

## AGENDA INFORMATION SHEET

**AGENDA DATE:** July 9, 2013

**DEPARTMENT:** General Government

**ACM:** John Cabrales, Jr.,



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### **SUBJECT:**

Receive a report, hold a discussion, and give staff direction regarding the outcome of the 83<sup>rd</sup> Texas Legislative Session and future legislative issues and strategies.

### **BACKGROUND:**

The City of Denton compiled its key legislative issues into the 2013 State Legislative Program for the 83<sup>rd</sup> Session of the Texas Legislature. This Program was adopted by City Council on December 18, 2012. The Program consists of issues that we anticipated the Texas Legislature would consider, primarily related to state initiatives that impact city finances, development and land use, rights-of-way, regional transportation, utility, and public safety issues.

The 83<sup>rd</sup> Texas Legislature Regular Session primarily focused on key issues of education, healthcare, water, and the budget. Although transportation was thought to be a critical issue, and it seemed the political will existed to pass substantive funding reform, the bills simply died in the second week of May with little further discourse on the topic. The Governor called a special session the very same day as *sine die*, May 27, to only include redistricting; but, due to mounting pressure from special interest groups, he added transportation infrastructure funding, juvenile justice, and abortion to the call just days later. The first special session ended dramatically on June 27 without bringing the transportation or juvenile justice bills to a vote, thus dying once again. The Governor then called a second special session, which began July 1 and cannot last more than 30-days.

### **The Important Numbers**

Lawmakers filed fewer bills in the 2013 session as compared to 2011. 6,061 bills and proposed constitutional amendments were filed, 23.7 percent of which passed. Compare that to 6,303 bills in 2011, a slight decrease of almost four percent, with a passage rate of 22.4 percent. Indeed, the volume of bills that could have affected city authority was impressive. At one point we were tracking more than 800 bills that could have had some impact to Denton. Despite these numbers, cities overall remained relatively unscathed with only a few nicks and scratches, as TML has noted.

Year	Total Bills Introduced*	Total Bills Passed	City-Related Bills Introduced	City-Related Bills Passed
1993	4560	1089	800+	140+
1995	5147	1101	800+	140+
1997	5741	1502	1100+	130+
1999	5908	1638	1230+	130+
2001	5712	1621	1200+	150+
2003	5754	1403	1200+	110+
2005	5369	1397	1200+	105+
2007	6374	1495	1200+	120+
2009	7609	1468	1500+	120+
2011	6303	1410	1500+	160+
2013	6061	1437	1500+	220+

\*Includes bills and proposed Constitutional amendments; regular session only.  
 (Source: Texas Municipal League Legislative update, May 31, 2013)

### **Positive Legislative Outcomes for Cities**

Overall, cities had a successful session. As anticipated, cities once again faced the very real threat of having local budgeting authority eroded by introduction of appraisal and revenue cap measures. Denton worked with our local government partners and stakeholders to successfully oppose these measures. Proposals that would have negatively impacted the ability of cities to manage and set their budgets failed to move. Our message relating to the harm that these measures can produce at the local level is beginning to resonate with elected officials in Austin. Despite this success, proponents of “revenue caps” in particular have vowed to continue to push for these changes.

Two bills passed that addressed the State’s critical water needs. HB 4, the enabling legislation that authorizes funding of a 50-year water infrastructure plan through a State Water Implementation Fund for Texas (SWIFT) and SJR 1, which is the resolution and funding mechanism for HB 4. SJR 1 will be put to the Texas voters for approval on November 5, 2013. In addition, state legislators dedicated \$2 billion from the state’s Rainy Day Fund to a new revolving loan account for water infrastructure projects and conservation projects. Not only did the Texas Legislature get the ball rolling on funding major infrastructure needs, but they did so without resorting to municipal water tap fees.

**How Did Denton Fare?**

**Budget** - As you may recall, the most significant impact to Denton in 2011 was the approximate \$153,094 reduction in Mixed Beverage Tax revenue and \$45,375 reduction in our library budget due to the Library Resource Sharing and Local Library Aid cuts. TML, Focused Advocacy, and their partners including Denton, successfully restored the 2009 funding level for the mixed beverage tax allocation to cities.

The Library Resource Sharing grant was restored to near-2009 levels, while the Local Library Aid cuts continued. Also, \$15.5 million of funding was restored to local parks grant programs that had been cut under the current budget, but the amount remains less than half of that under the 2010-11 budget.

**S.B. 1 State Budget Overview**

Budget Item	SB1	2012-2013 Appropriated	Change
Mixed Beverage Tax	\$307,296,000	\$246,020,807	\$61,275,193
Library Resource Sharing	\$24,170,709	\$14,534,904	\$9,635,805
Local Library Aid	\$4,114,692	\$9,720,097	\$(5,605,405)
Local Parks Grants	\$16,368,960	\$881,460	\$15,487,500
TCEQ Solid Waste Grants	\$15,625,679	\$15,616,454	\$9,225
LEOSE Training Funds	\$12,000,000	\$0	\$12,000,000
Total:	\$379,576,040	\$286,773,722	<b>\$92,802,318</b>

**Smoking** – As a side note, Representative Crownover and Senator Ellis filed no-smoking legislation again – HB 400 and SB 86 respectively, but neither budged. Both were only referred to committees.

**Municipal Court Fees** – SB 1419 by Senator West mandates a \$2 additional court cost imposed on every conviction entered by the Court (other than parking and pedestrian offenses). The fees will be deposited into a new General Revenue account, which would be appropriated to the criminal justice division of the Governor's Office for distribution to local governments for truancy prevention and intervention services. The bill would authorize juvenile case managers to provide intervention services to juveniles engaged in misconduct prior to cases being filed, excluding traffic offenses. The municipality would be eligible to retain 50 percent of the court cost if a juvenile case manager program is established or in the process of being established.

**MUDs** – The passage of HB 738, by Representative Crownover and originated by Denton County Commissioner Coleman, requires Municipal Utility Districts (MUDs) to give notice to a county and expands a county’s authority to review any proposed MUD in a city’s extraterritorial jurisdiction (ETJ), but does not expand the county’s review authority to the city’s corporate limits.

**Transportation** – The Denton County Transportation Authority (DCTA) was successful in passing SB 948, considered their omnibus bill. It amended some of the bylaws with regard to residency requirements for board members and provides for an additional board seat. The bill redefines the term “local government corporation” (LGC) in the Transportation Code to include coordinated transportation authorities. This allows DCTA to contract with non-contributing entities within the Denton County service area. Their stated intent is to be on par with the DART and TRE.

Also, by virtue of being an LGC, DCTA will have the authority to accept tax-deductible donations, including monetary and land grants; buy, assemble, and sell land; and issue bonds with the creating entity’s credit, and are exempt from the public procurement process for construction projects. Finally, SB 948 bill authorizes DCTA to contract for persons to serve as fare enforcement officers.

As indicated on page one of this report, transportation seemed to be moving right along politically with the necessary support to pass with little pushback. Representative Darby’s HB 3664, which would have dedicated a portion of new and used vehicle sales taxes and increased registration fees directly to transportation funding, was voted out of committee, but was postponed upon second reading on the floor. All other seemingly viable funding bills met similar fates, were never heard in committee, or did not get reported out of committee. The bills on this died when the governor indicated he did not want an increase in fees. Most thought one of the dead bills would have been added on as an amendment, but it never happened. There was even a brief period when the Governor supported reallocating \$3.5 billion from the State’s Rainy Day fund to put toward highway infrastructure projects, but education and water trumped transportation in the debate.

Governor Perry added transportation to the first special called session as unfinished business. SJR 2 would share growth in revenue from the tax on oil and gas production between the economic stabilization fund and the state highway fund, adding nearly a billion dollars in transportation funding. It preserves allocations to the general revenue fund and to the foundation school fund, and establishes a floor for the economic stabilization fund before there is any sharing with the state highway fund. SJR 2 passed the Senate, but was amended in the House. It was then sent back to the Senate to concur, but due to the extraordinary dynamics in the Senate on the final day of the session, the bill was never laid out for consideration. The second special session has been called and is underway as of the drafting of this report. Transportation funding again, as SJR 1 (identical to the amended House version of SJR 2 in the first special session), is being considered and was passed out of the House Finance committee on July 2. If there are any developments on this, staff will provide an update at the July 9 Council meeting.

**Payday Lending** – About 20 bills had been filed relating to payday lending activities, but only one had any real movement. SB 1247, by Carona, was the most viable of the bills. It would have preempted municipal regulatory authority, so the City was opposed. When the Senate laid out the bill on the floor on April 22, it was amended in such a way that we actually supported the bill. It removed preemption entirely and shored up regulations on the payday lenders. It went too far however, to garner the support in the House, and died in committee despite Carona's attempts to resurrect it. We worked continuously with TML and other cities to address the bill, and successfully defeated what would have been detrimental to our ability to regulate the credit access business industry within our own city limits.

**Gas Wells** – A number of gas well bills were filed this session, and received some attention. The most talked about were HB 1496 by Taylor and HB 2828 by Dale, both of which would have limited municipal regulatory authority over gas wells and pipelines. We worked closely with our delegation and TML to ensure these did not move. Those that would directly impact cities in North Texas did not even make it out of committee.

**Revenue/Appraisal Caps** - Revenue cap bills received attention at the beginning of the session, but quickly fizzled out by March. During most sessions this is a hard-fought battle, but focus was placed more squarely on other statewide infrastructure issues. SB 144 and 102, by Senators Williams and Patrick respectively, both would have reduced the rollback rate from 8% to 5%. SB 144 would have allowed disaster areas to raise the rate back up to 8%. The bills were referred to the special Finance subcommittee on budget issues, and did not move beyond the first hearing. No viable appraisal cap bills were even heard.

**“Transparency”** - HB/SB 14 were the bills proposed and promoted by the State Comptroller of Public Accounts, Susan Combs. Touted as Combs' "transparency" bills, they took on a life of their own. Despite most legislators privately stating they did not support the bill, they were also in a political position that would make it difficult to not vote in favor of the bill. Denton, and most cities, actively opposed the legislation as it would create an environment in which citizens and voters would be misinformed and it would misrepresent city debt by prescribing specific language that would be published on the ballot, in addition to onerous reporting requirements. Significant behind-the-scenes discussions and negotiations took place on this legislation.

Fred Hill, one of our legislative consultants, and TML worked with various stakeholders to lessen the negative impact. Through the good-faith efforts of all parties involved, most cities went neutral on the bill - including Denton. Nevertheless, this bill failed to pass upon final consideration. SB 637 by Paxton, however, did pass, which is essentially a very watered down version of HB/SB 14 and consists of those elements of HB/SB 14 that TML and others had agreed upon as a compromise.

SB 637 amends current law relating to notice and election order requirements for bond approval elections held by political subdivisions. Current law provides for a standard template for the contents of the ballot proposition and election notice requirements for cities and counties. SB 637 makes the ballot proposition and notice requirements for a bond election uniform. In addition, SB 656, also by Paxton passed. It requires a vote to adopt the budget to be a record vote and requires the adopted budget to contain a cover page that includes one of three specific statements in 18-point or larger type that describes the adopted budget; the record vote of each member by name voting on the adoption of the budget; the property tax rates for the preceding fiscal year and each property tax rate that has been adopted or calculated for the current fiscal year; and the total amount of bonds and other debt obligations owed.

**Tree Ordinance Preemption** - HB 1858 by Representative Workman provided that the owner of a tree who believes that the tree poses a fire risk can cut it down, and that a city ordinance prohibiting the cutting is unenforceable. This bill would have essentially gutted our tree ordinance. San Antonio, Denton, and other large cities worked diligently with TML to kill this bill.

**Billboards** – SB 1383 would have required cities to pay the relocation costs of billboards removed for state highway projects. Based on our estimates, this could have cost Denton alone an upward of \$18 million. And consider the impact to the communities along the 35E corridor expansion project. There are over 90 billboards along the 35E corridor from 635 to Loop 288, which would have put the 35E communities in an untenable fiscal situation. This bill did gain some traction toward the end of session, but we were able to work with our partners and ensure the bill did not ultimately pass.

Unfortunately, many of these issues will probably be back.

### **Denton Municipal Electric**

The 2013 Texas Legislature adjourned on May 27th. The outcome was positive for public power. No major legislation directly negative to public power was approved. Local control for municipally owned utilities (MOUs) was maintained. Several bills that were supported by the Texas Public Power Association (TPPA) and DME passed the Legislature. They include:

- The PUC Sunset bill which reauthorized the Commission for ten years and made other changes. The bill accomplished DME's primary objectives: preserving local control for MOUs and maintaining industry participation in ERCOT governance. (SB-1600)
- The "line height" bill which corrects a court ruling that could have effectively required the height of distribution lines over roadways to be elevated statewide. (SB-349)

There were a number of bills that had provisions negative to public power which were favorably modified during the legislative process due to advocacy efforts by TPPA (often in concert with Texas Electric Cooperatives). Negative provisions that were avoided and not enacted included: state mandated low income customer programs, state mandated service disconnection policies for master metered apartments, state sanctioned electric service by others to industrial desalination facilities in MOU areas, and expanded cogeneration sales of electricity to multiple entities in MOU or coop service territories.

TPPA and DME opposed several legislative proposals. None of them were passed this session, including two bills that would have:

- Mandated customer opt-out from smart meters. TPPA was opposed if it applied to MOUs and did not allow for locally controlled opt-out procedures and full cost recovery from the customer choosing to not have a smart meter. (SB-241)
- Mandated one-size-fits-all “net metering” requirements for MOUs (which already lead in promoting distributed renewable energy).

Public power’s presence and effectiveness at the Capitol this spring was truly a team effort. The TPPA Board provided extraordinary leadership. The in-house government relations and legal professionals that work for our major systems did excellent work on behalf of all public power utilities. A number of legislators that have public power in their districts were staunch defenders of public power.

### **Vetoed Legislation**

The governor has vetoed 26 bills, which will be detailed by Focused Advocacy at the Council Meeting of July 9.

### **RECOMMENDATION**

Continue to work with Texas Municipal League, our legislative consultants, and other cities in monitoring proposed legislation in Special Called Sessions. Also, participate in legislative interim hearings and studies in preparation for the 83<sup>rd</sup> Texas Legislative Session.

Respectfully submitted:



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Intergovernmental Relations/Public Information Officer