably one of the most important functions of local government. Zoning is the division of a city into districts that permit compatible land uses, such as residential, commercial, industrial, or agricultural. 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 adequate transportation, utilities, schools, parks, and other public facilities.

**How does zoning occur?** Chapter 211 of the Texas Local Government Code contains many procedural requirements that must be followed when a city zones 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. Also, a board of adjustment may be appointed to hear requests for 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 it wholeheartedly because zoning minimizes conflicts between land uses and maintains property values. "For example, assume a beautiful home on a half-acre lot has

### 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 a city's authority to make reasonable zoning changes. In one example, 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 untenable situation under which cities would either: (1) go bankrupt; or (2) be forced to relinquish their zoning power. Moreover, the reality is that most zoning changes are initiated by a property owner and increase the value of land.

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 the 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?** "The same [zoning] ordinance that protects property from what occurs next door also limits the development of property." *Id.* This sometimes creates a conflict that is resolved through a local process. Because it 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. For example, most would agree that a person from a small town in the Panhandle cannot possibly know what type of zoning is best for a large coastal city.

### Appropriate Use of Manufactured and Modular Housing

The Texas Manufactured Housing Standards Act allows cities to regulate the location of "manufactured homes," which must meet federal construction regulations. The Texas Industrialized Housing Act 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 offering viable housing alternatives for lower income families. "Manufactured and modular housing provides a solution to affordable housing in appropriate areas under consciously adopted, well-thought-out regulations," says David Gattis, deputy city manager in the City of Benbrook. The Texas Municipal League is not opposed to this type of housing, but strongly advocates the authority of cities to retain local control over when, where, and how this type of dwelling is installed. ★



### Why Zoning Matters

A 2008 survey found that the three main things that "attached" people to their communities were: (1) social offerings, such as entertainment venues and places to meet; (2) openness (how welcoming a place is); and (3) the area's aesthetics (physical beauty and green spaces). Zoning facilitates each of those attributes by working 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, rather than impeded, economic development. The authors summarized the benefits of zoning to 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 and prevent haphazard, harmful, or unwanted 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/web-pages/resources-publications/economic-development-journal-fall-2006>.

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 citizens 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 in their 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 citizens 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, with regard to 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 accountable directly 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, legislation was enacted to deregulate the portion of the state that is served by IOUs. MOUs and Coops are given 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 of the things necessary to provide service to customers within its designated service area. In simple terms, the legislation “broke up” or “unbundled” investor owned utility monopolies. Those utilities were divided up into different components:



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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 the power with power plants, wind farms, and other means. Transmission and distribution companies move the power from the generators to other parts of the state with huge transmission lines, and ultimately distribute it to the 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 which actually sell the power to customers.

The retail companies are numerous and essentially speculate as to how much generation will cost them. They then offer price plans to consumers accordingly. They are the ones 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 join 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 in to the deregulated market. Many state leaders continue to applaud the Texas deregulated market as one that has created lower prices. For a number of reasons, that is questionable. 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 in to 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. Both state law and the Texas Constitution provide that a city may not allow a private entity to use city property for free.

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 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 participation in the ratemaking process for both gas and electric utilities in the State of Texas. 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 the utility rates within their city limits. 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 also within the city limits of those cities that have ceded their original jurisdiction to the agency. In addition, the PUC and RRC have appellate jurisdiction over rate ordinances and orders of cities concerning electric and gas utility service within a city's 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 in order 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 for cities to be reimbursed by the utility company for their reasonable rate case expenses associated with participation 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 these expenses are ultimately passed on to consumers by the utility, cities are always cost-conscious. Cities must balance the cost of participation in a ratemaking proceeding against the need to protect their residents' interests. In prior cases, however, municipal participation has

resulted in a 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 expenses like these, which 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 the utility's office.
- Dinners in New York City, 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.

# WE WON'T STEER YOU WRONG

Help your residents save  
money on their utility bills

Join the Texas Power Switch and  
be part of a group energy switching  
program that saved participants on  
average \$350 last year.

Visit <https://ichoosr.us/cities>  
to hear what other cities have to say  
about the program.



# 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 Library Association (TLA) reports that there are 561 public libraries and 875 public library outlets (e.g., 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 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 Texas State Library and Archives Commission (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.

**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, they 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).

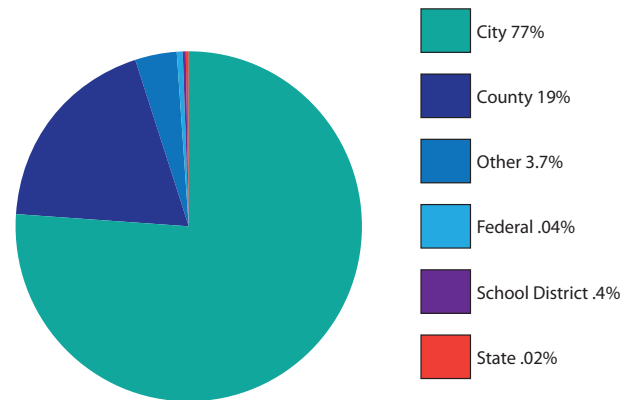
**Libraries impact community.**

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. ★

*At the dawn of the 21st century, where knowledge is literally power, where it unlocks the gates of opportunity and success, we all have responsibilities as parents, as librarians, as educators, as politicians, and as citizens to instill in our children a love of reading so that we can give them a chance to fulfill their dreams.*  
**Barack Obama**

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

**Texas Public Libraries: 2017 Revenue by Source**



Source: Texas State Library and Archives Commission, Texas Public Library Statistics, Statewide Comparison Statistics: 1997 to 2017

**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 \$
<b>States</b>		
Minnesota	FY2010	\$4.62
<b>Countries</b>		
Salt Lake Co., UT	2012	\$5.47 - \$6.07
Santa Clare Co., CA	2012	\$2.50 - \$5.17
Toledo Lucas Co., OH	2015	\$3.87
<b>Cities</b>		
Toronto	2012	\$4.63
<b>Texas</b>	<b>FY2015</b>	<b>\$4.64</b>

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

A photograph of two women in athletic wear stretching on a park bench at sunrise. The woman on the left is wearing a bright green jacket and black leggings, while the woman on the right is wearing a black jacket with a pink collar and black leggings. They are both smiling and looking down at their feet. The background is a bright, hazy park scene with trees and a path, illuminated by the warm light of the rising sun.

# TEXANS KEEP HEALTHY IN CITY PARKS

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 2018, *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 transport 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 Texas Economy Keeps Healthy in Local Parks – Figures from 2015**

\$280.90 in economic activity was generated per person due to parks and recreation (24th in the United States).

Local parks across the state supported 60,176 jobs (3rd 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 \$7.715 billion in economic activity (3rd in the United States).

The labor income to the state from local parks activity is approximately \$2.9 billion per year (3rd in the United States).

*Information from the National Recreation and Park Association*

# 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—from presentations at local schools, to special recognition programs; mentoring or internship programs, to 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 850 member cities, 102,000 contributing members, and 43,000 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 19 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.

Although the drumbeat for reform may persist throughout the next legislative session, 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. ★

## Calendar of 2019 Legislative Session

### January 8

First day of 86th Regular Session

### February 7

TML Webinar - Legislative Session Preview \*

### March 1

Onsite Workshop—Legislative Briefing—Elected Officials' Conference in San Marcos \*

### March 8

Deadline for filing bills

### March 14

Webinar—Legislative Status Report #1 \*

### April 11

Webinar—Legislative Status Report #2 \*

### May 9

Webinar—Legislative Status Report #3 \*

### May 27

Last day of 86th Regular Session

### June 24

Onsite Workshop—Legislative Wrap-Up—Austin \*

\* Register your city to participate in these essential updates on key legislative actions at [www.tml.org](http://www.tml.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.



# ADVOCACY IS VITAL

The Texas 86th Legislative Session began on January 8, 2019. 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](http://www.tml.org); click on "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 2019 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 advocacy team includes Director of Legislative Services Shanna Igo, Assistant Director

of Legislative Services Monty Wynn, Legislative Liaison 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](mailto: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. ★



**Shanna Igo**  
TML Deputy  
Executive Director  
of Legislative  
Services



**Monty Winn**  
TML Assistant  
Director of  
Legislative Services



**JJ Rocha**  
TML Legislative  
Liaison

ABOUT



*Empowering Texas cities to  
serve their citizens*

Whether you are a city government novice or veteran, the Texas Municipal League 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 1,150 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 34 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 principle 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 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. During legislative sessions, the legal staff is frequently called on to provide testimony to legislative committees on a variety of city issues.

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.



## 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

## 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, the *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 2019 Annual Conference will be held October 9-11 in San Antonio. 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. The Elected Officials' Conference, co-hosted by TML and the Texas Association of Mayors, Councilmembers and Commissioners, will be held in San Marcos on February 27-March 1, 2019. This event focuses on key issues for newly elected and veteran city officials on topics like economic development, media relations, infrastructure, citizen engagement, revenue sources, government trends, and leadership.

In addition, TML holds several Newly Elected City Officials' Orientations each year. The 2019 summer orientations will be held July 18-19 in Round Rock and August 15-16 in San Antonio. A winter workshop will take place in January 2020. These events offer training on the basics of serving on the governing body, and provide an overview on city regulation, financial oversight responsibilities, ethical governance, council-staff relations, economic development, the Texas Open Meetings Act, 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; Grant Writing Workshop; and more.

### **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, TML ensures that Texas cities are heard in congressional offices and in the headquarters of various federal agencies.

### **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.

### **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 MultiState Intergovernmental Employee Benefits Risk Pool (TML MultiState IEBP).

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 106 years of service to Texas cities, and looks forward to providing the resources, knowledge, and advocacy to support city officials into the future. ★



### **AFFILIATES**

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 the American Planning Association (TXAPA)

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 Public Works Association (TPWA)

Texas Recreation and Park Society (TRAPS)

# TML 2019 Training Calendar

SUNDAY	MONDAY	TUESDAY	WEDNESDAY	THURSDAY	FRIDAY	SATURDAY
31	1	2	3	4	5	6
7	8	9	10	11	12	13
14	15	16	17	18	19	20
21	22	23	24	25	26	27
28	29	30	1	2	3	4
5	6	7	8	9	10	11

(This calendar is current as of December 15, 2018. New workshops and conferences will be added throughout 2019. Please check our online training calendar regularly at [www.tml.org](http://www.tml.org) for updates.)

January 11  
**TML Newly Elected Workshop**  
 San Antonio

January 24-25  
**Texas City Management Association William "King" Cole 1 Session**  
 Austin

January 30  
**Texas Municipal Human Resources Association: TxPELRA**  
 Arlington

January 31  
**TML Small Cities' Problem-Solving Clinic**  
 Bastrop

January 31-February 1  
**TML Grant Writing for City Programs and Projects**  
 San Antonio

February 7  
**TML Legislative Session Preview: What to Expect for Cities**  
 Webinar

February 21-22  
**Texas City Management Clinic**  
 Granbury

February 23-24  
**Texas Youth Advisory Commission Summit**  
 Fort Worth

February 27-March 1  
**TML-TAMCC Elected Officials' Conference**  
 San Marcos

March 7-8  
**TML Public Funds Investment Act Training**  
 Austin

March 14  
**TML Legislative Status Report #1: Keep Your Finger on the Pulse**  
 Webinar



March 28-29

**Texas City Management Association  
William "King" Cole 2 Session**  
Irving

April 3-5

**TML Leadership Academy – Course One**  
Georgetown

April 11

**TML Legislative Status Report #2: Be Heard at the  
Capitol**

April 14-16

**Government Finance Officers Association of Texas  
Spring Institute**  
Austin

May 1

**TML Hometown Workshop**  
Hurst

May 9

**TML Legislative Status Report #3: What to Expect  
in the Final Days**  
Webinar

May 15-17

**Texas Municipal Human Resources Association  
Annual Conference**  
Marble Falls

May 22-24

**TML Leadership Academy – Course Two**  
Georgetown

June 5-7

**Texas Association of Municipal Information  
Officers Annual Conference**  
Denton

June 19-20

**Texas Municipal Utilities Association Annual  
Conference**  
Irving

June 19-21

**Texas City Attorneys Association Summer  
Conference**  
San Antonio

June 24

**TML Legislative Wrap-Up: An Insider's  
Perspective**  
Austin

June 27

**TML Hometown Workshop: Leadership and Your  
Legacy**  
Midland

June 27-30

**Texas City Management Association Annual  
Conference**  
Fort Worth

July 18-19

**TML-TAMCC Newly Elected City Officials'  
Orientation**  
Round Rock

July 31

**TML Hometown Workshop**  
McAllen

August 1-2

**TML Public Funds Investment Act Training**  
McAllen

August 6-9

**Building Officials Association of Texas Annual  
Conference**  
Montgomery

August 15-16

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## TO MASTER CYBERSECURITY, CITIES NEED TO FOCUS ON THE 3PS

By Dave Mims, CEO, SophiCity, We Put the IT in City

While cybersecurity can seem like an overwhelming problem, we strongly and consistently encourage cities to start with the initial step of addressing the most important low-hanging fruit risks which we call the 3Ps: passwords, patching, and people.

If cities can improve in these three areas, they can eliminate some of the biggest risks that lead to viruses, ransomware, hacking, and cybersecurity incidents. Being proactive and intentional about these problems will lead to strengthening your overall cybersecurity and decreasing your liability.

### Let's look at the 3Ps in more detail.

#### 1. Passwords

Too many cities still use default passwords, obvious passwords (such as a child's name, pet's name, college mascot, or birthdate), or weak passwords (like "123456"). Half of all security breaches involve stolen or easily guessable passwords. The weaker or looser the security around a password (such as people writing their passwords on paper notes around their desk), the easier it is for hackers to break into your systems and steal information. Hackers use automated software to look for holes in your systems. That automated software attempts common and weak password combinations that are easy to crack.

#### To protect yourself:

- Do not write passwords down and leave them visible.

- Use a password on all devices.
- Do not use simple or obvious passwords. We strongly recommend using passphrases.
- Do not save passwords to websites and applications.
- Change passwords regularly.
- Do not use the same password for all systems you access.

Two Factor Authentication (2FA) is also becoming easier to use and vastly decreases the risk of a hacker using a password to break into your systems. With 2FA, your employees may enter their email login information and then receive a notification through an app on their phone that they use to complete the sign-in process. Even if a hacker somehow obtains an employee's username and password, the information is worthless because they are required to validate the authorization through an app on the employee's phone—which obviously they cannot access.

#### 2. Patching

So many data breaches and cybersecurity incidents are rooted in a simple failure to patch software security vulnerabilities. Sadly, government entities (including cities) significantly lag on replacing outdated software, patching current software, and implementing endpoint defense that makes sure devices connected to the network follow a compliant process.

It's not unusual for us to see cities using software that is 8-10 years old—or even older. That's an eternity in technology time—so much so that software vendors often stop supporting those systems. If you keep using older software, then security vulnerabilities are not getting patched and that software becomes more of a major vulnerability for your city. By not regularly applying patches, whether your software is older or newer, you are choosing to leave security holes open for hackers to exploit.

**Here are a few important points about patching:**

- Patch management is an essential element of cyber protection. Just do it. Fears such as “I’ll break my software” mean you need to modernize your software or you’re making excuses.
- You need IT professionals overseeing patch management and following rigorous procedures. There are too many risks when you let non-technical city employees apply patches themselves.
- Non-technical employees aren’t able to test patches before applying them. IT professionals test patches to monitor possible issues and ensure they will work before full-scale deployment.
- Patches need to be applied to all your machines regardless of their location. That includes the devices of remote employees using your city-owned hardware and software.

**3. People**

A recent survey showed that 64 percent of working adults either did not know the definition of ransomware or defined it incorrectly. In addition, 32 percent of working adults could not define malware or misunderstood it.

Now, ask yourself, even if you have the best information security at your city:

- Who is likely to receive an email with ransomware?
- Who is likely to click on a malicious website link?
- Who is likely to open a malicious file attachment?
- How is ransomware most likely going to enter your city network?

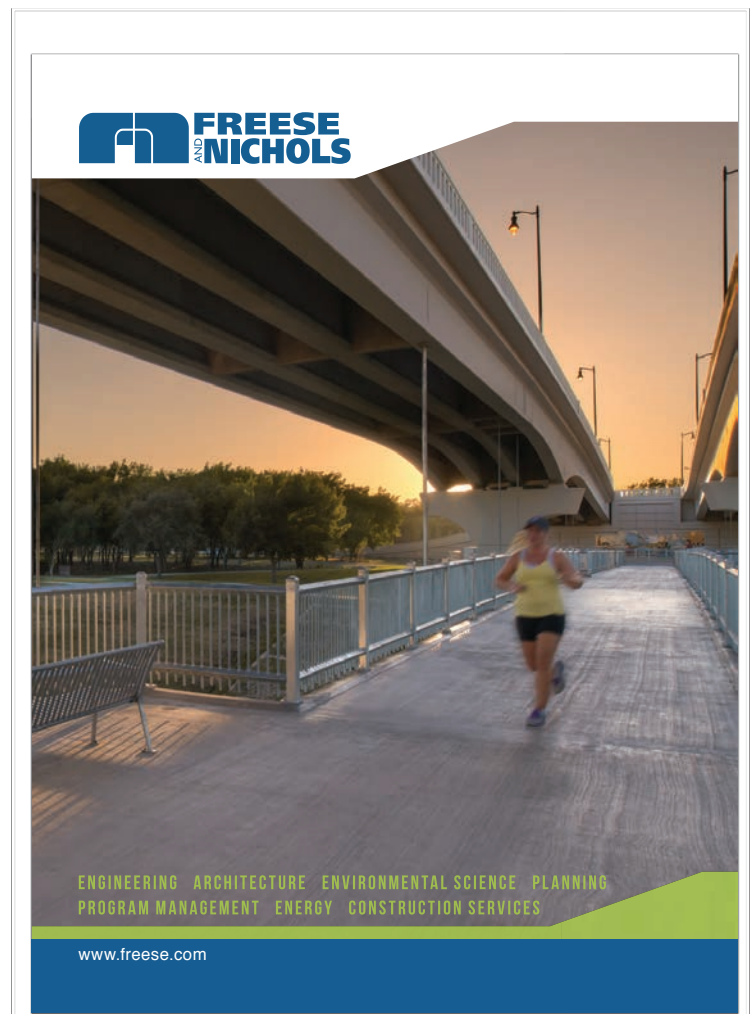
The answer? People. It's possible that you, your staff, or some other user on your network will make a mistake that leads to a cybersecurity incident.

**And what's the answer to combatting this weakness? Training.**

Training employees about cybersecurity is more important than ever. Hackers use techniques that trick employees into handing over access to your systems—and criminals know that people can be the weakest link in your security. Those who need ongoing regular training include your mayor, elected officials, the city manager, the city clerk, and department heads, along with all other employees.

**Remember that it takes just...**

- One unprotected or unmanaged computer for a cybercriminal to exploit.
- One unsuspecting employee for the cybercriminal to trick.
- One critical best practice to overlook (such as regularly patching your software) for a cybercriminal to steal your data. ★



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