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TML's General Fund Survey: Due July 30

The League is asking for your help in providing your city's data on general fund revenues and expenditures. Completing the survey will equip the League with the strongest possible foundation for advocacy on behalf of Texas cities at the Capitol. If your city has not already, we ask that your city complete the survey by **July 30**.

City finances will be front and center in the upcoming legislative session. With the governor and lieutenant governor each advancing property tax proposals, two legislative committees are already studying issues that will directly affect your city:

- The House Committee on Ways and Means will examine local government spending and debt practices and their impacts on property tax rates.
- The Senate Local Government Committee will study the collection and use of local government fees.

Using data analysis tools, we will examine this information from multiple angles including comparisons of population levels and revenue types to illustrate the true complexity of municipal finance. These findings will help cities, legislators, and other stakeholders better understand the realities of local government.

All results will be shared in the aggregate with TML membership and legislators.

We ask that your city complete this [survey](). Please coordinate with the best staff member positioned to respond to the financial questions included. For any questions, please reach out to JJ Rocha, Director of Public Policy and Engagement, at jj@tml.org.

Cities Win on Short-Term Rental Ordinances in Federal and State Court

Cities won against claims challenging their short-term rental (STRs) ordinances in two recent cases.

Federal Court

In *Marfil v. City of New Braunfels*, the Fifth Circuit Court of Appeals recently upheld a zoning ordinance that prohibited short-term rentals in certain "Residential" districts and imposed restrictions on STRs in other zoning districts. The court held that: (1) Texas law does not recognize a protected property interest in "the right to lease one's home on a short-term basis;" and (2) the city's zoning ordinance survived rational-basis review under the Equal Protection Clause.

Property owners in the city claimed the city's zoning ordinance regulating STRs violated the Due Process and Equal Protection Clauses of the United States and Texas Constitutions. The city's ordinance—enacted years before the property owners purchased their property—prohibited STRs in districts zoned "Residential" and placed restrictions on STRs outside of certain commercial districts absent a special use permit. It prohibited rentals for 29 days or less but not rentals for 30 days or more.

The court found that the ordinance did not violate the Due Process Clause because the property owners bought their properties after the enactment of the ordinance. The court noted that the Texas Supreme Court has not decided whether a protected property interest in the "right to lease one's home on a short-term basis" exists, but that two Texas appellate courts have squarely addressed this question and have held that there is no such protected right. Based on that, the court determined that Texas law does not recognize a protected property interest in leasing one's home on a short-term basis. The court distinguished this case from cases involving retroactive ordinances and/or regulatory takings where prior courts found property owners had a vested or settled property interest because they had already operated STRs prior to the enactment of the retroactive ordinance.

On the Equal Protection claim, the court found that property owners had not overcome rational-basis review. There was no evidence that the city had an improper motive or purpose. The city's goal of "preserving residential character" of the neighborhoods at issue satisfied the rational-basis requirement. And the court found that the city's distinction between 29 and 30 days, as well the prohibition of STRs in certain districts zoned residential, was reasonable.

State Court

In *Modern Builders LLC v. City of Fort Worth*, the Fort Worth Court of Appeals upheld the city's ordinance prohibiting STRs in single-family residential districts, rejecting the property owners' due course of law, retroactivity, and equal protection claims under the Texas Constitution. The court also held the owners' ultra vires claim was jurisdictionally defective because it was asserted against the city rather than the appropriate government official, and it affirmed an attorney's-fee award to the city under the Uniform Declaratory Judgments Act (UDJA).

Prior to the enactment of the 2018 ordinance, the city consistently determined that STRs were prohibited in residential districts. Although the ordinance did not define STRs, it had a closely analogous "bed and breakfast home" use involving rentals of less than 30 days, which it prohibited in single-family residential districts. Because bed and breakfasts were not permitted in single-family residential districts, neither were STRs. In 2018, the city defined STRs and clarified that they were not allowed in residential districts but were permitted in commercial areas. In 2023, the city added registration requirements for STRs.

The court found that STRs owners had no vested right to lease short term. A right to lease short term can be called "vested" if that right was enshrined under a preexisting ordinance. Here, the city had historically treated STRs as prohibited and the owners admitted that, prior to 2018, they had not researched whether STRs were allowed and did not know whether STRs were or were not allowed in the city.

On the equal protection claim, the court found that the ordinance had a rational basis and recognized the city's legitimate governmental objectives in preserving neighborhood character and minimizing the adverse impacts associated with transient rental uses in residential neighborhoods. The owners' retroactivity claim failed because the owners lacked a reasonable and settled expectation that they could operate their properties as STRs when the city passed the 2018 ordinance because of the city's historical treatment of STRs and the owners' admission that the issue of whether STRs were allowed in the city was "unsettled." Lastly, the court affirmed the city's UDJA fee award as "equitable and just."

DSHS Adopts Statewide Mobile Food Vendor Regulations

The Texas Department of State Health Services (DSHS) has adopted its final rules implementing H.B. 2844, which establishes a statewide licensing and inspection program for mobile food vendors. City officials can find the newly adopted rules here. The new rules took effect on May 19, 2026.

The newly adopted rules require a mobile food vendor to comply with all state and local laws in the jurisdictions where it operates, including fire codes, location restrictions, and zoning code. However, the new rules also preempt a city from adopting or enforcing any requirement that conflicts with the state's statutory scheme.

The new rules establish a three-tier vendor classification:

- **Type I**: vendors dispensing only non-temperature-controlled prepackaged food;

- **Type II**: vendors serving food that requires limited handling or preparation before service; and
- **Type III**: vendors that fully cook, hold, reheat, or otherwise prepare food on the vehicle.

The new rules address license application requirements and fees, pre-licensing and routine inspection requirements and fees, equipment and operating requirements, and food safety requirements. The specific fees and inspection requirements vary by tier, with the higher tiers subject to additional pre-licensing and routine health inspections and fees.

The licensing and inspection provisions apply to a "regulatory authority," which is defined as DSHS. However, a city may enter into a collaborative agreement with DSHS to conduct mobile food vendor inspections on the department's behalf. Under such an agreement, DSHS would reimburse the city for inspection costs; however, DSHS would retain sole enforcement authority with respect to refusing, suspending, or revoking a mobile food vendor license.

DSHS received 101 questions and comments from 19 commenters during the public comment period, many of them from Texas cities and health departments. In response, DSHS stated that:

- A city cannot require a mobile food vendor to hold a temporary local food permit in place of the state license;
- A city may still enforce local mobile food vendor location, zoning, right-of-way, parking, wastewater, grease disposal, and fire regulations, as long as they do not conflict with Chapter 437B of the Texas Health and Safety Code; and
- Any local authority —whether or not it has entered into a collaborative agreement with DSHS—may investigate a foodborne-illness complaint tied to a mobile food vendor and recommend suspension or revocation to DSHS.

City officials can find the full comment and DSHS response section here.

Governor Abbott Appoints Don Huffines to Comptroller

Late last week, Governor Abbott appointed Don Huffines to comptroller of public accounts for the rest of the year, after Acting Comptroller Kelly Hancock resigned effective at the end of this month.

Don Huffines, a former state senator, is running to serve a full term as comptroller in the November general election against Senator Sarah Eckhardt (D).

Tell TML About Your City's Citizen Engagement Group

Decisions made during the legislative session, on everything from property tax policy to zoning authority to infrastructure funding, land directly on residents back home. Some Texas cities have recognized this and built citizen engagement groups specifically to help close that gap.

These groups are focused on legislative awareness: keeping residents informed about the bills under consideration, explaining what a given piece of legislation would mean for their city, and connecting the dots between statehouse debates and everyday issues like property taxes, permitting, public safety, and local decision making.

TML wants to know if your city has developed and launched a citizen engagement group. If your city has started a citizen engagement group, or is in the process of building one, we want to know:

- What the group is called and how it's structured;
- How you decide which bills or issues to spotlight for residents; and
- How you communicate with residents (newsletters, town halls, social media, etc.).

Please email Julia Heck, TML policy analyst, at julia@tml.org with the above information.

TML will work to gather the cities with citizen engagement groups, so other cities can learn from what's working across the state.

Reminder: Water Supply and Infrastructure Grants Due July 30

The Texas Water Development Board (TWDB) application period for the new Water Supply and Infrastructure Grants program is open. Applications are due **July 30**. The grant program provides $1.038 billion for water supply and infrastructure projects. The League previously reported on the opportunity here.

Detailed information on the grant program and application requirements can be found here.

A recording of TWDB's webinar on the program and an application walk through video can be found on the grant program website.

General questions may be emailed to WSI_grants@twdb.texas.gov.

Upcoming Interim Hearings

The Texas House and Senate Committees have begun their committee work to study interim charges outlined by Speaker Dustin Burrows and Lt. Governor Dan Patrick.

This article will be updated with any upcoming city-related committee hearings.

[NEW] Senate Business and Commerce

The committee will meet to hear invited and public testimony on Wednesday, July 29 at 9:00 a.m. on the following interim charges:

> **Assessing the State of the Texas Electric Grid**: Monitor rulemaking related to S.B. 6, 89th Legislature, including large load interconnection rules, cost allocation of transmission costs, and the progress made toward increasing confidence in Electric Reliability Council of Texas (ERCOT) load forecasts. Examine previous efforts to strengthen the reliability and resiliency of the Texas electric grid, including the Texas Energy Fund and post-Winter Storm Uri reforms at both the Public Utility Commission and ERCOT, including S.B. 2 and S.B. 3, 87th Legislature. Evaluate the competitiveness of the ERCOT market to determine whether further changes are necessary to support a robust energy-only market.
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> **Managing the Impacts of 765-kv Transmission Lines on Private Property Rights**: Review the proposed 765-kv transmission line route plans to determine their impact on homes, businesses, and communities. Assess whether the current regulatory processes and timelines are sufficient in protecting landowner rights, including allowing for proper consideration of the effect of high voltage transmission lines on long-term land use, property values, and environmental factors. Recommend ways to improve transmission planning, permitting, and siting decisions for the infrastructure necessary to serve growth in the state.

Information on the hearing, including information on how to register to testify or submit written testimony can be found here.

[NEW] House Committee on Homeland Security, Public Safety & Veterans' Affairs
The committee will meet on Thursday, July 30 at 10:00 a.m. to hear invited testimony only on the following interim charge:

> **Protecting Texas Critical Infrastructure from Foreign Adversaries**: Study the risks posed by remote-access technologies embedded in critical infrastructure that could enable cyber intrusion, surveillance, or disruption by foreign adversaries or other malicious actors. Evaluate whether additional safeguards are needed to strengthen oversight, prevent exploitation, and protect Texas infrastructure from security threats. Provide recommendations to enhance accountability and ensure the resilience of critical systems.

More information on the hearing and how to submit electronic written comments can be found here.

House Land and Resource Management
The committee will meet on Monday, July 20 at 9:00 a.m. to hear invited and public testimony on the following interim charges:

> **Monitoring**: Monitor the implementation and associated rulemaking of all legislation passed by the Committee and enacted by the 89th Legislature to ensure that legislative purposes are properly implemented, including the following:

- H.B. 24, relating to procedures for changes to a zoning regulation or district boundary;
- S.B. 15, relating to size and density requirements for residential lots in certain municipalities;
- S.B. 840, relating to certain municipal regulation of certain mixed-use and multifamily residential development projects and conversion of certain commercial buildings to mixed-use and multifamily residential occupancy; and
- S.B. 1567, relating to the authority of home-rule municipalities to regulate the occupancy of dwelling units.

Housing Affordability: Examine how the following factors may improve housing attainability and affordability:

- **Fees**: Examine the collection, use, and oversight of fees imposed by local governments, including impact fees, utility connection charges, permit and inspection fees, and drainage or stormwater fees. Evaluate whether sufficient financial transparency exists and if such fees are used in accordance with their legal authority.
- **Third-Party Review**: Study methods to expedite the safe permitting of construction projects to increase housing supply. Review the ongoing implementation of recent legislation regarding the use of third-party reviews of plats and property development plans, permits, and similar documents, and the inspection of an improvement related to such a document. Examine methods that have proven successful in other states and recommend statutory changes to expedite the permitting of residential housing projects.
- **Pre-Approval of Residential Building Plans**: Examine the impacts and feasibility of allowing municipalities to establish processes for the pre-approval and repeated use of residential building plans, including the potential effects on housing supply, affordability, permitting timelines, and local administrative capacity.

Information on the hearing including how to register to testify or provide electronic comment can be found here.

<u>House Land and Resource Management</u>
The committee will meet on Tuesday, July 21 at 9:00 a.m. to hear invited and public testimony on the following interim charge:

> **Municipal Utility Districts**: Consider the proliferation of municipal utility districts (MUDs) and evaluate their impact on housing attainability and affordability, as well as challenges associated with managing growth. Review the methods by which MUDs are created and identify best practices to ensure sufficient oversight exists.

Information on the hearing including how to register to testify or provide electronic comment can be found here.

<u>Senate Finance</u>
The committee will meet on Monday, July 27 at 10:30 a.m. to hear invited and public testimony on the following interim charges:

Evaluating Transportation Resources: Study current transportation funding from all sources and the long-term needs of Texas drivers. Assess the implementation of funding appropriated by the 89th Legislature and make recommendations to ensure the effective and efficient use of transportation funding.

Rural Fire Protection Funding: Monitor the implementation of appropriations provided by the 89th Legislature for the Rural Volunteer Fire Department Assistance Program. Examine the distribution of grants for firefighting equipment, training, and protective clothing. Evaluate the impact of the increased funding on reducing the grant application backlog and examine whether the allocation of funds to high-risk wildfire areas is effectively enhancing community safety. Make recommendations for any legislation needed to improve, enhance, or complete the delivery of these critical resources to rural fire departments.

Data Center Investment and State Fiscal Effects: Since the passage of House Bill 1223, 83rd Legislature, in 2013, the state cost of providing a sales tax exemption to qualifying data centers has grown from an estimated $14.6 million for the 2014-15 biennium to a projected $3.3 billion for the 2028-29 biennium. Study the cost and consequences of the sales tax exemption provided to data centers under Tax Code Sections 151.359 and 151.3595. Make recommendations providing safeguards to ensure that Texans benefit from data center investment.

Information on the hearing including information on how to register to testify or submit written testimony can be found here.