



Legislation Text

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Agenda Information Sheet

DEPARTMENT: City Manager's Office

CM/ ACM: John Cabrales, Jr.

Date: December 6, 2016

SUBJECT

Consider approval of a resolution of the City of Denton, Texas, adopting the City of Denton's 2017 State Legislative Program for the 85th Texas Legislature; and providing an effective date.

BACKGROUND

The 85th Regular Session of the Texas Legislature begins January 10, 2017. The proposed 2017 State Legislative Program is provided as Exhibit 1, for your consideration. Our program consists of position statements regarding issues we anticipate the Texas Legislature may consider, based on previous sessions, interim reports, and discussions with our partners and stakeholders. Staff has worked with the Texas Municipal League (TML), the TML Big City group, our legislative consultants, and other cities to identify legislative issues of interest to Denton. These issues primarily relate to state initiatives that could impact city finances, land regulation, regional transportation, utility, and public safety issues. The legislative program gives city representatives the ability to react quickly to proposed legislation, and respond appropriately on behalf of the City.

Each session, the Texas Legislature files a large number of city-related bills, the majority of which propose impediments to the ability of cities to govern from a local perspective. For the 84th Regular Session of the Texas Legislature (2015), legislators filed more than 6,000 bills, and more than 1,600 were city-related. Pre-filing of bills began November 14, 2016, and already the Legislature has filed almost 700 bills (as of November 28). For the last several sessions, legislative leaders have continued to file and support bills that would impose a local revenue cap, lower or broaden the current cap on annual increases in property tax appraisals, enact costly unfunded mandates, or generally erode municipal authority to conduct local affairs.

We do not anticipate the 85th Legislature to be friendly toward municipalities. Last session, bills were filed that sought to eliminate home-rule authority - a more than 100-year constitutional authority granted to cities. According to TML, "home rule is the right of citizens at the grassroots level to manage their own affairs with minimum interference from the state. Home rule assumes that governmental problems should be solved at the lowest possible level, closest to the people. As Denton continues to grow, our legislative exposure continues to increase with potentially greater negative impacts to our budget, and more importantly, on the elected governing body's authority to make decisions and ability to deliver services in the best interest of our citizens.

During the 84th Texas Legislature Interim Session, numerous "interim charges" were given to the legislature by

the Speaker of the House and the Lieutenant Governor to study and report back to the House and Senate members. Typically, these studies identify possible legislative actions and often result in the filing of bills in the next regular legislative session. Several of these interim charges have the potential of impacting the City of Denton, including a report on revenue caps from the Select Committee on Property Tax Reform. In fact, as we enter the 85th legislative session, one of the biggest concerns for cities is that Lt. Governor Dan Patrick has consistently stated publicly that he intends to pass legislation that would impose revenue caps, limiting a municipality's ability to raise adequate revenue to finance essential services for its citizens. In addition, there is always concern the legislature will pass unfunded mandates to local governments as they look for ways to move legislation without having a negative financial impact to the state.

Proposed Legislative Program Revisions

Below are the proposed additions and deletions, as well as a page-by-page overview of revisions that have been made from the 2015 Legislative Program to the 2017 Legislative Program. Of note, the Parks and Recreation Department has requested consideration of a legislative initiative that would enhance funding tools available to the City Council in financing upgrades to local sports facilities or fields, which host regional and statewide sports tournaments. This proposal is fully outlined in Exhibit 2.

Proposed Additions for Consideration:

- *Seek introduction and passage* of legislation that would amend the Tax Code by adding the City of Denton to the bracketed list of municipalities authorized to utilize Hotel Occupancy Tax (HOT) funds for enhancement and upgrading of city-owned and existing sports facilities or fields, which provide significant economic benefit to the community. (p. 12; Details in Exhibit 2 and 3).
- *Oppose* legislation that would erode local control of existing authority and regulations of gas well operations, as articulated in HB 40 (84th Legislature). (p. 13; replacing the 2015 statement of support for retaining municipal authority over oil and gas regulation).
- *Oppose* legislation that will restrict MOUs from building transmission infrastructure outside their service area. (p. 13)
- *Support* legislation that would protect the ability of the City to be adequately compensated for any use of its rights-of-way. (p. 13)
- *Oppose* legislation that would erode the City's authority over the management and control of its rights-of-way. (p. 14)
- *Oppose* any legislation that would erode the City's authority to require utility companies to pay the costs of relocating their facilities in a time manner as required by current law. (p. 14)
- *Support* legislation that would include solid waste collection vehicles, as well as other municipal utility vehicles, into the current Texas Move Over Law (Texas Transportation Code 545.157). (p. 14)
- *Support* legislation that would clarify regulations related to open carry in municipally owned facilities that are contractually operated by non-profit or private entities. (p.15)

- *Support* legislation that would clarify where open carry is prohibited in a municipally owned court office building. (p.15)
- *Support* legislation that would provide a statewide ban on the use of hand-held devices while operating a vehicle, provided more stringent city ordinances are not preempted. (p. 15)
- *Oppose* legislation that would increase state regulation of local ballot language. (p. 15)

Proposed Deletions for Consideration:

- *Support* legislation that clarifies TCEQ's sanitary sewer overflow reporting standards. This item was achieved in the 84th Legislative Session.
- *Oppose* legislation that would allow open-carry firearms in municipally-owned facilities. The State Legislature passed HB 910 permitting open-carry in municipally-owned facilities.
- “*Support* legislation that would clarify that the state's vested rights law does not apply to subsurface mineral development as it relates to permits issued by the municipality for oil and gas development activities.”
HB 40 was enacted by the legislature limiting municipalities' regulatory authority related to oil and gas operations. This statement has been deleted from the Priority Legislative Agenda, as has the accompanying white paper.
- *Support* the preservation of municipal authority to reduce the effects of oil and gas development on city residents.

This item has been replaced with the statement regarding municipal authority following HB 40 enactment.

Page-by-Page Revisions

Page 3, City of Denton Council Members page has been updated with the new council headshots. The Council district map has been updated.

Page 4, City of Denton Management contact information has been updated to reflect staff transitions.

Page 6, the General Legislative Policy page has revised formatting, order of information, and some redundancy has been eliminated.

Page 7, Priority Legislative Agenda, updated revenue cap statement to more specifically reflect expected legislation. Eliminated position statement related to oil and gas development and vested rights (see Proposed Deletions for Consideration). HB 40 was enacted by the legislature limiting municipalities' regulatory authority related to oil and gas operations. This position statement is thus unnecessary for the 85th Legislature. The wording on the DME statements was revised minimally, but the content remains the same.

Page 8, Preserve Local Budgeting Authority and Revenue Sources, slightly updated language with no substantive changes.

Pages 10-11, Preserve Community Ownership and Operation of Denton Municipal Electric, this headline was updated. Only minor revisions to the language, with updates to reflect recent changes to the energy portfolio and the current state legislative environment.

Pages 12-13, General Legislative Agenda, Revenue and Taxation includes HOT Funds legislative proposal, but otherwise no substantive changes to the language. Land Use Resources statements updated by Legal to be more comprehensive, but content remains the same. Moved the statement regarding relocation of utility company facilities under Utilities. Refer to Proposed Additions and Proposed Deletions for Consideration above for additional information.

Pages 13-16, General Legislative Agenda continued, two new position statements added by legal for consideration regarding public rights-of-way; one new position added regarding public safety Association Business Leave. Otherwise has only minor revisions to language without substantive changes. Refer to Proposed Additions and Proposed Deletions for Consideration above for additional information.

PRIOR ACTION/REVIEW (Council, Boards, Commissions)

December 16, 2014 - The City Council considered and approved Resolution 2014-044 adopting the City of Denton's 2015 Legislative Program for the 84th Texas Legislature.

FISCAL INFORMATION N/A

STRATEGIC PLAN RELATIONSHIP

The City of Denton's Strategic Plan is an action-oriented road map that will help the City achieve its vision. The foundation for the plan is the five long-term Key Focus Areas (KFA): Organizational Excellence; Public Infrastructure; Economic Development; Safe, Livable, and Family-Friendly Community; and Sustainability and Environmental Stewardship. While individual items may support multiple KFAs, this specific City Council agenda item contributes most directly to the following KFA and goal:

Related Key Focus Area: **Organizational Excellence**

Related Goal: **1.6 Collaborate with local, regional, state, and federal partners**

EXHIBITS

1. Proposed 2017 State Legislative Program
2. HOT Fund Legislative Proposal White Paper
3. Tax Code 351.101 in reference to the HOT Fund Legislative Proposal
4. Resolution for consideration to approve the 2017 State Legislative Program

Respectfully submitted:

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