HOW **CITIES** WORK

TML
TEXAS
MUNICIPAL LEAGUE

About **TML**

Since its formation in 1913, the Texas Municipal League's mission has been to serve the needs of member cities and advocate for members' interests. Membership in the League is voluntary, and is open to any city in Texas. From the original 14 members, TML now has more than 1,140 member cities. More than 16,000 mayors, councilmembers, city managers, city attorneys, and department heads are member officials through their cities' participation.

How is TML Organized?
TML has 15 regions that serve as the League's grassroots. Regions exist to promote interests in city government on a regional level, foster the exchange of information, and help the TML Board of Directors develop policy that represents the state's diverse interests.

To help address the functional needs of member officials, TML has 21 affiliate organizations. Affiliate organizations represent city officials engaged in specific professional disciplines. Each affiliate group has its own membership criteria and dues structure separate from the League's.

TML is governed by a board of directors composed of a representative from each of the 15 regions, one from each of the 21 affiliate organizations, eight at-large directors, past TML presidents still in municipal office, a president and a president-elect, and two ex officio directors from the TML 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. Today, TML employs a staff of 30 employees.

Legislative
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 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.

At the federal level, the League works with National League of Cities, the Southern Municipal Conference, and other similar organizations, to ensure that TML has a voice in Washington, D.C.

Legal Services
The League employs full-time attorneys who provide advice and information on municipal legal matters to member cities. In addition, the legal staff is available to deliver workshops on a variety of legal subjects to member cities, affiliate organizations, and regional groups.

Information and Research
TML staff maintains information on virtually every topic affecting Texas cities and also develops a variety of League publications. In addition to Texas Town & City, the League publishes a number of books and pamphlets and conducts several annual surveys to keep its members informed on emerging municipal issues.

Conferences and Training
TML conducts conferences, workshops, and webinars for both elected and appointed city officials throughout the year. The TML Annual Conference and Exhibition is one of the nation's largest gatherings of municipal officials. The 2015 Annual Conference will be held September 22-25 at the Henry B. Gonzalez Convention Center in San Antonio.

Risk Pools
For more than 30 years, the TML risk pools—the TML Intergovernmental Risk Pool (TMLIRP) and the TML MultiState Intergovernmental Employee Benefits Risk Pool (TML MultiState IEBP)—have provided Texas cities with quality risk coverage specifically designed to meet municipal needs. These pools are separate entities, but maintain a close administrative relationship with TML.

The League Today
TML is committed to helping city leaders in Texas meet today's governing challenges. The League prides itself on 102 years of service to Texas cities, and looks forward to providing the resources, knowledge, and advocacy to support city officials into the future.

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TML TEXAS MUNICIPAL LEAGUE

1821 Rutherford Lane, Suite 400, Austin,
Texas 78754-5101.

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Cities Partnering with the State

By Bennett Sandlin
TML Executive Director

The 84th Texas Legislature has convened and is hard at work. The 2015 regular session will not end until Monday, June 1, 2015. 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 remains clear: Continue partnering with cities to do the state's local work

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' statehood in 1845, the legislature began creating cities to do its local work. The Texas Municipal League now represents 1,144 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.

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; 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. City officials want to continue providing local services in the way they were elected to do.

This *How Cities Work* publication is a tool to help city officials describe 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 publication, we highlight:

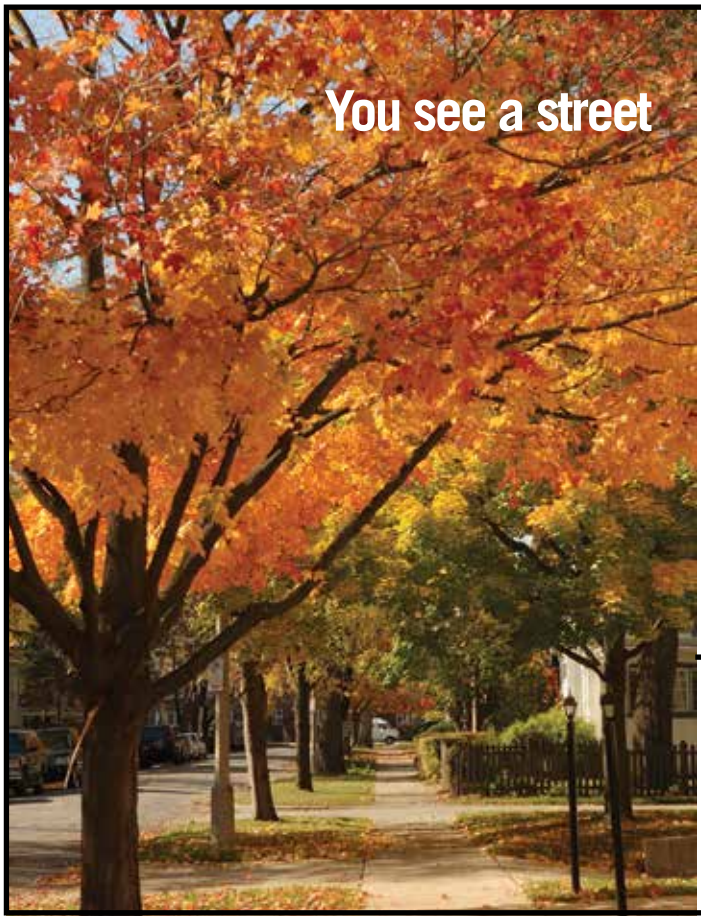
- The sources of municipal revenue and the ways in which the legislature can damage that revenue.
- The value of building codes.
- Municipal economic development efforts and the ways in which property tax caps threaten those efforts.
- The status of municipal solid waste programs.
- Municipal transportation 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 high cost of providing public safety services.
- The importance of annexation authority to the future of Texas cities and to the state's economy.
- The ways in which zoning authority protects citizens and their property values.
- The importance of libraries and library funding.
- The value of municipal parks and recreation programs.

Also in this publication is a description of the 2015/2016 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 exercise local control. To a very great extent, economic growth in Texas is the result of municipal efforts to ensure the availability of infrastructure, the public safety, and the quality of life necessary for job creation. State policymakers should be very reluctant indeed to harm cities, because as our cities go, so goes our entire beloved state.

We look forward to working with 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.

Thank you, in advance, for your support and assistance. ★



We see a street that's part of a city with planned traffic flow, four fire stations, 50,000 visitors a year, jobs for 15,000 people, five city parks, and a community center with activities for all ages.

The things you don't think about, cities provide. And we're proud of it.

Texas Cities WORK

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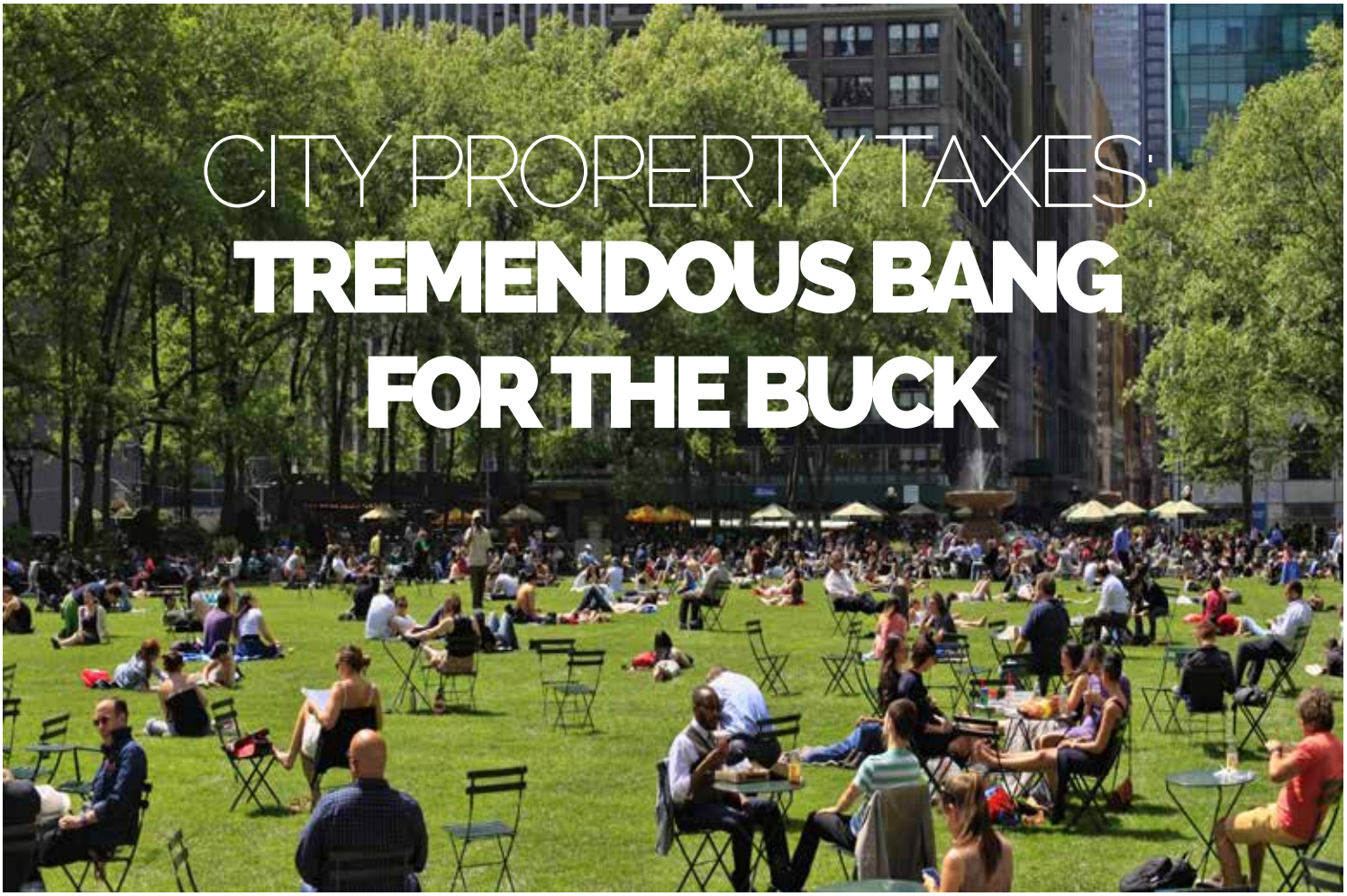
CITY PROPERTY TAXES: TREMENDOUS BANG FOR THE BUCK

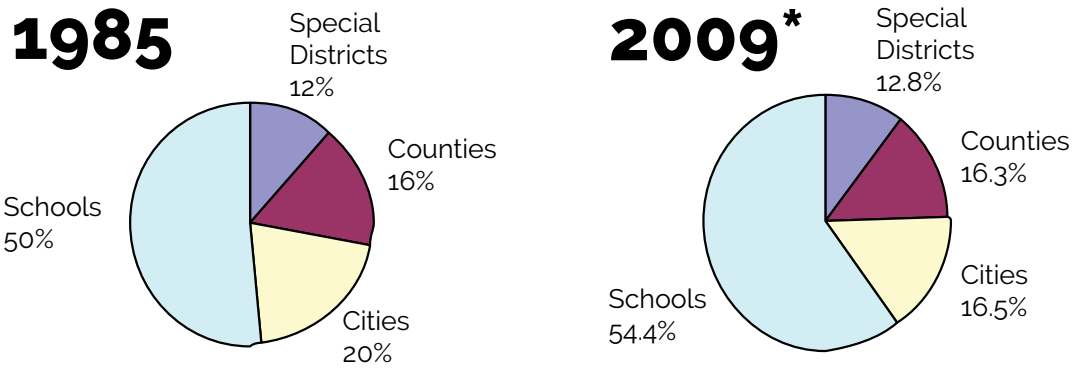


Texas cities depend heavily on property tax revenue. Property taxes help fund many of the services that residents demand including police, fire, streets, and parks. But as Chart 1 shows, city property taxes constitute a small portion of a typical homeowner's property tax bill.

Chart 1

Distribution of Property Tax Collections

Source:
Texas Comptroller's Biennial Property Tax Report



*2009 is the last year that accurate property tax information about special districts was available from the Comptroller at the time this issue was printed.

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, 2011
Source: U.S. Census Bureau

	U.S.	Texas
Per capita state and local	$4,295	$3,536 (33rd)
Per capita state	$2,440	$1,681 (47th)
Per capita local	$1,856	$1,855 (13th)
Percent local	43.2%	52.5%

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

One section of this report tabulates, for each state, a statistic the authors refer to as "own-source capacity." This is a measurement of the extent to which decisions made by city officials actually determine the city's fiscal direction. Since Texas cities take care of themselves without intergovernmental aid, it comes as no surprise that Texas leads 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 the State of 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 $1,855 shown in Chart 2 as per capita local government tax revenue in 2011 in Texas, a whopping $1,542 (83.1 percent) came from the property tax.

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

1. Inject more state money into public services and facilities especially public schools. This means even more state revenue than was provided through 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.

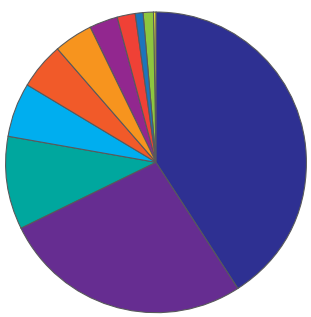
In a nutshell:
(1) Texas cities provide vital services that benefit their citizens;
(2) Texas cities provide those services with less aid from the state, as compared to other states; and
(3) Texas cities manage all this despite a very small share of the total property tax levy and with reasonable annual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

CITY FUNDS — WHERE DO THEY COME FROM, WHERE DO THEY GO (AND WHAT ABOUT DEBT)

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 2014 TML survey shows that municipal general fund revenue in Texas is made up of the following sources:

General Fund Revenue



- Interest Earnings (0.15%)
- Cable Franchise Fee (1%)
- Telephone Franchise Fee (1%)
- Other Franchise Fee (2%)
- Court Fines (3%)
- Electric Franchise Fee (4%)
- All Permit or Other Fees (5%)
- Transfers from Other Funds (6%)
- All Other Sources (10%)
- Sales Tax (27%)
- Property Tax (41%)

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 publication.)

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

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

Property Taxes

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

Most cities under 5,000 population have statutory authority to levy property taxes at a rate of up to $1.50 per $100 of assessed value. Most cities over 5,000 population have statutory authority to levy property taxes at a rate of up to $2.50 per $100 of assessed value. Despite this broad authority, the average city property tax rate was only $.52 for tax year 2013.

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

Sales Taxes

Sales taxes are a major source of city revenue. Nearly 93 percent of Texas cities levy a basic one-cent city sales tax. The revenue can be used for any purpose other than payment of debt. Many cities, though not all, also impose additional sales taxes in varying amounts of up to one cent. These additional sales taxes are known as dedicated taxes, because their proceeds may be spent only for certain purposes. Some popular dedicated sales taxes include mass transit, economic development, street maintenance, property tax relief, and sports venue taxes. All city sales taxes, including the basic one-cent sales tax, require a local-option election of the citizens. Collection of sales taxes is performed by the Texas comptroller, who "rebates" the city share on a monthly basis. The comptroller retains a small portion of the city tax revenue to cover the state's administrative costs.

Right-of-Way Rentals

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

Permits and Fees

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

Court Fines

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

Interest Earnings

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

Transfers from Other Funds

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

Did You Know?

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

Other Sources

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

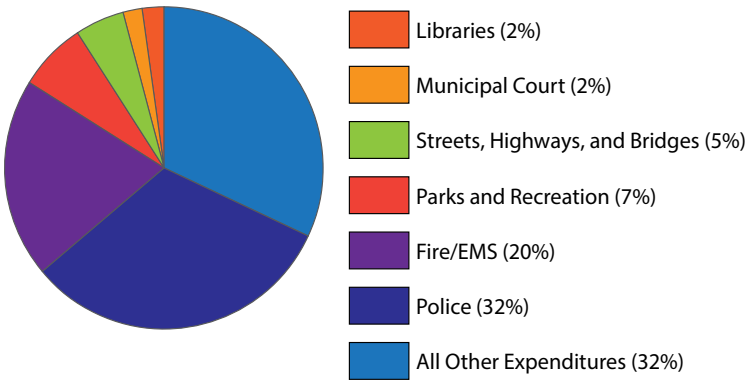
The Bottom Line

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

Expenditures

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

General Fund Revenue 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 2009-2013, total outstanding local debt increased from $174.1 billion to $200 billion, a 14.9 percent increase. Meanwhile, total outstanding city debt increased from roughly $58 billion to $66 billion, a 13.8 percent increase during the same time frame. For the same period, total outstanding state debt increased from $34.1 billion to $43.5 billion, a 27.6 percent increase. In other words, local debt (and city debt) is increasing at a significantly slower rate than state debt in recent years.

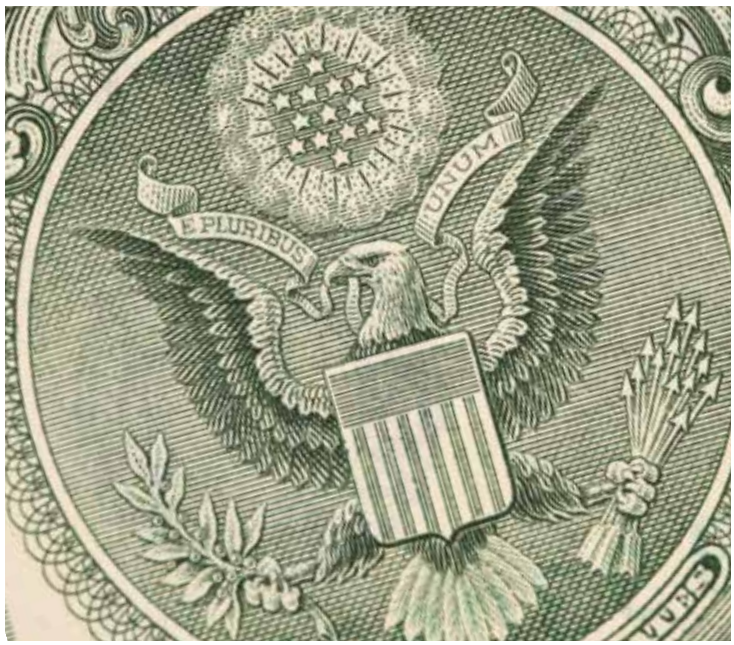
At nearly $200 billion, the amount of total local debt is certainly significant. However, only a small portion of that—$28 billion—is tax-supported city debt. Another $38 billion is city debt supported by the revenues of city utilities and not by property taxes. The largest portion is tax-supported school district debt, at $65 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 $65 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 $65 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 of 2013—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* will recognize this article. It first ran in 2008, and is updated annually. The 2013 state fiscal year 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 2008 by the National League of Cities, found that West Virginia is the only state where state aid to cities is lower than it is in Texas.

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, five stand out:

1. The state's charge for administering the municipal sales tax.
2. Fees levied on cities by the Texas Commission on Environmental Quality.
3 "Local participation" in the cost of building and improving the state highway system.
4. State fees imposed on municipal court convictions.
5. State agency fees that exceed the cost of regulation (e.g., Texas Fire Commission fees).

The State's Charge for Administering Local 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 2013, of which cities payed 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 $110 million paid by cities, generating a "profit" of more than $82 million to the state.

The comptroller's baseline budget is in the neighborhood of $215 million per year. Thus, the total local government fee of more than $170 million is enough to cover almost 80 percent of the entire agency's total expenses.

Texas Commission on Environmental Quality Fees

According to its website, the mission of the Texas Commission on Environmental Quality (TCEQ) is "to protect our state's human and natural resources consistent with sustainable economic development," and the agency's goal is "clean air, clean water, and the safe management of waste."

One would think this mission and set of goals would merit substantial funding from the state's general revenue fund. That's not the case. The TCEQ website reveals the agency's revenue comes from the following sources:

State General Revenue	2%
Federal Funds	12%
Program Fees	84%
Other Sources	2%

Just who pays the "program fees" that constitute the lion's share of TCEQ revenue? To a great extent, cities do.

The agency imposes more than 40 different fees on cities; roughly 20 are related to water quality. The revenue from these fees is used to pay for the costs of regulating cities under either federal or state law, or both. In other words, cities pay TCEQ to regulate them.

Of all the fees, the two that have the most impact on cities are the consolidated water quality fee (CWQF), which is imposed on wastewater treatment facilities, and the public health service fee (PHSF), which is paid by suppliers of public drinking water. The recent funding shortfall for state agencies meant that the TCEQ's water program fees were insufficient to run the programs starting in the current biennium. The agency could either get more funding from the state's general fund via the state legislature, or increase program fees. The agency chose to increase program fees, and significantly increased both the CWQF and the PHSF. The annual income from cities for the TCEQ from these two fees alone is now expected to be:

CWQF	$22.90 million
PHSF	$20.15 million

Other fees paid by cities (the water quality permit application fee, storm water permit fees, solid waste disposal fee, and others) add considerable amounts to state coffers. In fact, cities—through the payment of fees—generate more revenue for TCEQ than the state's general fund.

Some might say the fee-dependent financing structure used by TCEQ is fair, since cities receive a service for each fee they pay. However, when cities impose fees-for-service on other levels of government, the legislature often acts to prohibit or limit those fees.

For example, when the legislature prohibited the imposition of storm water fees on public institutions of higher education, some lawmakers argued it's unfair for one level of government to impose a fee on another level.

And when the legislature prohibited the imposition of municipal impact fees on school districts (unless a district agrees to pay the fee), the legislature's bill analysis stated that…

…impact fees place an undue burden on districts…payment of impact fees by school districts to cities amounts to a needless transfer of money among public entities and constitutes a de facto tax on school districts.

This statement is particularly ironic given that cities pay TCEQ fees and are not exempt from the state's 20-cent-per-gallon gasoline tax. "Public entities" (cities) are paying a state tax each time a police car or fire truck refuels.

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," and the League entered into an MOU with TxDOT affirming the voluntary nature of turnback.

How much do cities annually contribute in local participation? In 2013, cities pitched in more than $120 million 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.

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 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 just 12 years ago.

	Jan 2002	**Jan 2014**
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
Total	**$40.00**	**$84.00**

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, and keeping a fee for providing those services.

While there are similarities, there are also substantial differences between municipal and state collections.

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 2013, the amount was just over $229 million.

State Agency Fees that Exceed the Cost of Regulation

Most regulatory agencies are essentially "self-funded." This means they are required to collect fees from those they regulate to cover all direct, indirect, and operational costs. The Commission on Fire Protection is no different. It is required to generate revenue through fees on cities and

firefighters to cover all of the costs of the commission for the biennium. For the 2010-11 biennium, this amounted to $3.9 million. However, a rider was placed in the commission's budget during the last few hours of the 2011 session. The rider required it to generate an additional $3.38 million to be swept into the state's general revenue fund for general purpose state spending.

To raise the needed revenue for the operation of the commission and to return the required $3.38 million to the state, the commission raised fees by 142 percent. (Commission staff indicates that no future increases are currently planned.) Many firefighters, and in some cases the cities they work for, saw this fee increase for what it was: a new, legislatively-imposed state tax on their profession.

The state budget for 2014-2015 again required the commission to generate all of their operating revenue and return another $3 million for state general revenue spending.

It is expected that the Commission will again generate revenue in excess of the amount needed to fund its operations in the 2016-2017 biennium. That excess, generated from cities and firefighters, will be transferred to the state's general revenue fund. Unlike past biennia, there is no specific target amount to be generated over and above needed operating revenues.

Similarly, the Texas Department of State Health services licenses municipal code enforcement officers. That agency was tasked with raising $1 million over and above the costs to administer its duties. In the coming legislative session, those duties may be transferred to another state agency, and it is unclear whether the hidden tax on city residents will continue.

Conclusion

What's the grand total amount of reverse intergovernmental aid in Texas? After making various adjustments, the annual total is more than $281,000,000, just from these five 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 $281,000,000.)

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. ★

We see a police officer named Hal who works closely with fire departments and EMS, who knows every business owner downtown, who can name every city street, and who buys 12 snow cones on Saturdays, even though his T-ball team never won a game.

The things you don't think about, cities provide.
And we're proud of it.
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Texas Cities WORK

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 what was to become 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 U.S. 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, the building official in the City of Amarillo and the Building Officials Association of Texas representative on the Texas Municipal League Board of Directors, 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.

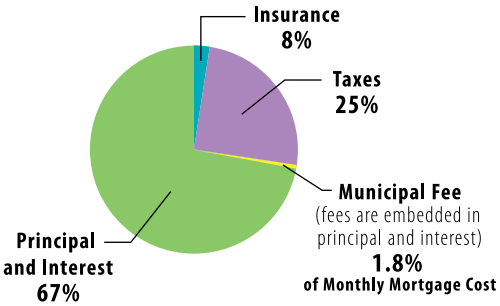
In 2005, the Texas Legislature adopted the International Building Code for most commercial and multi-family construction, but nothing in the bill prohibits a city from adopting local amendments to the International Building Code. Later sessions included revisions to the International Energy Conservation 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. ★

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



* Texas Perspective, Inc., February 17, 2003. Assumes a $150,000 home, a six-percent interest rate, average insurance rates, and a 30-year mortgage.

CITY ECONOMIC DEVELOPMENT

Texas cities are the first—and often only—engine of economic development in the state. Until the controversial Texas Enterprise Fund was created, only cities 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, but 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 of these 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

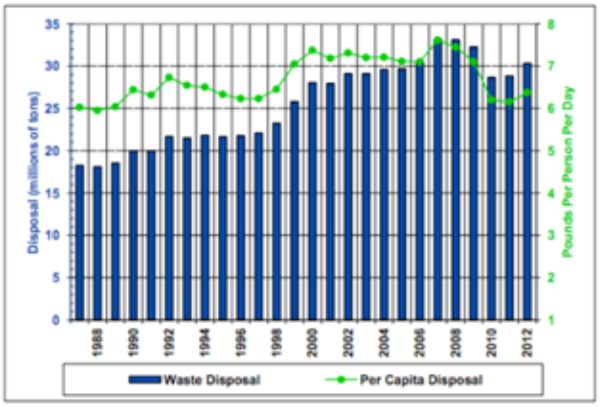
Proposals to cap, limit, or freeze municipal property tax revenue or property appraisals will have the unfortunate side effect of undermining the rationale behind many economic development tools. While the purpose of economic development is often to put new taxable value on the rolls, tax caps will ensure that this cannot happen. Tax and appraisal caps restrict the very growth in appraised value that tax incentives are designed to generate. ★

CITIES KEEP THE GARBAGE FROM PILING UP

Collection and disposal of garbage is one of the most recognizable and widely used city services. This vital service protects the public health and 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.

Waste generation is a function of two variables—population and economy—both of which are growing in Texas. According to the Texas Commission on Environmental Quality (TCEQ), Texans disposed of approximately 30.31 million tons of municipal solid waste, commonly called "trash" or "garbage" in 2012. That's an increase of 1.67 million tons since 2010. In Texas, "municipal solid waste" is defined to include waste resulting from or incidental to municipal, community, commercial, institutional, and recreational activities including household garbage, ashes, street cleanings, dead animals, abandoned cars, and all other solid waste other than industrial solid waste.

Solid Waste Disposal and Per Capita Disposal Rates in Texas



Source: TCEQ, Municipal Solid Waste in Texas: A Year in Review - FY2012 Data Summary and Analysis (October 2013)

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 important 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.

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

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

In 2012, 53.8 percent of municipal solid waste generated in the U.S. was ultimately disposed of in landfills; about 12 percent was disposed of through waste incineration with energy recovery; and 34.5 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. Collection and disposal costs have gone up in some communities for various reasons including the rising costs of fuel, equipment, and complying with new environmental regulations. Despite these increases, residential trash collection and disposal is 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. They want their drive to work 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. In addition, public works employees maintain and repair street lights, sidewalks, and other infrastructure. The task of funding the maintenance of city transportation facilities, which benefit the entire state's economy, is a difficult one for Texas cities. Unlike many other states, Texas cities receive no state aid to offset the benefits that city streets provide. Other states return a portion of vehicle registration fees or gasoline taxes to cities for this purpose; Texas doesn't. 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.

Right-of-Way Authority and Utilities

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

With this activity sometimes comes a detrimental effect on public safety, traffic flow, city infrastructure, and efficient city administration. Major water lines have been breached during excavations. Traffic in many cities has become so heavy and ensnarled due to activities in the ROWs that the stories have been front-page news. Other cities have experienced the cutting of utility lines. City streets are being barricaded and torn up repeatedly, significantly shortening their life expectancies and suitability for traffic.

Additionally, some utilities have taken the position that a city cannot require a utility to relocate facilities in the ROWs at their own expense for public works projects such as drainage or street construction. That position clearly contravenes the public interest, as well as established law, because the primary purpose of streets and ROWs is transportation. The ability of a city to adequately regulate activities in its ROWs is paramount to the safety of residents.

Right-of-Way Compensation

Texas law 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 such as video, telecommunications, and electric companies. Some have attempted to characterize this rent as a "tax." That characterization is incorrect. Rather 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 compensation is authorized by law and provides significant revenue for cities.

Local Participation: Cities Help Pay for State Highways

The best way to describe "local participation" is to use a 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 report, will continue.

To help address this dilemma "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."

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," and the League entered into an MOU with TxDOT affirming the voluntary nature of turnback.

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 currently operate under a "Phase I" permit. These cities include Dallas, Houston, San Antonio, Austin, Abilene, and several others. Beginning in the early 1990s, these 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 develop storm water management programs as well. 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 a number of best management practices to reduce storm water pollution. Obviously, the monetary costs of implementation of this unfunded mandate are high.

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. ★

THE GROWING NEED FOR **WATER AND WASTEWATER SERVICES**

The population in Texas is expected to grow to 50 million by 2070. Additionally, by 2070, municipal water use is expected to constitute the highest demand of all water users. Providing safe, clean, and reliable drinking water to meet this demand presents a challenge for 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 opportunities. Businesses and industries are going to choose locations with a stable and sufficient water supply over those states or regions without quality water supplies.

A recent wastewater survey found that America's drinking water systems alone will have to invest up to $322 billion over the next 20 years in order 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. 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.

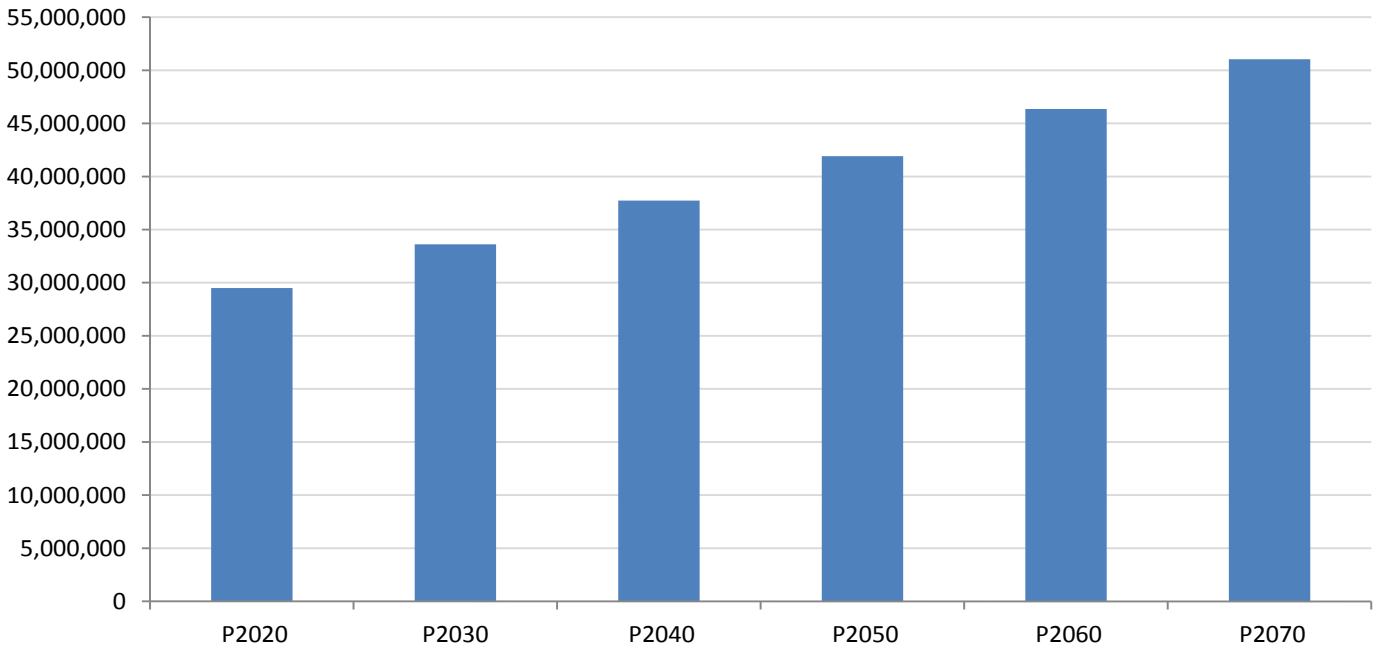
Many water utilities in Texas were built decades ago. Some systems have come to the end of their useful life span, and upgrades may no longer be sufficient. Some cities are even faced with having to completely replace these essential utilities. Upgrading or replacing a water and wastewater system is an extremely expensive 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 24 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. In addition, the provision of safe drinking water to our suburban areas has allowed our state to grow at unprecedented levels.

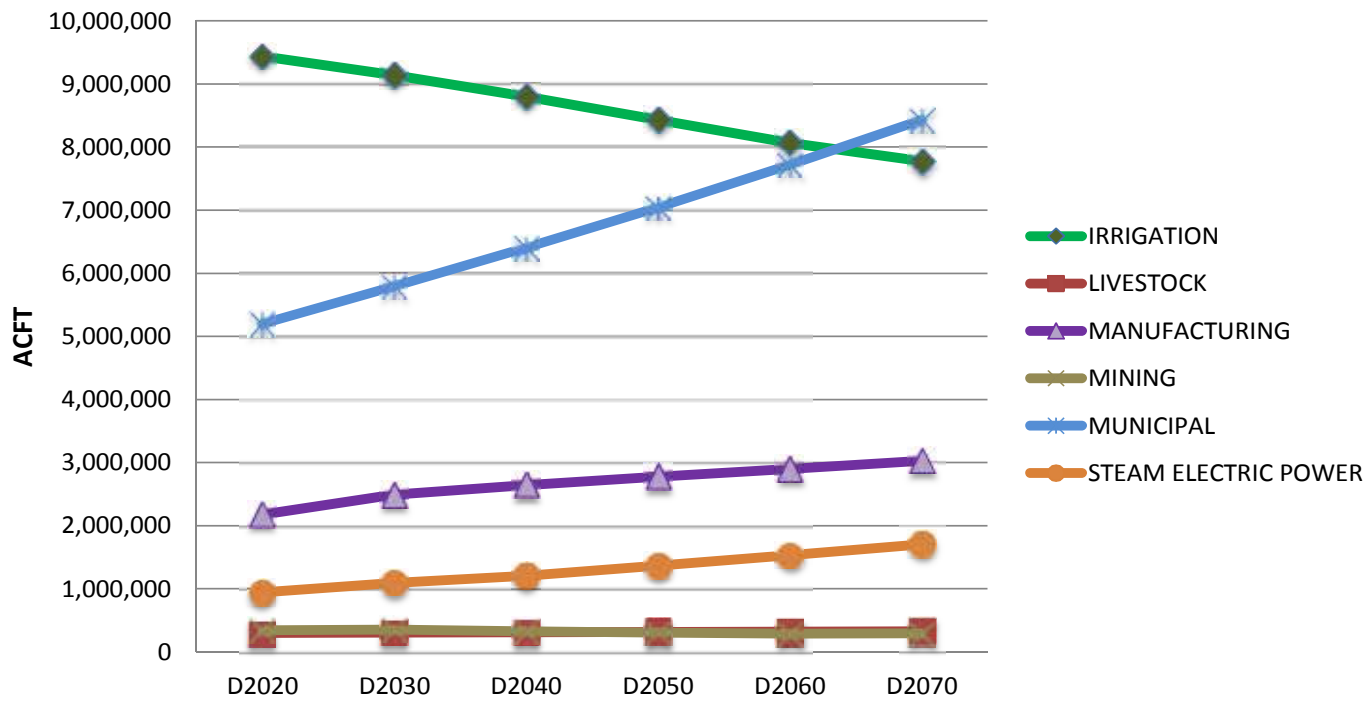
Unfortunately, many Texas cities are struggling to keep up with the costs of complying with increasingly stringent federally and state mandated regulations. The budget pressures associated with meeting these new standards or facing stiff fines from regulating agencies often force cities to delay needed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

TEXAS ★ **Population Projections**



Source: Texas Water Development Board, 2016 Regional Water Plan, State and Regional Population Projection for 2020-2070

WATER DEMAND ★ **Projections**



Source: Texas Water Development Board
2016 Regional Water Plan, State Summary of Water Demand Projections for 2020 - 2070 in acft*

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 2012 State Water Plan, which contains more than 3,000 strategies to meet water needs during a drought. The 2012 State Water Plan is the ninth state water plan and the third plan based on the regional water planning process.

The primary message of the 2012 State Water Plan is a simple one: In serious drought conditions, Texas does not and will not have enough water to meet the needs of its people, its businesses, and its agricultural enterprises. The plan presents information regarding water management strategies necessary to meet the state's needs in drought conditions, the cost of such strategies, and estimates of the state's financial assistance required to implement these strategies. Water management strategies can include conservation, drought management, reservoirs, wells, water reuse, desalination plants, and others. About 34 percent of the volume of these strategies would come from conservation and reuse, about 17 percent from new major reservoirs, and about 34 percent from other surface water supplies. If implemented, these strategies would provide nine million acre-feet per year in additional water supplies by 2060.

The plan also presents the sobering news of the economic losses likely to occur if these water supply needs cannot be met. As the state continues to experience rapid growth and declining water supplies, implementation of the plan is crucial: it is the "road map" to preparing for the state's future water needs.

One of the first bills filed in the 2013 session was filed by the Chairman of the House Natural Resources Committee providing a funding source for the State Water Plan. The bill provides a mechanism to fund the State Water Plan by creating the state water implementation fund for Texas (SWIFT), which is a special fund in the state treasury outside the general revenue fund used to support projects in the State Water Plan.

The Texas Treasury Safekeeping Trust Company (an existing state special purpose entity that was created to efficiently and economically manage, invest, and safeguard funds for the state and various subdivisions of the state) will manage and invest the fund and, at the direction of the TWDB, make disbursements from the fund.

The bill requires that of the money disbursed from the fund during the five-year period between the adoption of a state water plan and the adoption of a new plan, the TWDB shall apply not less than: (a) 10 percent to support projects included in the state water plan that are for rural political subdivisions or for agricultural water conservation; and (b) 20 percent to support projects included in the state water plan that are for water conservation or reuse.

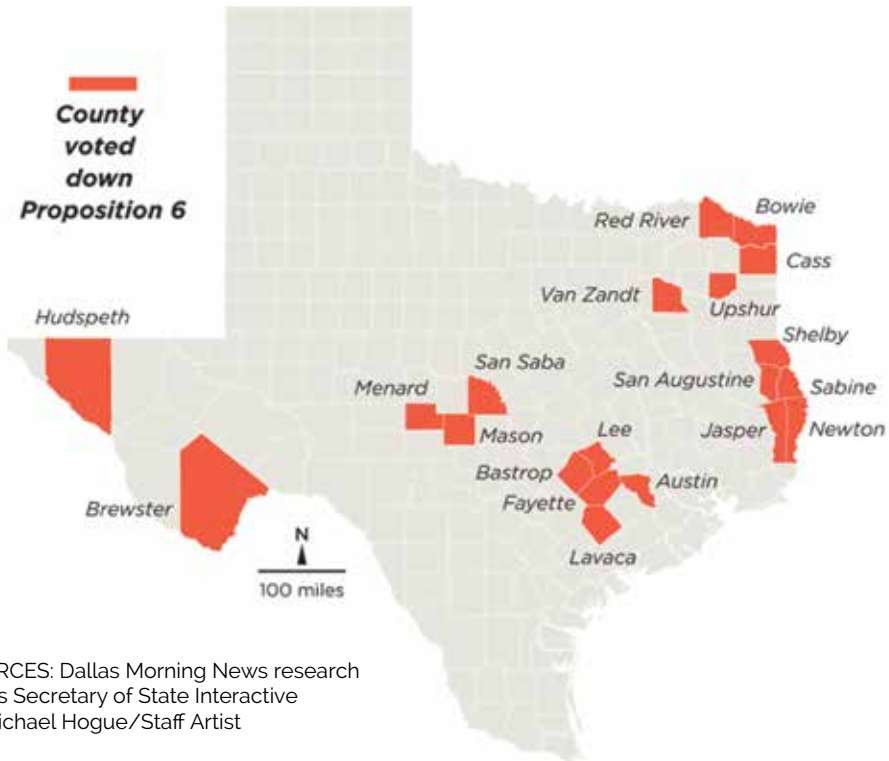
Additionally, the bill requires each regional water planning group to prioritize projects in its respective region using the uniform standards established by the TWDB. The TWDB is then required to prioritize projects in the state water plan for the purpose of providing financial assistance.

This bill and a bill requiring a vote on the Constitutional amendment authorizing a transfer of funds both passed. On November 5, 2013, Texas voters overwhelming approved Proposition 6 authorizing an amendment to the Texas Constitution to authorize the transfer of $2 billion from the Economic Stabilization Fund (commonly referred to as the "Rainy Day Fund") into the SWIFT for use in a low-interest loan program to fund water management strategies included in the State Water Plan. Proposition 6 passed with more than 73% of the vote, enjoying bipartisan support and broad backing from business, environmental, and other interests.

Following the passage of Proposition 6, the TWDB drafted rules relating to allocation of the funding and prioritization of projects. Prior to drafting the proposed rules, the TWDB held two informal stakeholder meetings in Austin and four board meetings around the state during which interested parties were given the opportunity to provide public comments. The final SWIFT rules are available on the TWDB website at www.twdb.texas.gov/board/2014/11/Board/Brd02.pdf.

The no votes

Majorities in just 20 of Texas' 254 counties voted against creating a water infrastructure fund earlier this month, mostly in rural areas.Here's a look at those counties:



SOURCES: Dallas Morning News research
Texas Secretary of State Interactive
by Michael Hogue/Staff Artist

Desalination

Recently, there has been a growing trend towards advancing desalination as a water supply source for the state. The impetus for this trend is the progress of new desalination technologies along with the growing need for the development of new water resources.

Desalination is the process by which some device separates saline water into two streams: one stream that is almost free of dissolved salts (the freshwater stream or permeate) and the other stream containing most of the dissolved salts (the concentrated stream or concentrate). There are three major sources of water used in desalination facilities: brackish surface water, brackish groundwater, and seawater. The major distinguishing factor between brackish waters and seawater is the concentration of total dissolved solids (TDS). The concentration of brackish waters ranges from 1,000 to 10,000 mg/L TDS, whereas seawater breaches 22,000 mg/L TDS. Desalination requires energy to separate the particulate matter from the water molecules, so more energy is required to desalinate seawater than brackish.

In 1997, the Texas Legislature first looked at desalination as a water supply strategy. The legislature passed S.B. 1 which included provisions to encourage the consideration of alternative water supply options such as reuse and desalination in addressing the future water needs of the state. However, it is in recent years, during the current period of drought, that desalination has started to become a priority for the Texas legislature.

Following the 2013 session, Senate and House members were appointed to a Joint Interim Committee to Study Water Desalination. The committee held three public hearings, including one hearing held in Austin where League staff appeared and testified. Two additional hearings were held outside of Austin in Corpus Christi and Wichita Falls. The committee's recommendations should provide insight on what desalination legislation we will see in the 2015 session. ★

WATER CONSERVATION

The heart of the water conservation issue is that, while everyone agrees that water conservation is important for Texas, city officials have traditionally resisted the imposition of a uniform, statewide program that does not take into account the needs, financial and otherwise, of different parts of the state.

In past years, the legislature has enacted numerous bills related to statewide water conservation standards. The requirement that cities draft, implement, and submit drought contingency and water conservation plans comes from bills passed by the legislature in recent years. Additionally, the legislature created the Water Conservation Advisory Council (WCAC). The council was tasked with, among other responsibilities, developing numerous Best Management Practices (BMPs), including municipal BMPs, which are available at www.savetexaswater.org.

Another conservation issue relates to mandatory conservation water rates. Cities have the exclusive authority to set water rates within city limits. Though there has been proposed legislation in the past related to water rates, no such legislation has passed. The ability to set water rates remains with each city's governing body, which comports with the

Texas Municipal League's members' view that local control is best.

In recent years, bills have passed requiring that the Texas Water Development Board (TWDB) and the Texas Commission on Environmental Quality (TCEQ) 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 http://www.twdb.state.tx.us/conservation/doc/SB181Guidance.pdf.

Water was one of the main topcs of the 2013 legislative session. Several water conservation bills were filed that ultimately passed. One such bill requires that each municipally owned utility notify the TCEQ when its available water supply is less than 180 days. Another bill requires certain municipally owned utilities to file an annual water loss audit with the TWDB, and the final bill requires the utilities that file a water loss audit to notify each of its customers of the water loss reported in the audit.

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.

Water restrictions, conservation education, and higher prices have achieved the result of Texans using less water. According to the League's survey, the average monthly residential consumption is decreasing each year (with a few outliers), averaging a total of 6,523 gallons in 2014 compared to 8,581 in 2002.

Interestingly, one side effect of lower 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 water revenue down nine million dollars from fiscal year 2012-2013 to fiscal year 2013-2014. Anticipated water revenue is generally budgeted to pay for fixed or infrastructure costs and in certain cases, to pay off debt. In some cases, the debt was issued to finance new wastewater plants or water-related projects.

Each city has a unique perspective and resulting priorities for expending resources to save water. Climate, population density, availability of water resources, and the ratio of industrial to residential water use in the city are but 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. Cities should continue implementing the water conservation strategies appropriate for their specific community. ★

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

For example, the City of San Marcos offers:

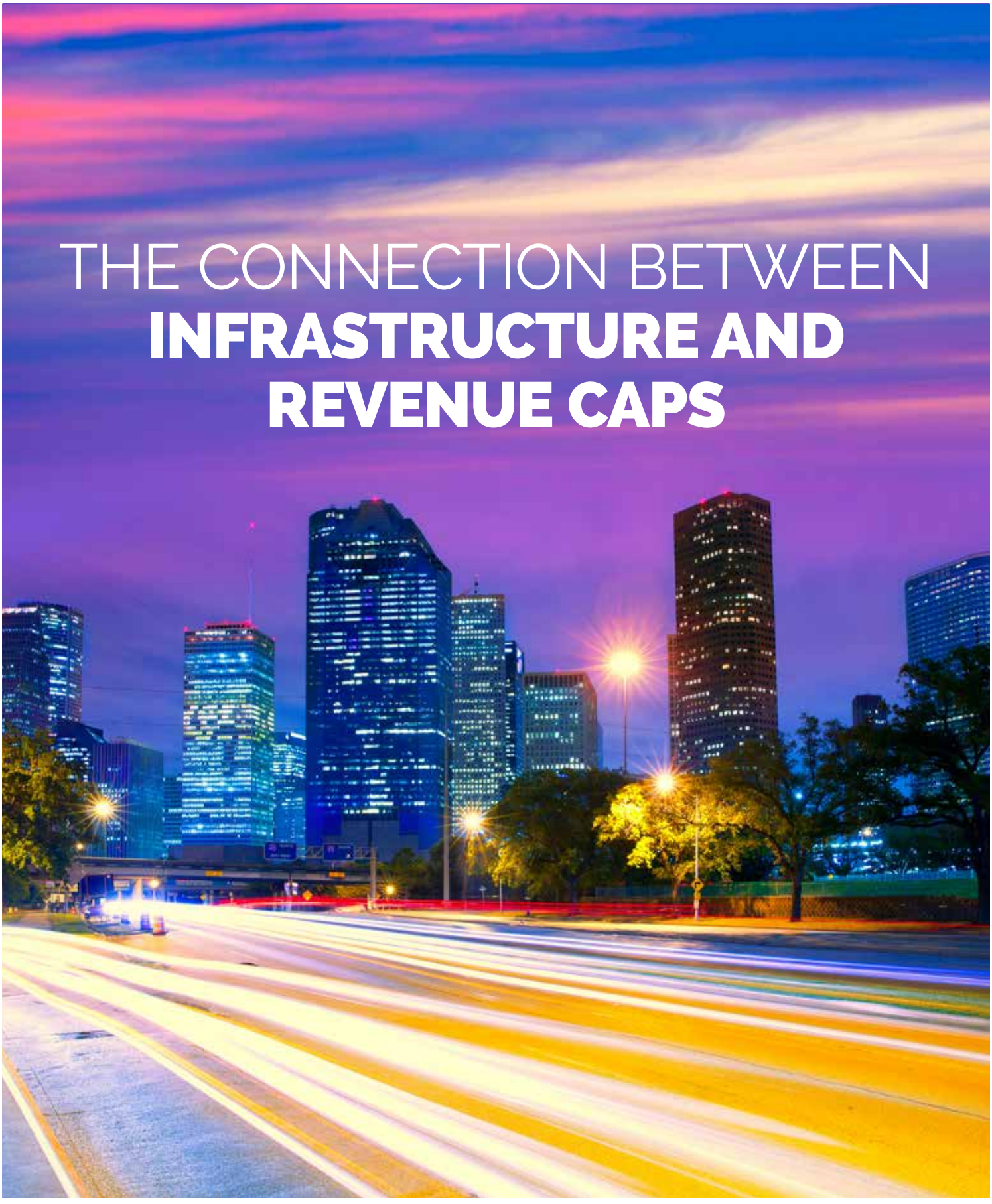
- Tiered Water Rate System
  Water rates increase as consumption increases.

- 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 that 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.

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 $100 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.

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 below.)

Chart 1

Cost-Saving Measures Percent of All Cities

	2005	2007	2009	2011	2012	2013	2014
Hiring freeze during past two years	11.8%	4.9%	8.7%	17.9%	15.8%	7.6%	4.4%
Wage freeze during past two years	10.3%	2.9%	5.1%	23.8%	16.2%	5.9%	4.2%
Reduced services	1.8%	2.5%	4.0%	6.7%	7.6%	3.2%	2.6%
Eliminated services	1.0%	1.4%	2.2%	2.9%	3.4%	1.7%	1.5%
Reduced salaries	1.2%	0.8%	1.0%	1.7%	1.7%	1.3%	0.9%
Laid off employees	9.1%	5.9%	6.6%	10.7%	10.2%	4.5%	3.8%
Postponed capital spending	52.3%	49.4%	50.0%	52.4%	43.1%	36.9%	29.7%

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

Chart 2

If Revenues Remain Constant or Diminish, What Will Cities Do?
Percent of All Cities

First Response	2005	2007	2009	2011	2012	2013	2014
Postpone capital spending	27.3%	39.5%	45.0%	22.6%	24.6%	24.1%	27.6%
Impose hiring freeze	34.1%	19.1%	18.1%	42.3%	32.7%	32.1%	26.6%
Increase user fees	23.2%	21.1%	17.7%	12.4%	10.6%	10.9%	10.2%
Raise property tax	11.1%	10.0%	10.6%	6.2%	4.2%	8.2%	7.6%
Impose wage freeze	13.7%	3.4%	2.4%	10.6%	9.3%	7.3%	6.7%

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. ★

THE CONSIDERABLE 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 of their citizens. Unfortunately, providing a high level of public safety does not come cheap.

For most citizens, it is almost an automatic response to turn to government in times of need. In cities, that translates to spending tax dollars on public safety services. Cities expend considerable resources anticipating what the public at large generally doesn't want to think about—emergencies.

Public safety includes traditional fire protection, such as fighting house fires; traditional police protection, such as officers patrolling streets for traffic violations and criminal activity; and responding to numerous 911 calls.

However, in today's world the task of providing public safety has expanded as threats have increased and citizen expectations have grown. Public safety now encompasses:

- 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; and
- search and rescue, along with a host of other activities.

As the list illustrates, 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 Annual Salary
for Police Officer and Firefighter
Police Patrol Officer:
$47,884.40 plus benefits
Firefighter:
$39,762.50 plus benefits

Total cost of Firefighter Equipment $7,580

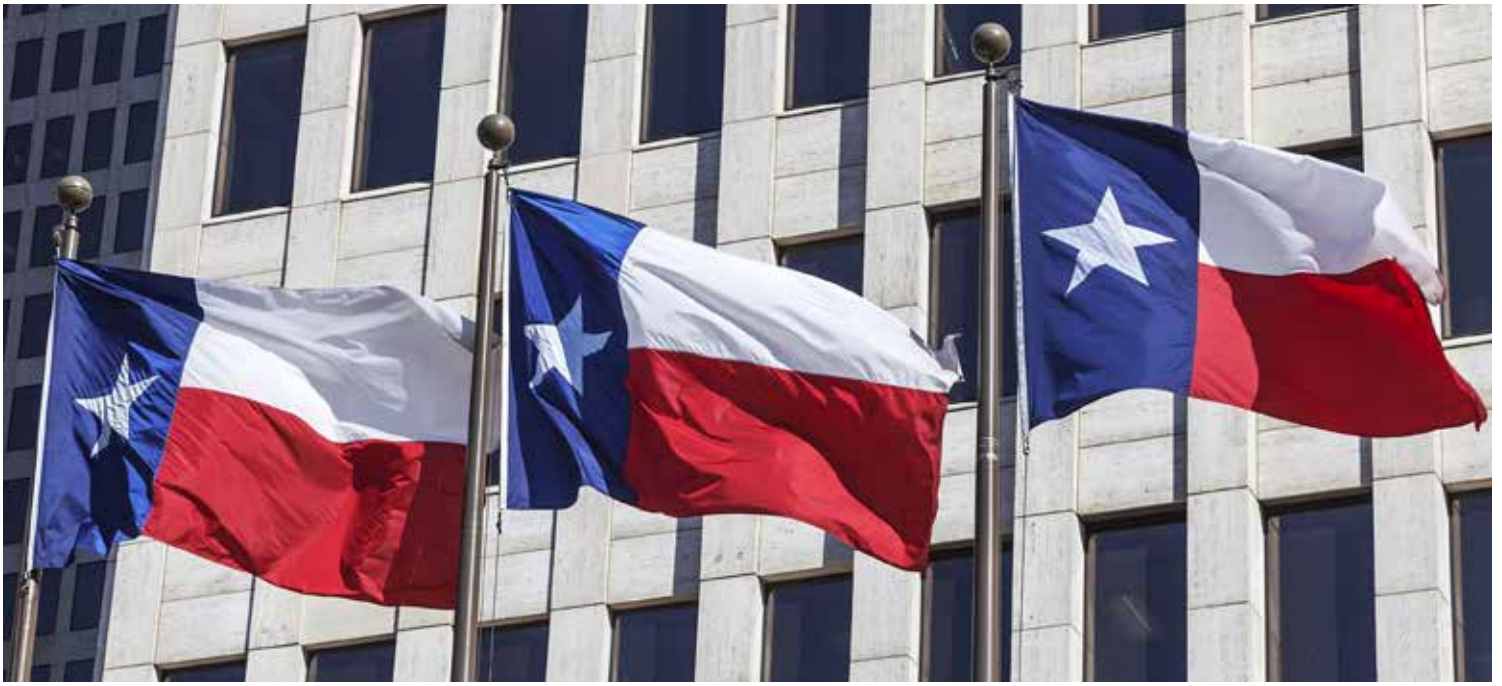
Texas Cities Assist with Disaster Response and Relief

Over the past several years, cities have played a major role in disaster response, relief, and rebuilding efforts as hurricanes, wildfires, and tornadoes hammered Texas. According to Texas Rebounds, a publication of the governor's office, Hurricanes Ike and Dolly caused the City of Houston to sustain local government infrastructure damages of more than $100 million. The city rushed to repair vital infrastructure in the days following the storm, dedicating countless resources to restoring necessary services to citizens.

The City of Galveston, also hard-hit by Hurricane Ike, 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. Some of these expenditures were ultimately reimbursed by the federal government, but 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 being the city secretary. Disasters like the West explosion can lead to legislation that seeks to impose additional mandates on cities, but without commensurate funding. In 2014, cities like Dallas have already been asked to assist with the costs of Ebola response. The costs for these types of emergencies will continue to fall on cities because urban populations are often the hardest hit by public health emergencies. ★

ANNEXATION:
IT ISN'T A FOUR-LETTER WORD



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, and to lose it would not only be very detrimental to cities, it would also be detrimental to the economy of the entire state.

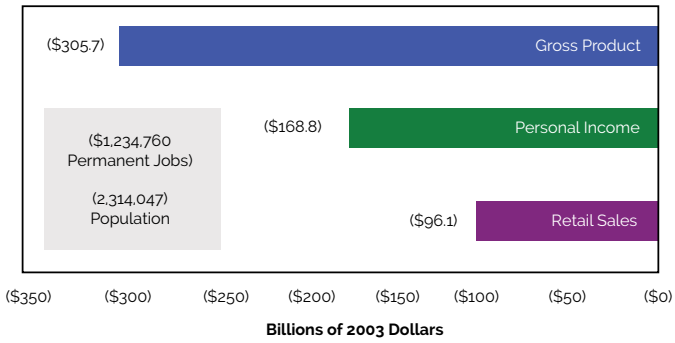
Nonetheless, annexation powers have routinely come under attack in the legislature. The residents of unincorporated areas rarely favor being brought into a city involuntarily, and any city that has gone through a major annexation is well aware of how controversial the process can become. Rural landowners and others have regularly turned to their legislators for relief from city expansions, with the result that bills to curb unilateral annexations have surfaced in every session for the past 40 years.

Texas cities are the fastest-growing in the United States. 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 has permitted cities in Texas to share in the benefits of growth in the surrounding areas. According to many national authorities, this annexation power is the primary 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. Without annexation, Texas cities would languish economically, as do northern cities with limited or no annexation power.

A 2003 report issued by The Perryman Group, a well-respected economic and financial analysis firm, shows 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." Restricting annexation would result in a loss of more than $300 billion in gross state product over the next 30 years, according to the report. In addition, the state will lose 1.2 million jobs and 2.3 million in population. In short, municipal annexation is an engine that drives the Texas economy, and turning off that engine would be devastating to the state's financial future.

The impact of Significant and Restrictions on Annexation Capacity on Business Activity in Texas - Losses as of 2030



Source: Texas Econometric Model, The Perryman Group

Why Is Annexation Authority so Critical to the Texas Economy?

To understand the answer to this question, one must look to the most basic elements of municipal finance and intergovernmental relations.

1. Cities (city taxpayers) pay for a wide array of services and facilities that benefit entire regions and the entire state. For example, basic activities such as as mail delivery couldn't take place if cities didn't construct and maintain streets. The economy of Texas would crumble without city investments in the basic infrastructure upon which business and industry rely. Cities are centers of employment, health care, entertainment, transportation, and merchandising used by non-city-residents throughout the region. This means that cities must support public safety services and a physical infrastructure sufficient to serve a daily influx of visitors from throughout the metropolitan region.

2. Most states recognize that cities should be assisted in making these expenditures that benefit entire regions and the whole state. Virtually every state transfers state-generated revenue to cities to assist in the provision of services and facilities. They recognize that cities (city taxpayers) are making expenditures that benefit all residents of the state. For example, most populous states give a portion of state gasoline tax revenue to cities to assist in street construction and repair. Many states share vehicle registration revenue or motor vehicle sales tax revenue with cities. A survey conducted by the National League of Cities found that cities across the nation receive 13 percent of their revenue from state aid.

3. In Texas, there is virtually no state aid to cities. Take a look at a municipal budget and try to find a revenue line item called "Transfer from State" or "State Financial Assistance." While such line items are common in other states, you won't find them in Texas.

4. But Texas has allowed cities to annex. Cities have used that authority to bring adjacent areas into the city and into the system through which cities finance the services and facilities that benefit the region and state.

5. To erode or eliminate municipal annexation authority without considering the issues of municipal revenue and intergovernmental relations would cripple cities and city taxpayers. If annexation authority were eliminated, Texas would become the only state in the nation that denies both state financial assistance and annexation authority to its cities. Opponents of annexation cannot point to a single state that has restricted annexation authority without implementing fiscal assistance programs under which the state helps cities pay for the infrastructure on which the entire state depends.

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.

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. ★

ZONING: A Primary Means to Protect Property Values and the Welfare of City Residents

Zoning is the division of a city into districts that permit specific 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 designed to reduce 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 services and facilities.

As with all issues that affect the residents of a city, the power to zone is best exercised by the level of government that is closest to the people. For example, a person from a small town in the Panhandle cannot possibly know what type of zoning is best for a large coastal city, or vice versa.

Chapter 211 of the Texas Local Government Code contains many procedural requirements that must be followed when zoning property, including strict notice and hearing provisions. The requirements ensure that residents of the city and affected neighborhoods have a strong voice any time 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 initial regulations and to consider proposed amendments. Also, a board of adjustment may be appointed to hear requests for variances from the regulations.

Zoning authority is generally demanded by the residents of cities and by citizens, through neighborhood and preservation groups, who support it wholeheartedly.

In essence, zoning grants a city the authority to prohibit detrimental uses and to promote beneficial uses. For example, zoning authority allows a city to prohibit lead-smelting plants or junkyards from being located in or near residential areas, thereby protecting the quality of life and property values for residents. Without zoning authority, the property values in a city would certainly drop.

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 for the authority of cities to retain local control over when, where, and how this type of dwelling is installed.

Zoning Changes and Property Values

Because zoning is an essential power, statutes 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 government regulation requires compensation to a property owner.

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

Any legislative requirement that compensation should be paid when a zoning change (or any other municipal regulation for that matter) reduces property value would create an untenable situation under which cities would either: 1) go bankrupt; or 2) be forced to give up the local power to zone property in the best interests of the community as a whole. And the reality is that most zoning changes are initiated by a property owner and increase the value of land. ★

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 article in this publication 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 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 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: 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 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 criticized recently 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, streets, and so on) 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 cities play in the regulation of utilities, hundreds of cities across the state participate in ratemaking proceedings at the PUC and the RRC in order to ensure fair, just, and reasonable rates and adequate and efficient services for the city and 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 the interests of their residents. 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 have 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. ★

THE TEXAS MUNICIPAL RETIREMENT SYSTEM: PROVEN SUCCESS

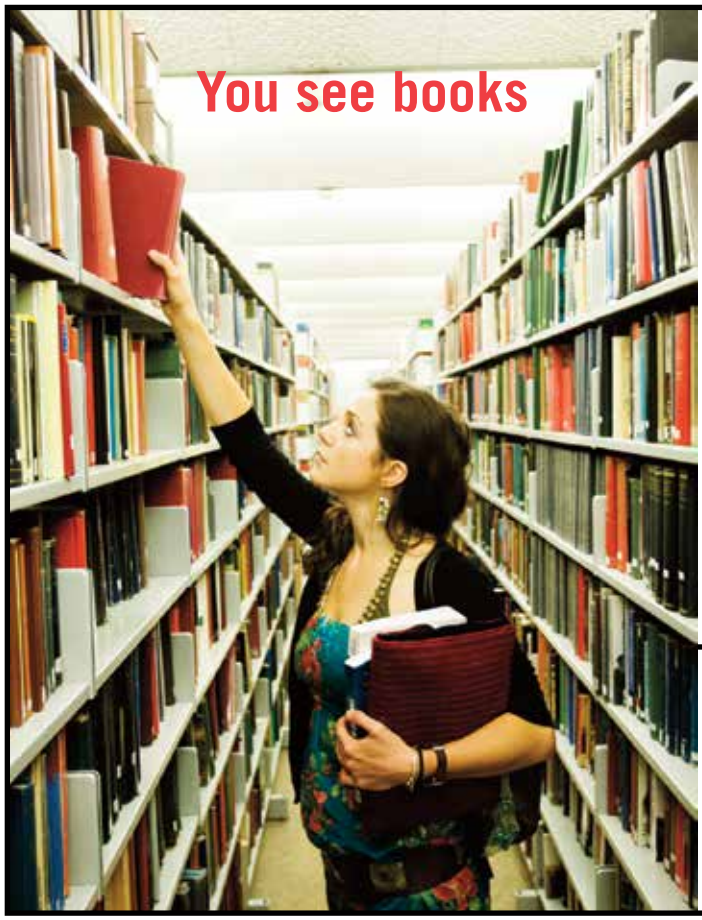
Many states around the country are faced with huge deficits in public worker pension plans. That has prompted lawmakers in those states to seek large-scale reforms in their retirement systems. Over the last few years, many states have undertaken major efforts to address those deficits by converting public 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 discussions about other inadequately funded pensions. ★



We see a library with a staff of dedicated librarians and volunteers, a children's section with story time on Wednesday afternoon, computer classes for seniors, book discussion groups for all ages, and thousands of books and other resources available to you...at your city library.

The things you don't think about, cities provide. And we're proud of it.

Texas Cities WORK

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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

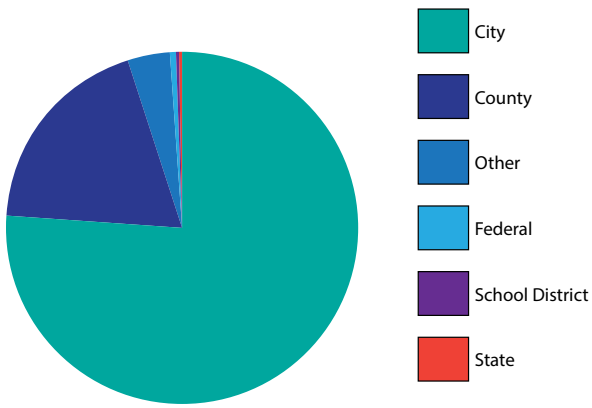
The Texas Library Association (TLA) reports that there are 561 public libraries in Texas, with an additional 314 public branches and bookmobiles. Public libraries—both city and county—consistently rank high among taxpayers in terms of community services.

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. 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 community development. Communities value their city libraries not only as centers of information and learning, but also as 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.

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). ★

TEXAS PUBLIC LIBRARIES: 2013 INCOME BY SOURCE



Source: Texas State Library and Archives Commission Statistics for Texas Public Libraries, Statewide Comparison Statistics: 1997 to 2013

TEXAS PUBLIC LIBRARIES: A GREAT INVESTMENT

A recent study found that, in 2011, Texas public libraries collectively provided $2.407 billion in economic benefits while costing less than $0.545 billion. That is a return on investment of $4.42 for each dollar invested. This chart from the study shows how Texas compares to some other states and cities:

Jurisdiction	Return on the Dollar
STATES	
Colorado	$4.99
Florida	$8.32
Indiana	$4.76
South Carolina	$4.48
Texas – Statewide	**$4.42**
Wisconsin	$4.06
CITIES	
Charlotte	$4.61
Southwestern Ohio	$3.81
Texas – 14 cases	**$4.19**

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: Dec. 2012, 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

"Whatever the cost of our libraries, the price is cheap compared to that of an ignorant nation."

—Walter Cronkite

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 extreme weather, modern lifestyles, and funding challenges in maintaining 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. Communities are strengthened by opportunities to build partnerships, enhance diversity, and learn tolerance through teamwork.

A 2006 study by The Perryman Group found that the physical health of individuals and environmental contributions are often the first benefits people associate with local parks. People with the best access to both built and natural facilities are 43 percent more likely to exercise 30 minutes most days of the week, clearly illustrating the importance of local parks in the fitness movement.

According to the American Planning Association, there is evidence that when cities provide parks, it can make communities safer. City parks also 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.

Information from Sunshine, Soccer, and Success: An Assessment of the Impact of Municipal Parks and Recreation Facilities and Programs on Business Activity in Texas *by The Perryman Group for the Texas Parks and Recreation Foundation in December 2006.* ★

THE TEXAS ECONOMY KEEPS HEALTHY IN LOCAL PARKS

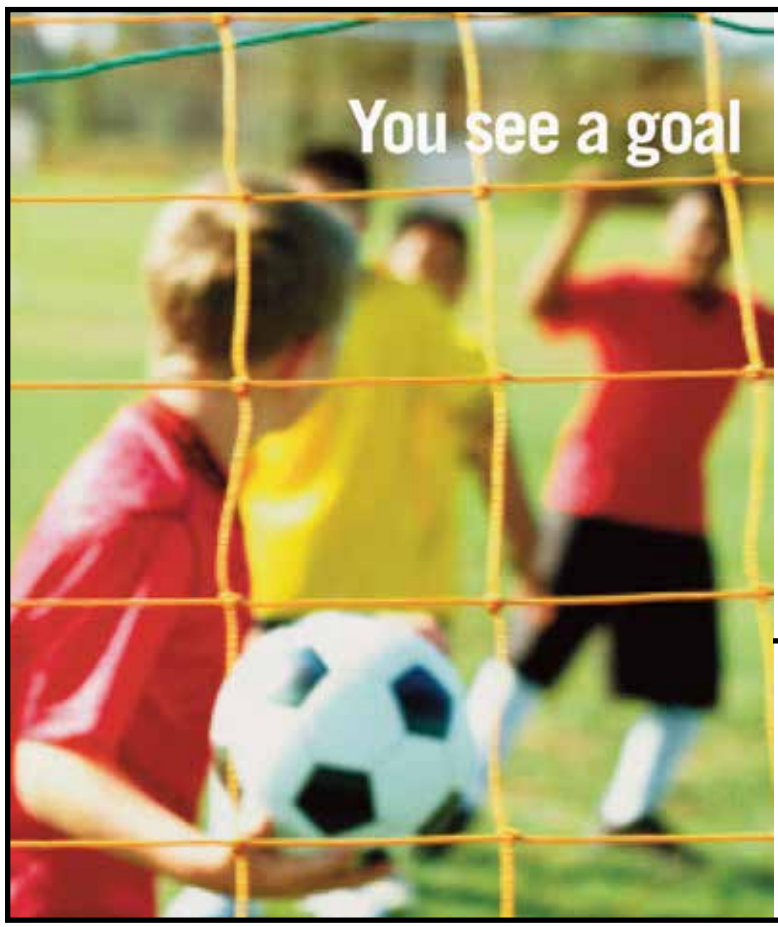
- Parks contribute to residential and commercial real estate values. An analysis of approximately 30 studies found a positive impact of 20 percent on property values abutting or fronting a passive park area.
- Local parks across the state lead to the creation of 45,623 jobs through their maintenance and operations activity, capital investment, and direct tourism.
- 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 $6.439 billion in spending.
- The incremental net fiscal revenue to the state government from local parks activity is approximately $171.6 million per year.

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 health and growth. ★



We see a goal in the park, near a house that passed inspection, has running water, garbage pickup, a sidewalk to stroll on, a street light for safety, not to mention the park nearby where kids can play soccer.

The things you don't think about, cities provide. And we're proud of it.

Texas Cities WORK

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ADVOCACY IS VITAL

The Texas 84th Legislative Session began on January 13, 2015. Before, during, and after the session, The Texas Municipal 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 to member city officials on Fridays.

Members with an interest in receiving up-to-the-minute electronic updates on legislative topics of particular interest throughout the session should participate in our E-List project. For further information and to enroll, please contact the legislative department at jj@tml.org.

The legislative portion of the League website (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 2015-2016 legislative session will address many issues that will involve Texas cities and their ability to meet citizen demands for services. The League's best advocates for protection of municipal authority are its members—elected and appointed officials from cities of all sizes and geographic areas. TML needs your participation.

Contact Legislators Early and Often

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

Keep the League Informed

The League lobbying team includes Director of Legislative Services Shanna Igo, Assistant Director of Legislative Services Monty Wynn, 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, and copies can be faxed to 512-231-7490 or mailed to the League office.

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. ★

TML
TEXAS
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1821 Rutherford Lane, Suite 400, Austin, Texas 78754.
512-231-7400 • www.tml.org