

**2021 LEGISLATIVE UPDATE FOR DISTRICTS**

**(87<sup>TH</sup> Legislative Session)**

**Open Government**

**SB 1225 – Effective September 1, 2021** – This bill amends Section 552.233 of the Government Code regarding the temporary suspension of requirements for governmental bodies impacted by a catastrophe. The bill adds the condition that a catastrophe must “directly” interfere with the ability of a governmental body to comply with the requirements of the chapter and specifically states that a “Catastrophe does not mean a period when staff is required to work remotely and can access information responsive to an application for information electronically, but the physical office of the governmental body is closed.” Language is also added to the chapter stating that suspension of the requirements of Chapter 552 will be allowed only once for each catastrophe and only if it significantly causes the inability of a governmental body to comply with the requirements of the chapter. The initial suspension period is limited to seven days which may be extended through filing a form with the attorney general for an additional seven-day period.

This bill also adds Section 552.2211 to the Government Code regarding production of information when an administrative office is closed. Under this section, if a governmental body closes its physical offices, but requires staff to work, including remotely, then the governmental body shall make a good faith effort to continue responding to applications for public information, to the extent staff have access to public information responsive to an application while its administrative offices are closed. Failure to respond may be considered a refusal to request an attorney general’s decision as otherwise required by the chapter.

**HB 872 – Effective June 18, 2021** – This bill adds Section 552.1331 to the Government Code to create an exception for certain government-operated utility customer information. This exception excepts information that is collected as part of an advanced metering system (one that collects data at regular intervals using an automated wireless or radio network) for usage, services and billing, including amounts billed or collected for utility usage. If, however, such information is requested directly from a customer or customer’s representative the utility must disclose such information if it is not otherwise confidential under law. Information that reveals whether an account is delinquent or eligible for disconnection or has been discontinued is also excepted from disclosure.

This bill also amends Section 182.052 of the Utilities Code to change the process for disclosure of personal information in a customer’s account record. Previously a customer had to request confidentiality for personal information in the account record or related to volume or unit of utility usage or the amounts billed to or collected from the individual for utility usage. Now the information is confidential unless a customer elects to provide a written request to the utility to allow for disclosure.

**HB 1082 – Effective May 19, 2021** – This bill relates to the availability of information regarding an elected public officer and amends Section 552.117 of the Government Code (exception: confidentiality of certain addresses, telephone numbers, social security numbers, and personal family information), Section 552.1175 (exception: confidentiality of certain personal identifying information of peace officers and other officials performing sensitive governmental functions) and Section 25.025 of the Tax Code (confidentiality of certain home address information) to include “Elected Public Officer” as a class that is protected from disclosure of information under each section. This replaces the prior exception which was limited to a state officer elected statewide or a member of the legislature.

### Taxation

**SB 1438 – Effective June 16, 2021** – This bill adds Section 26.042 to the Tax Code and deals with adoption of tax rates in a disaster area. This allows for a taxing unit to calculate the voter-approval tax rate of the taxing unit in the manner provided for a special taxing unit ( $M\&O \times 1.08 +$  current debt rate) if any part of the taxing unit is located in an area declared a disaster by the governor or president of the United States and at least one person is granted an exception under Section 11.35 (Temporary Exemption for Qualified Property Damaged by Disaster). This calculation will last until the first-year taxable value of property exceeds the value on January 1, of the tax year of the disaster or the third year after the disaster occurred.

A taxing unit does not need to hold an election to approve the tax rates for disasters including, tornado, hurricane, flood, wildfire or other calamity, but droughts, epidemics and pandemics are specifically excepted from this category. A taxing unit must also specify the disaster declaration that provides the basis for authorizing the rate.

**SB 742 – Effective June 7, 2021** – This bill amends Chapter 31 of the Tax Code to facilitate the payment of installment payments of ad valorem taxes on property in a disaster area or emergency area. Section 31.033 of the Tax Code is added which allows a governing body of a taxing unit to authorize a person to pay the taxing unit’s taxes in installments for a property in a disaster or emergency area even though the property has not been damaged as a direct result of the disaster or emergency. If a government chooses to authorize installment payments, the administration of the payments will be applied in the same manner as found in Section 31.032 of the Tax Code which applies only to property damaged as a direct result of the disaster.

**HB 1869 – Effective September 1, 2021** – This bill amends Section 26.012 of the Tax Code to define terms related to debt and ad valorem taxation. Section 26.012(7) “Debt” retains its existing definition but now must also meet one of the following requirements: (a) has been approved at an election; (b) includes self-supporting debt; (c) evidences a loan under a state or federal financial assistance program; (d) is issued for designated infrastructure; (e) is a refunding bond; (f) is issued

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in response to an emergency under Section 1431.015, Government Code; (g) is issued for renovating, improving, or equipping existing buildings or facilities; (h) is issued for vehicles or equipment; or (i) is issued for a project under Chapter 311, Tax Code, or Chapter 222, Transportation Code, that is located in a reinvestment zone created under one of those chapters. A definition for “designated infrastructure” is added to clarify that section (d) referenced above includes traditional infrastructure such as streets, roads, bridges, but also telecommunications, cyber security, utility systems including water and wastewater plants and distribution systems, police and fire stations, school districts and hospital districts. “Refunding bonds” and “self-supporting debt” are also further defined by the act.

**SB 296** – This bill modifies the Tax Code provisions related to resale or exemption certificates in connection with sales tax. It is a minor change regarding the number of days for delivery of certificates to the seller. **Effective June 7, 2021.**

**HB 988** – This bill deals with ad valorem taxation and appraisal review board procedures. Of note, it adds Section 6.155 of the Tax Code, which prohibits certain communications by taxing units. It also provides a criminal penalty, which is a Class A misdemeanor. A member of the governing body, officer or employee of a taxing unit commits an offense if the person directly or indirectly communicates with the chief appraiser or another employee of the appraisal district in which the taxing unit participates for the purpose of influencing the value at which property in the district is appraised unless the person owns or leases the property that is the subject of the communication. **Effective September 1, 2021 Sections 5.103, 5.104, 6.052, 41.01, 41.461, 41.66, 42.015, 42.23 Tax Code Effective June 15, 2021.**

**HB 3629** – This bill deals with the date of deferral or abatement of collection of ad valorem taxes on the resident’s homestead of an elderly or disabled person or disabled veteran. **Effective September 1, 2021.**

**HB 1410** – This bill deals with the issuance of bonds. **Effective June 14, 2021.**

**HB 3833** – This bill deals with the appraisal of certain real property for ad valorem tax purposes. **Effective June 15, 2021.**

### **Cybersecurity**

**HB 1118 – Effective May 18, 2021** – This bill amends Chapter 772 of the Government Code to add Section 772.012 which requires compliance with cybersecurity training requirements to apply for a grant under the chapter. If it is later determined that a local government was awarded a grant under the chapter and the cybersecurity training requirement was not completed, the local government will pay to the state an amount equal to the grant award. The bill also amends Section 2054.5191 of the Government Code (cybersecurity training requirement) to include elected and appointed officials of a local government which clarifies a previous ambiguity in the wording of the statute on whether appointed officers must take the training. The bill also adds the ability of a

local government to restrict access to a governments computer system and database to an individual who has not completed the training requirements.

### Criminal

**HB 624 – Effective September 1, 2021** – This bill adds Section 12.501 to the Penal Code which increases the criminal penalty for certain offenses committed in retaliation for a person’s service or status as a public servant. Public servant includes government officials and those working the performance of a government function. Under the bill, punishments for offenses under Penal Code Sections 21.16, 21.18, 21.19, 22.011, 28.02, 28.03, 30.05, 33.02, 42.07, 42.072; or an offense under Section 32.51, other than an offense punishable under subsection (c-1) of that section is increased to the punishment prescribed for the next higher category of offense.

### Contracting

**SB 1821 – Effective June 7, 2021** – This bill amends Section 2254.101 of the Government Code relating to professional and consulting services. Under the bill, the definition for a “contingent fee contract” is expanded to include an amendment to a contract for legal services described by this subdivision if the amendment changes the scope of representation or may result in the filing of an action or the amending of a petition in an existing action. The remaining sections of the chapter relating to the ability of a political subdivision to enter a contingent fee arrangement remain unchanged by the act.

**HB 1428 – Effective September 1, 2021** – This bill amends Section 2254.102 of the Government Code relating to contingent fee arrangements. This amendment adds that Subchapter C relating to contingent fee arrangements will not apply to a contract for legal services entered into by a political subdivision for the collection of an obligation under Government Code Chapter 2107 (collection of delinquent obligations to state). The act further clarifies that an obligation does not include a fine or penalty that results from an action by a political subdivision under Chapter 7 of the Water Code (enforcement).

**HB 1929** - This bill relates to development agreements regarding land within the ETJ of certain municipalities. **Effective September 1, 2021.**

**HB 1476** – This bill deals with Chapter 2251 Government Code and the process whereby payment can be withheld in connection with a disputed invoice. **Effective September 1, 2021 and applies only to a contract entered into on or after that effective date.**

**SB 19** – This bill relates to the prohibition of contracting with companies that discriminate against the firearm or ammunition industries. It applies to certain contracts with a governmental entity. **Effective September 1, 2021. This change in law only applies to a contract entered into on or after the effective date.**

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**SB 2116** – This bill deals with the prohibition regarding agreements with certain foreign-owned companies in connection with critical infrastructure. **Effective June 18, 2021.**

**SB 799** – This bill relates to certain contracting procedures and requirements for certain government entities. Subject to further review, this bill does not appear to apply to MUDs or WCIDs. **Effective September 1, 2021.**

**HB 2116** – This bill relates to liability provisions in certain construction contracts. **Effective September 1, 2021.**

**SB 219** – This bill relates to the responsibility for defects in plans and specifications. **Effective September 1, 2021.**

**HB 3069** – This bill relates to the statutes of limitations and repose and certain claims involving construction of repair of an improvement to real property or equipment attached to real property. **Effective June 14, 2021.**

**HB 2581** – This bill relates to certain civil works projects and other construction projects of governmental entities. **Effective September 1, 2021.**

**SB 997** – This bill deals with procedural requirements for review of a contractual rate charge for furnishing of raw or treated water of water or sewer service. **Effective September 1, 2021.**

### **Miscellaneous Topics**

**HB 1154** – This bill relates to posting of district information when the district does not maintain an internet website. The bill also deals with information to be posted on the district’s website, along with information required on the water bill. **Effective September 1, 2021.**

**SB 3** – This bill relates to preparing for, preventing and responding to weather emergencies and power outages and increasing administrative and civil penalties in connection with same. Although this bill deals primarily with electricity, it includes amendments to the Water Code requiring water providers to develop and implement an emergency preparedness plan and prohibits late fees and disconnection of water service during extreme weather emergencies and further requires the water provider to work with customers on payment plans for unpaid bills due during the extreme weather emergency. Penalties range from \$100 to \$50,000 and the PUC is to establish rules on same. “Extreme Weather Emergency” is defined as a period when the previous day’s highest temperature did not exceed 28 degrees Fahrenheit and the temperature is predicted to remain at or below that level for the next 24 hours according to the National Weather Service. **Effective June 8, 2021.**

**SB 905** – This bill adds a provision in the Health and Safety Code regarding direct potable reuse guidance. Direct potable reuse means the introduction of treated reclaimed municipal wastewater either directly into a public water system or into a raw water supply immediately before the water

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enters a drinking water treatment plant. The bill requires the Commission to develop and make available to the public a regulatory guidance manual to explain Commission rules that apply to direct potable use. **Effective September 1, 2021.**

**HB 4555** – This bill amends the Election Code regarding Application for a Place on the Ballot by persons who have been previously convicted of a felony. **Effective September 1, 2021.**

**SB 1168** – This bill has very limited application and only applies to imposition of a fine or fee in certain areas in the extraterritorial jurisdiction of a city. It only applies to area dis-annexed for a municipality and areas for which the municipality has attempted and failed to obtain consent for annexation. **Effective June 7, 2021.**

**SB 374** – This bill relates to annexation of road rights-of-way by municipalities. **Effective June 14, 2021.**

**HB 2730** – This bill relates to acquisition of real property by eminent domain authority and provides for the relation of easement or right-of-way agents. **Effective January 1, 2022.**

**SB 721** – This bill relates to the disclosure of appraisal reports in connection with use of eminent domain authority. **Effective September 1, 2021.**

**SB 726** – This bill relates to the right to repurchase real property from a condemning entity. **Effective September 1, 2021.**

**SB 1338** – This bill deals with agreements for annexation to a municipality and required disclosures. **Effective September 1, 2021.**

**HB 1905** – This bill deals with regional water planning groups. **Effective September 1, 2021.**

**HB 1514** – This bill deals with administration of unclaimed property in the case of a district, unclaimed property may be in a form of customer deposits. **Effective May 18, 2021.**