



City Council Agenda Item Report

April 2nd, 2013

Agenda Item ____

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SUBJECT: STAFF REPORT: LEGISLATIVE UPDATE ON 83RD LEGISLATURE

1. BACKGROUND/HISTORY

This staff report is an ongoing effort to provide updates on city-related bills as well as tracking the City of Buda's sponsored bills on sales tax split between ESDs and cities (HB 3159) and on black hydrants (HB1797 and SB1086) .

2. FINDINGS/CURRENT ACTIVITY

Staff will place on the Council dais the night of the meeting the latest TML listing of city-related bills. When reading, you will find of particular interest numerous detrimental bills set for hearing such as a bill on tree removal, disannexation, revenue caps, and regulation of oil and gas wells. TML may be calling on the City of Buda to testify especially on bills that are community and economic development-related.

Water issues:

SB 567 on water/sewer ratemaking reform allowing for the transfer of functions of ratemaking from TCEQ to PUC, is on the Senate Intent Calendar. That means the bill can be brought up on the Senate Floor at any time. The large water utilities would like to amend the bill to add "streamlined ratemaking" where the utilities get an annual rate increase for capital expenditures. According to Jim Boyle, this amendment would not be beneficial to the overall intent of such bill. Attached is a talking point whitepaper from Jim for clarification.

SB 1086/HB 1797 are the collaborative bills worked on by the City of Buda and Jim Boyle and getting sponsored by Rep. Isaac and Sen. Campbell. Both companion bills are asking for adequate fire flow for investor-owned utilities. Currently, both bills have been referred to their respected Natural Resources Committee. No word yet on a hearing date.

Sales tax allocation between cities and ESDs:

HB 3159 calls for 50/50 allocation of sales tax revenue between ESDs and cities if a city annexes property, but any available sales tax has been accounted for by the ESD. In order to meet the filing deadline, this bill was submitted to Rep. Isaac prior to the Council-approved agreement (agreement) between ESD #8 and the City, and, thus, not reflecting the agreement's sales tax split between the City and ESD of 2/3 to 1/3. The City Manager, ESD #8 Fire Chief and I met last week to discuss any concerns to the bill, and to see if the bill could be revised to reflect the agreement's sales tax split. The Chief indicated that the Texas State Association of Fire & Emergency Districts had concerns regarding the split would take sales tax revenue away from ESDs that have captured all available sales tax, and the bill does not account for any existing agreements and could challenge the validity of such. As a result, both sides indicated that a possible revision to the bill could be entertained whereby eliminating the 50/50 split and requiring the bill to allow ESDs and cities to enter into agreements with negotiated sales tax splits recognized by the State and requiring the Comptroller to make payments to each entity. City staff asked the Chief to provide feedback to that effect, and city staff would revise the bill language to reflect such. Rep. Isaac has indicated that he would provide his support if both sides were in agreement to this bill. To date, this bill has been referred to the House Ways & Means Committee but no date has been scheduled for a hearing.

Adequate state funding for libraries in Texas:

The House has recommended 7.25 million, and the Senate recommended \$7,496,992 of the \$9.25 million that was requested for Shared Digital Content. These are digital resources (databases mostly) that could be used by all public school, public libraries, universities and several special libraries across the state. Both bodies put the remaining requests (the remainder of the request for Shared Digital Content and the \$3.4 million for the Partnerships for Innovation grants) in Article XI, which means they can be deliberated on. Items not added to Article XI are entirely off the table.

2. FINANCIAL IMPACT

4. ACTION OPTIONS/RECOMMENDATION

5. ATTACHMENTS

1. SB 567 talking point paper from Jim Boyle
2. SB1086/HB 1797
3. HB 3159

SB 567

TALKING POINTS

RESPONSE TO “PERIODIC RATE ADJUSTMENTS”

FLOOR AMENDMENT

Keep bill clean

SB 567 is a delicate balance of benefits for utilities and ratepayers.

- For utilities, they get the certainty of a final ruling within 185 days instead of waiting years to know what the outcome will be.
- For utilities, they get much greater ratemaking expertise with ratemaking moving to the Public Utility Commission so that they can count on much more consistent application of ratemaking principles and more predictable outcomes.
- For utilities, under certain conditions they get to put the requested rates into effect under bond.

To allow for annual rate increase adjustments for Class A utilities gives them a special benefit for a *quick increase in rates without any meaningful review*—that is unfair to ratepayers who are already paying a \$100.00 per month for water and sewer service without using a drop of water.

Just because electric utilities can make an adjustment does not mean that water utilities should get this authority

Large water utilities (Class A) say they should be entitled to make the annual adjustment because electric utilities get to make such an adjustment but *the rates of the electric and water utilities and the customers they serve are very different*.

Water utilities charge up to \$50.00 a month and electrics charge between \$10 and \$15 per month for a fixed customer charge. *Water utilities are already guaranteed most of their revenue each month through a fixed charge whereas electric utilities are not*. Thus, water companies are in a much better position to fund capital projects out of current revenues.

Water utilities tend to serve a greater percentage of customers on fixed incomes or customers on low to moderate incomes than electric utilities. Many water utility customers live in manufactured housing or are located in retirement communities. In general, annual adjustments are more keenly felt by water company customers.

Annual adjustments add to high rates

Two of the largest water companies have rates that are 200% to 300% higher than what a city charges for the same service, regardless of the size of the city. The annual increase authority can only add to that differential.

Annual adjustments should not be proposed without pro-customer adjustment, lowering the return on equity

If large water utilities are to be rewarded with an annual adjustment for capital expenditures, outside the context of a typical rate case, then, the return on equity for these companies should be lowered to reflect the reduction in regulatory risk resulting from the annual automatic increase in rates.

By: Campbell

S.B. No. 1086

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the authority to regulate certain water and sewage
3 utilities to ensure public safety in and around certain
4 municipalities.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 341.0358(a), Health and Safety Code, is
7 amended by amending Subdivision (1) and adding Subdivision (1-a) to
8 read as follows:

9 (1) "Industrial district" has the meaning assigned by
10 Section 42.044, Local Government Code, and includes an area that is
11 designated by the governing body of a municipality as a zoned
12 industrial area.

13 (1-a) "Public utility" has the meaning assigned by
14 Section 13.002, Water Code.

15 SECTION 2. Section 341.0358(g), Health and Safety Code, is
16 amended to read as follows:

17 (g) This section also applies to:

18 (1) a municipality with a population of more than
19 36,000 and less than 41,000 located in two counties, one of which is
20 a county with a population of more than 1.8 million; and

21 (2) a municipality, including any industrial district
22 within the municipality or its extraterritorial jurisdiction, with
23 a population of more than 7,000 and less than 30,000 located in a
24 county with a population of more than 155,000 and less than 180,000.

1 SECTION 3. This Act takes effect September 1, 2013.

By: Isaac

H.B. No. 1797

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24 county with a population of more than 155,000 and less than 180,000.

1 SECTION 3. This Act takes effect September 1, 2013.

By: Isaac

H.B. No. 3159

A BILL TO BE ENTITLED

AN ACT

1
2 relating to the allocation of sales and use tax after a municipality
3 annexes land in an emergency services district and to the provision
4 of emergency services in that area.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

6 SECTION 1. Section 775.0753(c), Health and Safety Code, is
7 amended to read as follows:

8 (c) Except as provided by Sections 775.0754 and 775.0755,
9 the [The] provisions of Section 321.102, Tax Code, governing the
10 application of a municipal sales and use tax in the event of a
11 change in the boundaries of a municipality apply to the application
12 of a tax imposed under this chapter in the event of a change in the
13 district's boundaries.

14 SECTION 2. Subchapter E, Chapter 775, Health and Safety
15 Code, is amended by adding Sections 775.0754 and 775.0755 to read as
16 follows:

17 Sec. 775.0754. SALES AND USE TAX AGREEMENT WITH
18 MUNICIPALITY AFTER ANNEXATION. (a) This section applies when:

19 (1) a municipality annexes for full purposes part of a
20 district that imposes a sales and use tax; and

21 (2) the annexed area is not removed from the district.

22 (b) The municipality and the district may, before or after
23 the annexation, agree on an allocation between the municipality and
24 the district of revenue from the sales and use tax imposed in the

1 annexed area.

2 (c) Under policies and procedures that the comptroller
3 considers reasonable, the comptroller shall pay the amounts agreed
4 to between the municipality and the district.

5 (d) A municipality that enters into an agreement under this
6 section is not required to provide emergency services in that
7 annexed territory. To the extent of a conflict between this
8 subsection and Section 43.056, Local Government Code, or any other
9 law, this subsection controls.

10 (e) Section 321.102(f), Tax Code, does not apply if the
11 municipality and the district enter into an agreement under this
12 section.

13 Sec. 775.0755. SALES AND USE TAX ALLOCATION BY COMPTROLLER
14 AFTER MUNICIPAL ANNEXATION. (a) This section applies when:

15 (1) a municipality annexes for full purposes part of a
16 district that imposes a sales and use tax;

17 (2) the annexed area is not removed from the district;
18 and

19 (3) the municipality and the district do not enter
20 into an agreement under Section 775.0754(b).

21 (b) The sales and use tax rate for the municipality and the
22 sales and use tax rate for the district in the annexed area shall
23 both be reduced in an amount equal to one-half of the amount that
24 the combined sales and use tax rate in the area from all sources
25 exceeds two percent.

26 (c) Under policies and procedures that the comptroller
27 considers reasonable, the comptroller shall pay the revenue from

1 the sales and use tax imposed in the annexed area based on the tax
2 rates determined under this section.

3 (d) A municipality that is a party to an allocation under
4 this section is not required to provide emergency services in that
5 annexed territory. To the extent of a conflict between this
6 subsection and Section 43.056, Local Government Code, or any other
7 law, this subsection controls.

8 (e) Section 321.102(f), Tax Code, does not apply to an
9 allocation made under this section.

10 SECTION 3. This Act takes effect September 1, 2013.