

State Legislative Agenda for the 80th Session

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The submitted proposals have been initially grouped, pending Council approval, into two general categories: (1) a priority grouping meaning the city will take the lead in seeking introduction and passage of legislation, and (2) a support grouping indicating the city will actively assist in the passage of the legislation if drafted and introduced by another entity. Within each grouping the items have been listed alphabetically and are in no particular order of priority.

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Priority Items



Boot/Tow Eligibility Criteria & Vehicle Registration

Proposal

To broaden the criteria for Boot/Tow eligibility regarding delinquent parking tickets to allow vehicles with \$100 or more in tickets to be towed, withhold vehicle registration for delinquent tickets and provide for registration and issuance of vehicle plates to follow the individual.

Background

The Texas Transportation Code currently allows a vehicle to be booted for a single unpaid parking ticket, but only allows a vehicle to be towed if it has three or more delinquent tickets in a calendar year, and allows counties to hold vehicular registration if the owner of the vehicle has an outstanding warrant for a traffic violation. However, it does not provide this authority for delinquent parking tickets. Based on the towing restriction, current city code was approved to boot and tow vehicles for unpaid parking tickets only if they have three or more tickets in a calendar year. Current law limits the number of vehicles that are eligible to be booted/towed to only about 1600 per year which reduces the effectiveness of the City's boot program to encourage payment of parking tickets. The City's Parking Review Task Force recently conducted a comprehensive review of collection strategies for parking tickets and identified aggressive booting programs as one of the most effective programs for collecting unpaid tickets. Additionally, city staff met with the Dallas County Tax Assessor-Collector and he expressed a willingness to partner with the city on a registration program.

Action

To amend the Texas Transportation Code to allow vehicles with \$100 or more in delinquent parking tickets to be booted and towed. Additionally amending the code to provide the issuance of vehicle plates to follow the individual will enable counties to hold vehicular registration for delinquent parking tickets, as well as provide for the collection of an administrative fee to cover the expenses associated with the program.

Impact

Increasing the number of boot/tow eligible vehicles, in combination with vehicle registration hold and vehicle plate issuance to follow the individual, will help the City improve the collection rate for parking tickets to 80% or higher and improve citizen compliance with parking regulations. This is extremely important in the City's efforts to encourage downtown shopping and economic growth. The inability to find convenient parking is a significant disincentive to those who might otherwise choose to visit downtown.

Proposal

To increase the penalty for the offense of Burglary of Vehicles, Penal Code 30.04, to a State Jail Felony.

Background

In 1993 the penalty grade for the offense of Burglary of Vehicles was reduced to a class A misdemeanor. In the following ten years these types of offenses have increased approximately 39% in the city of Dallas. During the 2003 calendar year there were 30,127 Burglary of Vehicle offenses in the city. The lower penalty grade is resulting in shorter sentences for convicted persons.

Action

To increase the penalty grade for Burglary of Vehicles to a State Jail Felony.

Impact

The increased penalty will result in longer sentences for convicted persons and create a greater deterrent effect.

Dallas Port Authority and Rail Line from Dallas to Houston

Proposal

To amend current law to allow an inland port, such as Dallas, to be considered a Port Authority, and to upgrade rail facilities from Houston to Dallas.

Background

The City of Dallas, along with Dallas County, and the cities of Balch Springs, Cedar Hill, Desoto, Duncanville, Lancaster, Mesquite and Seagoville, have committed to developing an intermodal hub/inland port in the Southern section of Dallas County. To provide greater value-added service to the shipping and logistics industries (thereby increasing the potential employment and economic development opportunities.), upgrading the rail service and creating a state-recognized Dallas Port Authority is necessary. Houston is the state's busiest port; receiving 1.4 million twenty foot equivalent units (TEU) annually. The Port of Houston and the Port of Dallas have signed a MOU signifying the two entities' desire to work together, and upgraded rail service between Houston and Dallas. Establishing Dallas as a Port Authority will provide a coordinating entity for the Dallas Inland Port and allow the Port Authority to enter into agreements with other organizations.

Action

To amend current law to allow an inland port, such as Dallas, to be considered a Port Authority. Also, to include upgraded rail connections between Dallas and Houston in the State Rail Plan.

Impact

A port authority designation will allow additional services at the Dallas inland Port, which will lead to more economic development and employment opportunities. Upgrading rail facilities from Houston to Dallas will increase rail service from the two cities and will supply more containers for processing at the Dallas inland port. It will provide greater economic impact for the region.

Proposal

To pass legislation establishing public higher education institutions in Dallas including the University of North Texas Law School, which will be located in the Old Municipal Building in Downtown Dallas, as well as a pharmacy school.

Background

This will be the first public law school in the City of Dallas. Downtown is currently undergoing tremendous renovation and the first public law school in Dallas would be the anchor in the Harwood Historic District. The City has substantial funds available for renovations of the Old Municipal building. All City operations currently being conducted in the building will be moved into a new courts facility east of the building. An exhibit will be built underneath the building to display the site where Lee Harvey Oswald was shot.

The establishment of the first pharmacy school in Dallas will provide another mechanism to attract one of the faster growing fields across the nation. Pharmacists are needed in both community pharmacies, hospitals and other clinics. Currently there are five pharmacy schools in the state, located in Amarillo, Austin, Kingsville, and Houston. This addition will strategically place a pharmacy school in a region lacking this type of school, as well as close proximity to some of the finest teaching hospitals.

Action

To pass legislation establishing the University of North Texas Law School, the first public law school in the City of Dallas as well as a pharmacy school.

Impact

The need for higher education throughout the State of Texas continues to be an issue, particularly as the State continues to grow. Establishing these institutions of higher education will provide for the opportunity to increase the number of universities which provide schooling in critical fields. In addition, these institutions will attract more individuals to an urban area and assist in growth and education of the region.

May 10, 2006

WHEREAS, legislation continues to be proposed by the Texas Legislature imposing revenue caps and appraisal caps on local governments; and

WHEREAS, local governments in North Texas need to act cooperatively on a regional basis to address important issues such as transportation, water delivery, and economic development; and

WHEREAS, the myriad of differing taxing systems used by North Texas cities with some cities opting for transportation funding, some opting for economic development, and others using available taxes for special districts makes a cooperative and unified effort on behalf of the region very difficult; and

WHEREAS, even if appraisal caps or revenue caps are structured by the Texas Legislature as "local option," this patchwork system of differing property tax structures among North Texas cities and counties will further exacerbate the efforts to act cooperatively and in the best interest of over five million citizens; and

WHEREAS, a study by the Texas Municipal League reveals that in 2002, 60.1% of the property tax distribution comes from school district taxes, compared to 15.3% from cities; and

WHEREAS, lowering the existing appraisal cap from its current limit of 10% to the proposed local option of 5% will not address school finance issues which stem from enormous school property taxes; and

WHEREAS, studies show that tax caps of any form prove to be detrimental to cities because they limit a city's ability to prepare and respond to change such as demographic shifts, industrial development, and more importantly emergency situations such as Hurricane Katrina or Rita; and

WHEREAS, economic studies show that property and revenue caps are regressive and therefore inequitable, affecting lower income neighborhoods more heavily while subsidizing upper income areas, ultimately creating a larger economic gap among communities while distorting market outcomes; and

WHEREAS, State law affords voters control over local property tax rates through regularly held City Council elections and meetings; and

WHEREAS, the City of Dallas welcomed the passage of S.B. 18 during the Regular Session of the 79th Legislature that strengthens the "Truth-in-Taxation" requirements and allows cities to communicate more effectively with their citizens; and

WHEREAS, the City of Dallas is the ninth largest city in the United States with approximately 1.2 million residents; and

APPROVED _____ APPROVED _____ APPROVED _____
HEAD OF DEPARTMENT CITY CONTROLLER CITY MANAGER

May 10, 2006

WHEREAS, the City of Dallas and Texas cities rely on tax revenue to build basic infrastructure, to ensure public safety through police and fire departments, and to provide numerous essential services for city residents; and

WHEREAS, economic development is spurred through new business investment within our communities that stems from attractive tax incentives; and

WHEREAS, appraisal and revenue caps severely hurt the economic vitality of local governments and prohibit cities from preparing for and accommodating future population growth by decreasing revenue and negatively impacting city services; and

WHEREAS, similar initiatives in California and Florida have had harsh consequences, resulting in decreased real estate activity and imposing greater financial burdens on new home buyers; and

WHEREAS, the City of Dallas opposes any legislation, such as appraisal and revenue caps, that has been proven to be inequitable for citizens and attempts to place a Band-Aid on an issue, such as School Finance, instead of fixing the problem so that all Texas children are afforded a well-rounded education.

**NOW THEREFORE,
BE IT RESOLVED BY THE CITY COUNCIL OF THE CITY OF DALLAS, TEXAS:**

Section 1. That the governing body of the City of Dallas, Texas opposes all efforts by the Texas Legislature that negatively impact the ability of the City to provide essential services, encourage economic growth, and cooperate on a regional basis with other local governments on issues such as transportation and water delivery.

Section 2. That this recommendation be communicated to Members of the Texas Legislature.

Section 3. That this resolution shall take effect immediately from and after its passage in accordance with the provisions of the Charter of the City of Dallas and it is accordingly so resolved.

APPROVED BY
CITY COUNCIL

MAY 10 2006

Deborah Wittoria
City Secretary

APPROVED *S. Gird* HEAD OF DEPARTMENT APPROVED *Bill Simeola* CITY CONTROLLER APPROVED *M. Saha* CITY MANAGER

Proposal

To amend Occupations Code Chapter 455, Massage Therapy State Law impacting massage parlor establishments. The proposed amendments to this law will allow law enforcement to more effectively regulate practice and procedures of Dallas massage parlors.

Background

Text used to define Occupation Code Chapter 455 did not efficiently provide jurisdiction over the procedure of massage parlors. To what degree an owner and operator is responsible for the massage services is currently not well defined in Texas state law. HB 2696, passed in the 79th Session, restricts massage parlors from employing any person who is not a licensed massage therapist. This was passed so that only legal resident aliens and U.S citizens would be eligible to be licensed. Since this was passed into law and enforcement efforts began, it has become apparent there is still a need to further prevent illegal actions from occurring at some massage parlors in Texas.

Action

To amend Occupations Code Chapter 455, Massage Therapy State Law impacting massage parlor establishments. This amendment will allow law enforcement to more effectively regulate the practice and procedures of Dallas massage parlors. It will define owner and operator to be:

- a) "Owner" of massage parlors would now be defined as: an individual, corporation, partnership, or unincorporated association or other entity in whose name or in whose assumed name a certificate of occupancy has been issued by a municipality for a massage establishment or massage school and any individuals or entities having effective control over the person named in such certificate, or; an individual, corporation, partnership, or unincorporated association or other entity that operates a massage establishment or massage school under a lease, an operating agreement or any other verbal or written arrangement, agreement, understanding, course of dealing, or practice.
- b) "Operator" means the person who is supervising the massage establishment or massage school at the time the establishment or massage school at the time the establishment is inspected or when a violation of this chapter occurs. If no person is the supervisor, then any employee, contractor or other agent of an absent owner who is present at the massage establishment or massage school is the operator.

This amendment will also clarify violations (b)(3) thru (b)(5) committed by massage parlor establishments to make available to law enforcement on request the information kept as provided by Subsection (c)(1). Courts will be given stronger jurisdiction over licensing requirements authority.

Impact

This amendment will further clarify Occupations Code Chapter 455 allowing law enforcement to more effectively regulate the practice and procedures of Texas massage parlors. It will further define who is to

be held accountable for the establishment at the time of investigation, and allow police officers to legally obtain information on the licensing and regulations of the establishment.



Proposal

To address the issues confronting a growing number of ex-offenders being released from the penal system.

Background

Over 600,000 people are now being released from prisons each year. Many suffer from a variety of serious difficulties as they attempt to reenter society. Among the most challenging situations they face is that of reentry into the labor market. Employment rates and earnings of ex-offenders are low by almost any standard—though in most cases they were fairly low even before incarceration. Low employment rates seem closely related to the very high recidivism rates observed among those released from prison.

In 2002, the Texas Department of Criminal Justice released 58,949 people from prisons and state jails across the state, nearly six times the number of prisoners released in 1980. Texas alone, with one of the largest prison populations in the country, accounts for almost 10 percent of all prisoners released from state and federal prisons nationwide each year. The sheer number of prisoners released annually, along with a growing appreciation for the substantial challenges that ex-prisoners face as they reenter society, has brought prisoner reentry—both in Texas and nationwide—to the forefront of the public agenda.

In Dallas County, 700 persons per month are released into the area from the penal systems. These persons face their own unique challenges and are further hampered by the inability to obtain employment, housing, as well as a lack of support systems and resources.

Because of these barriers, any rehabilitation efforts undertaken in the penal system are overwhelmed and results in increased recidivism. This results in a costly revolving door process for local governments as well as state and federal governments.

Recent findings from the Urban Institute on Employment and Reentry state the following:

- While prisoners believe having a job is an important factor in staying out of prison, few have a job lined up after release.
 - Despite the need for employment assistance, few prisoners receive employment-related training in prison.
 - Participation in work release jobs in prison may have a positive impact on the likelihood of finding full-time employment after release.
 - Case-managed reentry services may increase the likelihood of finding and maintaining employment after release from prison.
 - Participation in outpatient substance abuse treatment is associated with full-time employment.
 - Prisoners who do find work after release do not necessarily have full-time or consistent employment.
 - Transportation is a significant barrier to employment.
 - Finding and maintaining employment may reduce recidivism.
-

- The majority of prisoners believe that having a stable place to live is important to successful reentry. Those with no housing arrangements believe that they will need help finding a place to live after release.
- The majority of returning prisoners live with family members and/or intimate partners upon release.
- Many former prisoners return home to living arrangements that are only temporary.
- Housing options for returning prisoners who do not stay with family members or friends are extremely limited.
- Practitioners and researchers agree that there are few evidence-based reentry housing programs that target returning prisoners with mental illness.
- A majority of prisoners have extensive substance use histories.
- Prisoners identify drug use as the primary cause of many of their past and current problems.
- Despite high levels of drug use, relatively few prisoners receive drug treatment while incarcerated.
- Consensus in the field holds that individualized in-prison treatment in concert with community-based aftercare can reduce substance use and dependency.
- Participation in A/A and N/A treatment after release is associated with reductions in substance use among offenders.
- Those with substance use histories and those who engage in substance use after release are at a high risk to recidivate.

Recommendation:

The recommendation is to work with state and county governments to:

- Expand education, training, and work experience during incarceration.
- Provide more funds at both the state and local level to help former prisoners return successfully to society.
- Set an aggressive evaluation agenda of school, employment, and other programs for young offenders.

Action

To make recommendations which will address the issues confronting the growing number of ex-offenders being released from the penal system.

Impact

Programs that focus on education, job skills, substance abuse, and mental health issues should result in a marked reduction in the number of homeless ex-prisoners and former prisoners seeking public assistance and a reduction in the recidivism rate. Additionally, this should provide for a more viable workforce and stabilization of families.

Public Recording of Real Property Sale Prices

Proposal

To publicly record all real property sale prices.

Background

Currently, real property sale prices are not publicly recorded. Because this information is unavailable, it is difficult for appraisal districts to fairly and accurately determine the market value of many properties. The result is that a greater share of the tax burden shifts to the middle-income homeowner as a result of other properties being undervalued. Texas is one of only five states within the nation that does not require mandatory sales price disclosure.

Action

To amend current law to require the public recording of all real property sale prices.

Impact

Appraisal values of real property will become more accurate. The tax burden on all taxpayers will be more evenly and equitably distributed throughout the state.

Proposal

To pass legislation exempting an amount equal to the locally authorized transit sales tax from the 2% local sales tax cap in the 9 counties of North Texas that are designated by the Environmental Protection Agency as “non-attainment” for federal air quality standards.

Background

Under current law, the combination of all locally imposed sales taxes may not exceed 2% in any given jurisdiction. In large urban areas such as the Dallas/Fort Worth Metroplex, this poses serious impediments to regional cooperation as some jurisdictions use their available sales tax authority on transportation matters while others may choose to levy the tax for economic development or crime control. The sales tax cap penalizes the cities who have chosen to fund mass transit needs by leaving them at a competitive disadvantage in areas such as job growth and business recruitment, and ties the hands of the cities who have chosen to create such entities as 4A/4B corporations or crime control districts by disallowing the funding of mass transit needs.

Action

To pass legislation exempting an amount equal to the locally authorized transit sales tax from the 2% local sales tax cap in the 9 counties of North Texas that are designated by the Environmental Protection Agency as “non-attainment” for federal air quality standards.

Impact

The best approach to achieving the goal of providing additional funding capacity to expand rapid transit in the region is by exempting an amount equal to the locally authorized metropolitan transit sales tax from the 2% sales tax cap. Exempting the transit sales tax will also allow current transit member cities to have capacity available for 4A/4B or other purposes such as crime control districts. Among the existing transit authorities in the region – DART, The T and DCTA – there exists expertise and evidence of cooperation on current and future rail projects that demonstrates their ability to successfully expand rail transit in the region. This proposal will ensure that the quality of life remains high in the region and our economy continues to prosper as the population continues to grow toward eight million in the very near future.

Proposal

To work in conjunction with state and other cities' initiatives to extend the child safety zone for registered sex offenders from 500 ft to 1,000 ft.

Background

Texas Government Code § § 508.225 grants the Parole Division of the Texas Department of Criminal Justice the authority to establish policies and procedures regarding the release of individuals for parole. The Board of Pardons and Paroles imposed a child safety zone for all offenders serving a sentence for an offense listed below and whose victim was a child under the age of 17 years. The child safety zone designation is 500 feet and prohibits offenders from being with the aforementioned distance of an area where children commonly gather.

Applicable Penal Code section:

1. 43.2 Sexual Performance by a Child
2. 43.26 Possession or Promotion of Child
3. 21.11 Indecency with a child
4. 22.011 Sexual Assault
5. 22.021 Aggravated Sexual Assault
6. 25.02 Prohibited Sexual Conduct (formally known as incest)
7. 20.04(a)(4) Aggravated Kidnapping with Intent to Violate or Abuse Sexually
8. 30.02(d) Burglary of the Habitation with the Intent to Commit any of the above offenses

Action

To work in conjunction with state and other cities' initiatives to extend the child safety zone for registered sex offenders from 500 ft to 1,000 ft.

Impact

Expanding the child safety zone will increase the safety of children, and help prevent sex offenders from being in an area that children under the age of 17 years gather.

Proposal

To establish state sobriety checkpoint guidelines, and give local governments the ability to establish sobriety checkpoints within their jurisdiction.

Background

Dallas County is the second worst county in the nation for alcohol-related fatalities per 100,000 citizens. Furthermore, each year more Texans die in alcohol-related crashes than any other state. According to the National Highway Traffic Safety Administration, establishing sobriety check points enhances the visibility of overall impaired-driving enforcement efforts and contributes significantly to general and specific deterrence. Additionally, in 39 states where checkpoints are used, a reduction in alcohol-related deaths and accidents has been notably reduced.

Although the U.S. Supreme court confirmed the constitutionality of sobriety check points in 1990, the Texas Court of Criminal Appeals declared sobriety check points to be unconstitutional in Texas unless the state drafts guidelines.

Action

To establish state sobriety checkpoint guidelines, and give local governments the ability to establish sobriety checkpoints within their jurisdiction.

Impact

The use of sobriety checkpoints within Dallas County will provide a critical tool needed to reduce impaired driving and save lives in our communities. The checkpoints would serve as a deterrent to irresponsible drinking and driving.

Proposal

To modify the State Land Bank statute to exempt lots owned by the Land Bank from property taxes; shorten the delinquent tax eligibility period for sale of lots to the Land Bank from 6 consecutive years to 5 total years; raise income limits for subsequent homeowners; reduce the period during which the right of first refusal may be exercised by a qualified organization to 6 months; and to exempt the Land Bank from responsibility for solid waste release under the Health and Safety Code.

Background

The Land Bank has been in operation since January 2004. The experience gained during this time and the change in focus for the City's single family development programs has highlighted the need for statutory changes.

- Taxes: Property held by the Land Bank will be subject to ad valorem taxes. Although the actual owner is a nonprofit, the funding for costs including taxes comes from the city.
- Lot Eligibility: Under the statute, lots are eligible for sale to the Land bank if they are foreclosed following 6 consecutive years of delinquent taxes. Although still subject to foreclosure, payment of just one of the 6 years renders the property ineligible for the Land Bank.
- Homeowner Eligibility: Land Bank property must be developed for households with gross income not greater than 80% of HUD area median family income (AMFI) with at least 25% of the properties to be developed for households with gross income not greater than 60% AMFI. We are recommending that these requirements be changed from 80% to 140% of AMFI overall, and with at least 20% at 60% AMFI.
- Right of First Refusal: Under the statute qualified organizations have at least 9 months from the date of deed conveyance of the property to the land bank to express the right of refusal. We are recommending that the period be reduce to 6 months which would coincide with the right of redemption period allowed under the tax-foreclosure statute.

Health and Safety Code Exemption: As an owner of property, even for a short time, the Land Bank would be subject to the solid waste release responsibilities of the Health and Safety Code. The Land Bank will meet environmental standards that will eliminate solid waste release concerns and is acquiring property for resale not intended to trigger environmental concerns.

Action

To modify the State Land Bank statute to exempt lots owned by the Land Bank from property taxes; shorten the delinquent tax eligibility period for sale of lots to the Land Bank from 6 consecutive years to 5 total years; raise income limits for subsequent homeowners; reduce the period during which the right of first refusal may be exercised by a qualified organization to 6 months; and to exempt the Land Bank from responsibility for solid waste release under the Health and Safety Code.

Impact

This will provide greater ability to increase the number of properties available through the Land Bank and expanded homeowner eligibility requirements for eligibility will provide additional qualified homebuyers for the affordable housing stock to the market.

Proposal

To Support Dallas' water supply strategies as identified by the Texas Water Development Board (TWDB) and included in the 2007 State Water Plan.

Background

The 75th Texas Legislature passed Senate Bill 1 (SB 1) relating to the development and management of the water resources of the state. The law enacted by SB 1 requires the development of a State Water Plan every five years that addresses the future development and the management strategies for the use of water supplies. The State Water Plan must be composed of regional water plans developed by designated regional area planning boards and approved by the TWDB. The intent of the State Water Plan process is to ensure the orderly development, management, and conservation of water resources and preparation for and response to drought conditions, in order that sufficient water will be available at a reasonable cost to ensure public health, safety, and welfare; further economic development; and protect the agricultural and natural resources of the entire State. The State Water Plan will identify actions to be taken in order to meet local water needs during a drought of record and over the next 50 years. The State Water Plan is being developed by the TWDB for submission to the Texas Legislature in January 2007.

Current Texas Water Code Section 16.051(f) "State Water Plan" provides that the legislature may designate a river or stream segment of unique ecological value. This designation solely means that a state agency or political subdivision of the state may not finance the actual construction of a reservoir in a specific river or stream segment designated by the legislature under 16.051(f). Designation of a proposed reservoir site as a river or stream segment of unique ecological value would prevent a state agency or political subdivision of the state from obtaining state funding or financing a water reservoir which could effectively eliminate the water supply option from serious consideration.

The regional and state water planning process is beneficial to the citizens of Texas in that it provides for the orderly identification and development of water management strategies to meet a community's long range water supply needs.

Action

To support legislation endorsing Dallas' water management strategies as included in the Adopted 2006 Region C Water Plan and the 2007 State Water Plan. Also, oppose legislative bills which if passed into law would circumvent the implementation of the water supply strategies such as the designation of sites as rivers or streams of unique ecological significance which have been identified by DWU as future reservoirs sites.

Impact

The Legislature's support of the 2007 State Water Plan will help ensure that Dallas can implement long range water supply plans to ensure an adequate supply of water to meet the future needs of Dallas' citizens and surrounding consumer cities.

Proposal

To oppose any efforts to involuntarily modify existing water rights to environmental flows.

Background

“Environmental flows” commonly refers to the amount of water needed in rivers, streams, and coastal areas to support fish and wildlife populations. Within this broader context, “instream flows” refer to the water needs of these populations in and along our surface waterways while “freshwater inflows” help maintain healthy and productive coastal bays and estuaries.

Prior to 1967, different laws governed the use of surface waters, often leading to conflicting water rights claims. In 1967, the Texas Legislature passed the Water Rights Adjudication Act. This Act required all water users to file a claim with the Texas Water Commission, a predecessor agency to the Texas Commission on Environmental Quality. Through an adjudicatory process, all claims were quantified, prioritized and converted to a prior appropriative right. Certificates were issued for approved claims. Each certificate was assigned a priority date, indicating the time when the water use first occurred.

The Water Rights Adjudication Act did not specifically address environmental flow rights as part of the water rights permit process. It was not until 1985 that the Texas Legislature acted to reconcile these rights in the Texas prior appropriation system. This was accomplished in two ways. First, a specific amount of water was statutorily reserved to fulfill estuary freshwater inflow needs. The second method for integrating instream flow protection in Texas has been through the water permitting process. Any new or amended water permit that would adversely impact instream uses and freshwater inflows could be denied, or have limitations attached to it. However, full appropriation of many river basins occurred prior to 1985 without instream flow restrictions, therefore few permits carry these new restrictions. According to the TCEQ very little water remains for instream flows.

In 2003, the 78th Texas Legislature passed SB 1639, relating to the waters of the state. The bill included a section on policy regarding waters of the state, and established the Study Commission on Water for Environmental Flows. The Study Commission was charged with conducting public hearings and studying public policy implications for balancing the demands on the water resources of the state resulting from a growing population with the requirements of the riverine, bay and estuary systems including the granting of permits for instream flows dedicated to environmental needs or bay and estuary inflows. The bill also contained a provision stating the TCEQ could not issue a (stand-alone) new permit for instream flows or for freshwater inflows to the estuaries until after September 1, 2005.

Senate Bill 3 was introduced during the 79th Texas Legislative Session which included a proposal to address environmental flow issues in the state’s major river basin and bay systems. The proposal included the creation of an Environmental Flows Commission, Environmental Flows Science Advisory Committee, and Basin and Bay Area Stakeholders Committee. With public participation, these groups would have been charged with establishing an environmental flow regime to be utilized by the TCEQ in establishing environmental flow standards for each river basin and bay system of Texas. SB 3 included proposed amendments to the Texas Water Code to address methods by which reasonable amounts of existing water

rights may be converted temporarily or permanently to environmental flow use. Under the proposal, any permit for a new appropriation of water or an amendment to an existing water right that increases the amount of water authorized must include a provision allowing the TCEQ to automatically adjust the conditions included in the water right to provide for protection of instream flows or freshwater inflows. The bill allowed for an adjustment of up to 12.5% for environmental flows. SB 3 did not pass into law.

On October 28, 2005, Governor Rick Perry issued Executive Order RP-50 establishing the Environmental Flows Advisory Committee to examine issues relating to protection of instream flows and freshwater inflows for the state's rivers, lakes, bays, and estuaries. Specifically, the charge of the committee is to develop recommendations to establish a process that will achieve a consensus-based, regional approach to integrate environmental flow protection into the water rights allocation process to ensure that water needs of humans are satisfied. It is anticipated that the Advisory Committee will examine between two and four major river and bay systems during its tenure, which should provide a basis for legislative recommendations in the 2007 regular session of the Texas Legislature. The Advisory Committee will submit a report with findings and legislative recommendations to the Governor, Lieutenant Governor, and Speaker of the House of Representatives by Dec. 31, 2006. Unless extended, the executive order establishing the advisory committee will expire on Sept. 1, 2007.

Action

To oppose all legislation which would provide for the involuntary conversion of existing water rights to environmental flows. Ensure that existing (i.e., municipal, domestic, irrigation, industrial, recreation, etc.) water supply needs are met before environmental flows are satisfied.

Impact

The City of Dallas, after many years of planning and at great expense, has created one of the most reliable water delivery and storage systems in the state. The long term water supply of the Dallas area could be jeopardized if the City loses existing water rights.

Exempt Water Systems from Environmental Damages

Proposal

To exempt water systems from TCEQ enforcement action due to treated water discharges related to water main breaks; and from any environmental damages which were caused by the water main breaks.

Background

Dallas Water Utilities (DWU) has an extensive water distribution system which includes over 4,700 miles of water mains of various ages. Most mains have been in place for a number of years. DWU is proactively working to assuage the frequency of water main breaks by increasing funding of water main replacement projects, funding a water main leak detection and repair program which is equipped with 22 repair crews dedicated to fixing water main breaks and leaks throughout the city.

Dallas has received a notice of violation from the TCEQ related to a water main break overflow which resulted in a fish kill. Any damage was immediately rectified; however, Dallas was still found to be in violation of Texas Water Code Section 26.121 "Unauthorized Discharges Prohibited" which states that except as authorized by the TCEQ, no person may:

- (1) Discharge sewage, municipal waste, recreational waste, agricultural waste, or industrial waste into or adjacent to any water in the state;
- (2) Discharge other waste into or adjacent to any water in the state which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the discharge complies with a person's:
 - (A) Certified water quality management plan approved by the State Soil and Water Conservation Board as provided by Section 201.026, Agriculture Code; or
 - (B) Water pollution and abatement plan approved by the commission; or
- (3) Commit any other act or engage in any other activity which in itself or in conjunction with any other discharge or activity causes, continues to cause, or will cause pollution of any of the water in the state, unless the activity is under the jurisdiction of the Parks and Wildlife Department, the General Land Office, the Department of Agriculture, or the Railroad Commission of Texas, in which case this subdivision does not apply.

Texas Water Code Section 26.001 "Definitions" defines "Waste" to include sewage, industrial waste, municipal waste, recreational waste, agricultural waste, or other waste, as defined in this Section 26.001.

Action

To support legislation which would exempt water discharges associated with water main breaks from enforcement action.

Impact

If the law is not changed, Dallas will continue to receive notices of violation from TCEQ and be assessed fines and damages related to discharges associated with water main breaks.

Financial Support for Water Conservation

Proposal

To have the Texas Legislature embrace and financially support water conservation strategies identified by the Texas Water Development Board and included in the 2007 State Water Plan. Adequate state funding to implement water conservation initiatives should be provided by the State to the water supply entities.

Background

Dallas recognizes that conservation is a very critical element to meeting the State's and Dallas' long-term water needs. As such, Dallas enacted an expanded Water Conservation Program in 2001. The program's objective is to facilitate the continuation of the orderly growth of the city by ensuring an adequate water supply and economical water rates. This will be accomplished through education and outreach, financial incentives to water conservation, and code enforcement. The goal of the program is to reduce the rate of growth of peak day water consumption by 5% over calendar years 2005 through 2010.

Water Conservation is also listed in Dallas' 2005 Update to the Long Range Water Supply Plan and the 2006 Region C Water Plan as one of Dallas' water management strategies.

Action

To support legislation endorsing Dallas' water conservation strategies as included in the 2006 Region C Water Plan and the 2007 State Water Plan.

Impact

Support of water conservation initiatives by the State will ensure the viability of the initiatives and could help ensure the availability of future water supply to help meet Dallas' long range water supply needs.

Proposal

To amend current state law to require interbasin transfer water rights to have the same priority date as the original water right.

Background

A “water right” is a right acquired from Texas, under state law, to impound, divert or use state water. The priority of a water right is based upon the “first in time, first in right” principle, which means that senior water rights have the first call on any available water. When available water is not sufficient to fulfill all water right obligations, a more junior water right may not be honored. Therefore, junior water rights are not as valuable as senior water rights.

There are 23 major river basins in Texas. Dallas is located in the Trinity River Basin and currently has water rights (contractual or otherwise) in the Trinity, Sabine and Neches River Basins. To meet Dallas’ long range water supply needs, additional water rights and supplies must be acquired. Some of these future supplies will have to be transferred from other river basins to the Trinity for Dallas’ use. Such a transfer of water from one river basin to another river basin is termed an “interbasin transfer”.

The 75th Texas Legislature passed Senate Bill 1 (SB 1) in 1997 relating to the development and management of the water resources of the State which impacts new requests for interbasin transfer water rights. Texas Water Code Section 11.085 “Interbasin Transfers” was changed to state that any new interbasin transfer water right granted after SB1 is junior in priority to existing water rights in the river basin. The requirements for interbasin transfers do not apply to:

- (1) A transfer which in combination with any existing transfer totals less than 3,000 acre-feet of water per year from the same water right;
- (2) A request for an emergency transfer of water;
- (3) A transfer to an adjoining coastal basin;
- (4) A transfer from a basin to a county or municipality or the municipality's retail service area that is partially within the basin for use in that part of the county or municipality and the municipality's retail service area not within the basin.

Action

To amend current state law to require interbasin transfer water rights to have the same priority date as the original water right.

Impact

A change in the current state law as proposed would allow Dallas to obtain water rights in other river basins without the right becoming junior to other water rights issued in the basin, and thus of lesser value. This will ensure that an interbasin transfer water right has the same priority date as the original water right and improve the likelihood of Dallas being able to take water when needed.

Proposal

To protect existing multiuse water rights from emergency reauthorization for use by others.

Background

The 75th Texas Legislature passed Senate Bill 1 (SB 1) relating to the development and management of the water resources of the State. Senate Bill 1 amended Texas Water Code Section 11.139 "Emergency Authorizations" to authorize the Texas Commission on Environmental Quality (TCEQ) to grant emergency water use permits for the temporary transfer and use of all or part of a water right to a retail or wholesale water supplier for public health and safety reasons. Transfer authorizations only apply to transfers of water whose authorized use is designated for non-municipal or non-domestic uses. Emergency authorizations are effective for an initial period of 120 days with the possibility of extension for an additional 60 days. The TCEQ will reallocate the water from two or more existing water rights held by others for use by the requesting water suppliers. These authorizations may be granted without notice and hearing. If an emergency authorization is granted without a hearing, the TCEQ will conduct the hearing that is required to be held within twenty days after the emergency authorization is granted. The retail or wholesale water supplier granted an emergency authorization is liable to the water right owner and the owner's agent or lessee from whom the use is transferred for the fair market value of the water transferred and for any damages caused by the transfer of use. Section 11.139 of the Texas Water Code allows for the filing of complaints, complaint resolution, legal proceedings, and attorneys fees for disagreements on compensation that may arise because of a transfer of use.

The Texas Water Code does not address how the emergency authorization statute relates to an appropriation of a single amount of water which is allocated for multiple purposes of use.

Dallas has multiuse water rights in Lake Ray Hubbard, Lake Grapevine, Lake Ray Roberts and White Rock Lake. Dallas has also made application to the TCEQ for multiuse water rights in Lake Lewisville and modifications to multiuse water rights in Lake Ray Roberts.

Action

To amend state law to clarify that when a water right includes a single amount of water permitted for multiple purposes of use which include municipal and/or domestic use, and not subject to emergency authorization for use by other water suppliers.

Impact

If the law is not clarified to address multiple use water right permits that include municipal use, it is possible that a multi-use water right could be authorized for use by other retail or wholesale water suppliers during emergencies. Dallas currently has water rights designated for multiple uses (excluding municipal and domestic multiuse water rights) in excess of 133,000 acre-feet per year. If the statute is not clarified, Dallas could be forced to release this water under an emergency authorization. This could leave Dallas with an inadequate water supply for the citizens of Dallas and wholesale customer cities.

Proposal

To entitle water right holders the right to reuse their wastewater effluent without obtaining a new water right.

Background

Water reuse involves taking municipal or domestic wastewater, treating it to a high degree to meet state and federal regulations, and then reusing the resulting high-quality water for a new, beneficial purpose including the augmentation of existing drinking water supplies. Extensive treatment and disinfection ensures that public health and environmental quality are protected and reuse provides an environmentally sound means for managing wastewater, while conserving water and replenishing valuable water supplies.

Senate Bill 1 (SB 1) as passed by the 1997 Texas Legislature confirmed a surface water right holder's ability to "directly" reuse water for authorized purposes prior to its discharge into a stream unless expressly limited by the water right. However, SB 1 did not provide as much specificity regarding how to treat the "indirect" reuse of water by a surface water right holder. Texas Water Code Section 11.046 provides that a water right holder who takes or diverts water from a watercourse or stream must conduct surplus water back to the watercourse or stream from which it was taken, if the water can be returned by gravity flow and it is reasonable and practicable to do so. Wastewater return flows are presumed to be surplus water, particularly when there is not an expressed authorization in the water right for the discharger to divert and reuse the water. Without the authorization to recapture and reuse this water once it is returned to the stream, the right to further use of the water is also considered to have been abandoned by the discharger. The water is then subject to appropriation by others and the maintenance of environmental flow needs. In order to indirectly reuse this water, the discharger would be required to obtain a new appropriation, which would be junior in priority to all existing water rights.

Dallas Water Utilities (DWU) operates two wastewater treatment plants, Central and Southside, which have a combined wastewater treatment capacity of 260 million gallons per day. The wastewater is discharged to the elm fork of the Trinity River. The 2005 Dallas Update to the Long Range Water Supply Plan identified a significant need for future water supply sources to meet future demands and identifies wastewater reuse as a significant component of Dallas' water supply strategy. In addition, DWU has filed water right applications with the Texas Commission on Environmental Quality (TCEQ) to obtain the water rights and reuse the treated wastewater effluent.

Action

To amend state law to allow a water right holder who wishes to discharge and then subsequently divert and reuse it's existing return flows, and the flexibility to do so without obtaining a new water right.

Impact

Without the recommended change in state law, Dallas' return flows could be appropriated for use by others. This would negatively affect Dallas' ability to provide for the long range water supply needs of our customers.

Proposal

To protect existing water rights and water supplies.

Background

The City of Dallas, after many years of planning and great expense, has created one of the most reliable water supply, delivery and storage systems in the state. Due to the current shortage of developed water supplies and the increasing need for water in other areas of Texas, there may be attempts during the 80th Texas Legislative Session to give the state more control over existing water basins, supplies and water rights. If this occurs, Dallas could lose control over existing water rights and supplies and be required to sell, convey, or give a portion of its water supply to another area of the state.

Water rights are considered property rights in Texas. Perfected water rights have been honored for over 100 years in Texas water law. Opening an existing water right permit to take water away from the water right holder is a taking of property. Any attempt by the legislature to arbitrarily reallocate water rights would violate a long established precedent.

Action

To oppose any efforts by the 2007 Texas Legislature that would change state law to restrict or reduce the City's ability to govern its own water resources and water rights.

Impact

The long term water needs of the Dallas area could be jeopardized if the City loses control over its water rights and/or the conveyance, delivery, and storage of its water resources.

Proposal

To have the Texas Legislature not change state law to render take-or-pay water supply contracts illegal.

Background

During the 79th session of the Texas Legislature, HB 1224 was passed into law which requires the executive administrator of the Texas Water Development Board to study the effects, if any, of take-or-pay contracts on efforts to conserve water. The executive administrator must submit a report to the legislature that includes: (1) a summary of the findings made during the course of the study; and (2) recommendations for legislative action based on those findings no later than January 1, 2007.

Most of Dallas' untreated water contracts are take-or-pay contracts in that the purchaser agrees to pay as billed for the minimum quantity of water as stated in the contract notwithstanding a lesser amount of water may actually be consumed. This ensures that Dallas recoups the base cost of administering and implementing the contract.

Action

To oppose all legislation which would outlaw take-or-pay water supply contracts.

Impact

If the law is changed preventing take-or-pay contracts, it would probably result in lost revenues for DWU. Existing contracts would have to be renegotiated and rewritten. Rates would have to significantly increase to ensure coverage of expenses.

Proposal

To oppose new water and wastewater fees and taxes.

Background

The 75th Texas Legislature passed Senate Bill 1 (SB 1) relating to the development and management of the state water resources. SB 1 requires the development of a State Water Plan that addresses the future development and the management strategies for the use of water supplies. The State Water Plan is composed of Regional Water Plans developed by designated regional area planning boards. There are extensive unfunded needs included in the Plan.

During the 79th Texas Legislative Session, Senate Bill 3 was filed, which would have required each retail public utility to monthly collect from each consumer to whom the utility provides service a water conservation and development fee of \$0.13 per 1,000 gallons. The first 5,000 gallons of water sold to the consumer for consumption each month would be exempt from taxation, if the consumer was a resident of a single-family dwelling or a multifamily dwelling. Extensive reporting requirements were also proposed. The money would have been used for funding water supply projects across the state. Although this attempt to create a fee program failed, legislation might be introduced during the upcoming 80th Texas Legislative Session, which would create a funding mechanism to enable state agencies to implement the provisions of SB 1.

Action

To oppose all legislation providing for the imposition by the State of inequitable water and wastewater fees and taxes on water utilities and their customers.

Impact

If all water and wastewater fee legislation is not successfully decimated, it is expected that Dallas will be assessed fees and taxes which will be used to provide water and wastewater improvements in other areas of Texas. The City of Dallas, after many years of planning and at great expense, has created one of the most reliable water supply, delivery and storage systems in the state. Because Dallas has planned wisely and invested heavily in our water supply, treatment and distribution system, it is highly unlikely that we would reap the benefit of the use of the statewide fees collected. The money would most likely go towards other areas that have not adequately planned for their current and future water needs. It would be inequitable to ask for the citizens of the Dallas area who have already paid once for the creation of an immense water supply, treatment and delivery infrastructure system, to pay a statewide fee which would be used to construct water systems in other parts of the state. In addition, DWU could have to pay administration costs associated with collecting and transmitting the fees to the state.

Support Items



Expand Informer's Privilege Protection

Proposal

To amend the Texas Public Information Act, Government Code, Chapter 552 and/or other appropriate chapter(s), to automatically exempt from disclosure the name and identifying information of citizens who report violations of municipal codes and ordinances.

Background

Currently the Informer's Privilege of the Texas Public Information Act must be ruled on by the Attorney General's Office on a case-by-case basis, if a city requests the ruling within 10 days of receiving the request. This creates inefficiencies in the handling of open records requests, and does not offer any protection to informers if the municipality fails to request a ruling in a timely manner.

Action

To amend the Texas Public Information Act to expand the Informer's Privilege in order to automatically protect the identities of citizens who report violations of municipal ordinances.

Impact

Citizens will be able to report municipal code violations in their community without fear of reprisal from code violators. Citizen participation in neighborhood improvement efforts will increase. Municipalities will be able to increase efficiency and productivity by reducing the amount of time spent responding to requests for complainants' identities.

Display of Aerosol and Define Graffiti as a Nuisance

Proposal

To define Graffiti as a nuisance under Chapter 217 of the Local Government Code so that municipalities may enter private property for the purpose of abating graffiti, and to allow municipalities to enact an ordinance requiring a business to display aerosol paint in the line of sight of a personnel work station in a manner that makes it accessible with assistance of personnel, or in an area that is electronically protected or monitored by surveillance equipment.

Background

Currently a municipality may only enter private property to abate graffiti if the property owner or agent of the owner gives written permission. Other nuisances, such as high weeds and litter, may be abated by a municipality without permission from the property owner. Often property owners are unreachable or unwilling to give the necessary written permission. This forces municipalities to resort to citations and/or legal action in an attempt to bring the property into compliance

Moreover, it is important to restrict the availability of supplies which are used to place graffiti on private property. Chapter 485 of the Health and Safety Code regulates the sale of "abusable volatile chemicals" including aerosol spray paint. Among other requirements, it requires that a business display aerosol paint in the line of sight of a personnel work station, in a manner that makes it accessible with assistance of personnel, or in an area that is electronically protected or monitored by surveillance equipment. Only the county or a district attorney may prosecute a violation or seek an injunction. Section 485.081 of the code prohibits a city or municipality from enacting an ordinance that requires businesses to adhere to the aforementioned code.

Action

To amend Chapter 217 to include graffiti as a nuisance; *See 76(R) HB 3605*, and to amend Section 485.081 of the Health and Safety Code to allow municipalities to enact an ordinance requiring a business to display aerosol paint in the line of sight of a personnel work station, in a manner that makes it accessible with assistance of personnel, or in an area that is electronically protected or monitored by surveillance equipment.

Impact

Municipalities will be able to streamline their graffiti abatement procedures thereby reducing expenditures and increasing effectiveness. Graffiti paint-out projects will be more inclusive by not having to skip over sites that did not give permission to the city.

Proposal

To allow municipalities to physically place building numbers on structures throughout their jurisdictions and place a lien on the property for the owner to pay the cost of bringing the property into compliance.

Background

City ordinances require that all buildings be numbered, however many buildings lack identifying numbers that can be seen from the street. This poses a significant problem for emergency responders, service providers, and other citizens. Although municipalities have the ability to cite property owners for non compliance, the situation is not always corrected.

Action

To allow municipalities to physically place building numbers on structures throughout their jurisdictions and lien the property owner for the cost of bringing the property into compliance.

Impact

Emergency vehicles will be able to find correct street addresses faster, thereby decreasing response time to emergency calls.

Proposal

To establish a take-back recycling program for manufacturers.

Background

Electronic Waste, referred to as E-Waste, is the fastest growing waste stream in municipal solid waste. E-Waste includes a variety of electronic products used in the office place and at home. It consumes a large portion of landfills across the country and is the largest source of heavy metal waste in landfills. An effective way to recycle or dispose of such waste has not been established, and unfortunately illegal dumping is occurring across the state. Furthermore, local governments and taxpayers would have to spend millions of dollars to dispose of such waste as computers and televisions.

Action

To establish a take-back recycling program for manufacturers.

Impact

Local governments and tax payers would benefit from an established state plan which regulates the disposal of such waste. The burden of disposal costs would be shifted from local governments and tax payers to the electronic manufacturers which supply the items.

Proposal

To modify Section 2303.155 of the Texas Occupations Code (“Charges Related to Storage”), allowing the charging of an environmental recovery fee of the \$10.00 for each vehicle impounded.

Background

Fees which are permitted to be charged by a governmental vehicle storage facility (in addition to the wrecker service fee), include the Notification Fee (\$50), the Impoundment Fee (\$20), and a daily Storage Fee (\$20).

Action

To secure support from a legislative member to sponsor a bill to modify Section 2303.155 of the Texas Occupations Code (“Charges Related to Storage”), allowing the charging of an environmental recovery fee of \$10.00 for each vehicle impounded.

Impact

Enactment of such a fee charge will permit the City of Dallas to recover costs of installation and maintenance of EPA-required systems such as Oil-Water Separators which cost approximately \$25,000 for each unit installation. It will also help recover the cost of environmental supplies purchased for use on a daily basis. Based on the number of vehicles impounded in FY 2004-2005 (45,132 vehicles), there is a potential recovery revenue of \$451,320 annually.

Federal All Appropriate Inquiries (AAI) Rule for the State

Proposal

To adopt a State equivalent to the Federal All Appropriate Inquiries (AAI) rule.

Background

The Small Business Liability Relief and Brownfields Revitalization Act (2002 Brownfields Amendments) were signed into law on January 11, 2002. EPA's final "All Appropriate Inquiries" rule (40 CFR Part 312) was published in the Federal Register on November 1, 2005. The federal AAI rule becomes effective on November 1, 2006. The purpose of the EPA rule is to establish the innocent landowner defense under CERCLA for purchases of property. To obtain innocent landowner protection, AAI must be completed on property prior to purchase and all components must be satisfied. If AAI is satisfied for properties the city purchases, the city would be protected from CERCLA liability for the contamination that was present prior to purchase.

While this protects the city from Federal liability, it does not protect the city from state liability. The City of Dallas is currently working with the Texas Commission on Environmental Quality regarding AAI and developing a State equivalent to the Federal AAI rule. One of the possible scenario's is as follows: The City of Dallas has completed appropriate due diligence, but at a future date, contamination is discovered. The city has CERCLA innocent landowner protection; however, the previous property owner (responsible party) is bankrupt or no longer living, and cannot pay to clean up contamination for which they are responsible. The City of Dallas may be required by the State to pay for clean up costs because the previous owner is not able. CERCLA does not protect the City of Dallas in this situation. Passage of a State AAI would limit future liabilities of development of contaminated properties by City Departments and City Council. There are many properties the city is considering purchasing as part of the Trinity River or park development that the city would benefit from liability protection from the State.

Action

To work with TCEQ and identify potential changes to the legislation/ potential amendments to add further protections for Municipalities.

Impact

The changes identified above will limit financial liabilities and further protect the City of Dallas from misdirected environmental clean-up obligations.

Proposal

To update the Municipal Setting Designation (MSD) legislation language to reflect concerns of Texas City after two years of implementation.

Background

In the 78th legislative session, MSD legislation was passed (HB 3152) which became effective in September of 2003. Subsequently, the City of Dallas passed its MSD ordinance in 2005. An MSD allows a property owner with ground water contamination, to place an application with a City to restrict ground water use. If the City approves the application, an ordinance is passed that will restrict ground water use under the property for potable uses. Consequently, the property owner will not have to remediate the ground water to the ground water ingestion standard.

The City of Dallas is currently working with the Texas Commission on Environmental Quality regarding MSDs and issues that have surfaced since this legislation was passed. Two of these items are outlined below:

- The ordinance only restricts ground water use under the property seeking an MSD ordinance. If the plume migrates offsite, an ordinance is not in place to restrict ground water use.
- TCEQ advises MSD applicants to approach the City prior to the State; however, this process creates a situation whereby the City of Dallas is the first and only reviewer of the groundwater before approval of the MSD ordinance by City Council.

Action

To work with TCEQ and identify potential changes to the legislation.

Impact

The changes identified above will limit the flexibility of an MSD and will require additional sampling of property owners.

Texas Commission on Environmental Quality Verification Program

Proposal

To establish a verification program for emission reduction technologies at the Texas Commission on Environmental Quality (TCEQ).

Background

The objective of the Voluntary Diesel Retrofit Program Verification Process is to introduce verified technologies to the market as cost effectively as possible, while providing customers with confidence that verified technologies will provide emission reductions as advertised. Verification is required to be eligible for State Implementation Plan (SIP) credit and receive Texas Emission Reduction Program (TERP) funding.

Both EPA and the California Air Resources Board (CARB) operate onroad and nonroad retrofit technology verification programs. The CARB program focuses mainly on particulate matter, which is of great concern to California. EPA's verification program is lengthy and expensive. With the DFW region needing emission reduction technologies in the next two years, waiting on EPA verification will not assist the region in attaining the standard.

Action

To establish a CARB type verification program at the TCEQ.

Impact

TCEQ will need additional funding to establishment and implement this program.

Proposal

To work with the state and county governments to ensure the mobility essential for independent living through the provisions of safe, accessible, dependable and affordable transportation is available.

Background

Mobility is a crucial component of everyone's quality of life. Affordable, easy-to-use, and flexible transportation options are essential for accessing health care services, establishing and maintaining social and family contacts, and preserving independence and general well-being. According to the AARP Public Policy Institute, as the boomer generation ages, an increasing proportion of the population – because of where they live and the lack of transportation alternatives – risks becoming isolated and immobile if they are unable to drive. Federal, state and local governments should propose legislation to ensure the mobility essential for independent living through the provisions of safe, accessible, dependable and affordable transportation.

The City of Dallas Senior Affairs Commission has identified the need for available and accessible transportation for the older adult population. This legislative proposal is being submitted based, in part, on the AARP Public Policy Institute research and analysis of data from Department of Transportation, National Household Travel Survey, 2001. Driving is not a viable alternative for many older persons. Currently, almost 7 million persons age 65 and older do not drive. Almost 80% of these older non-drivers are women, and more than half have a medical condition that makes travel difficult.

Health reasons however are not the only reasons that older people choose not to drive. Limited income also restricts driving because of the cost of owning, maintaining, and insuring an automobile. Overall, older non-drivers are much less mobile than drivers.

Action

- State and local jurisdictions should ensure coordination of all transportation programs and services that receive public funding (federal, state, and local).
- Jurisdictions should provide publicly owned and operated passenger vehicles for the transportation of older people when such vehicles are not otherwise in use.
- Sufficient funding should be provided to public and nonprofit agencies to provide transportation that is planned, designed and carried out to meet the needs of elderly individuals and individuals with disabilities.
- States should make gas-tax revenues, as well as general funds, available for funding of transportation alternatives.

Impact

The proposed legislative actions would allow expanded access and availability of rides to medical and non-medical destinations, as well as personalized services to accommodate special needs. Such access is virtually non-existent at this time.

Proposal

Increase in funding for Early Childhood subsidies for low/low moderate income parents and high school students citywide. Also, increase funding for training for caregivers to provide higher quality for all children.

Background

The waiting list for childcare subsidies can run in the thousands. Early Childhood /Dallas County Childcare Capacity and Quality Indicators:

- 462,526 Dallas County children age 0-12
- 95,581 licensed childcare and day home slots for children 0-12 years old.
- 2,378 licensed centers and day care homes
- 247 Texas Rising Star Centers
- 51 NAEYC Accredited Programs, includes 11 Head Start
- 29,000 low income 3 and 4 year olds
- 19,000 attend public Pre-K or Head Start
- Average subsidy \$4,500 per child
- Limited subsidies available
- Generally poor quality and limited teacher training

Recommendation: Invest in more funding:

- Invest in quality child-care, Head Start and pre-kindergarten programs to ensure school readiness. Maintain federal control of Head Start to ensure adequate educational opportunities for preschool children.
- Expand home visitation programs that focus on early childhood development and equip parents to teach their preschool children.
- Increase salaries and training of staff in child-care centers and elevate standards of care in child-care facilities.

Action

To increase funding of child care subsidies through the CDBG budget and the Texas Workforce Commission, and increase funding for training of child care providers city-wide.

Impact

By increasing child care subsidies more low/low moderate income parents can secure jobs and maintain them with the help of child care assistance. The quality of care for children that are placed in child care facilities will increase with more training of caregivers. Therefore, these children will have a head start and do better as they advance in school.

Proposal

To make mental health recommendations for the City's State Legislative Agenda which will maintain and enhance treatment for citizens living with mental illness, especially those who are indigent, repeat minor offenders and/or homeless.

Background

Indigent citizens living with a major mental illness have traditionally found access barriers to community-based treatment and long-term rehabilitation. Typically, homeless people and minor offenders have not received the necessary services to curtail revolving door clinical and criminal justice recidivism. This group therefore consumes an inordinate amount of funding through arrests, detention, and/or hospital emergency room admissions. Essentially, these citizens living with mental illness receive band-aid services that should require intensive inpatient treatment and rehabilitation.

To address the inadequacies of this present costly revolving door process, the major mental health advocacy organizations and service providers in Dallas were consulted. Common elements of their own Legislative Agendas appeared to dovetail into basic categories.

Action

To make mental health recommendations for the City's State Legislative Agenda which will maintain and enhance treatment for citizens living with mental illness. Especially those who are indigent, repeat minor offenders and/or homeless.

Impact

The City of Dallas should realize a savings in the areas of police service requests and arrests, municipal court hearings and "failure to appear" warrants. There would be no negative budget impact for the City if it followed the above recommendations.

Proposal

To amend section 156.051 of the state Tax Code to ensure that taxes collected on internet discounted hotel rooms are sent to the state or city as appropriate.

Background

Section 156.051 of the State Tax Code imposes a tax “on a person who, under a lease, concession, permit, right of access, license, contract, or agreement, pays for the use or possession or for the right to the use or possession of a room or space in a hotel...” Section 156.053 of the Tax Code states that “A person owning, operating, managing, or controlling a hotel shall collect for the state the tax that is imposed by this chapter and that is calculated on the amount paid for a room in the hotel.” However, the statute does not contemplate the situation where entities, such as Hotels.com, buy rooms from a hotel at a discounted rate re-rent the rooms to the consumer. Section 156.053 makes the owner or operator responsible for collecting the tax. However, they only have access to the information relating to the amount for which they rented the rooms to the entity, such as Hotels.com. The owner/operator does not have information regarding the amount for which the entity re-rented the room on the Internet. Thus, the owner/operator can only remit the tax based upon the discounted rate, not the actual rate of the room rental. During the interim, the entity, Hotels.com for example, continues to collect “taxes” from the consumer as part of their fees, but does not have a clear duty to remit these taxes to the state or city.

Action

To amend section 156.051 of the state Tax Code to ensure that taxes collected on Internet discounted hotel rooms are sent to the state or city as appropriate.

Impact

This will enhance state and local government authority to ensure that appropriate hotel tax is collected and paid to the appropriate entities.

Proposal

To amend the Insurance Code to give the Texas Department of Insurance authority to regulate performance bonds so that there is an effective way to track unsatisfactory performance bond issuers.

Background

The Texas Supreme Court deprived the Texas Department of Insurance of authority to regulate performance bonds in the ruling passed down in *Dallas Fire Ins. Co. v. Texas Contractors Sur. And Cas. Agency*. The ruling hurts municipalities because they rely on the Texas Department of Insurance to regulate insurance entities.

Action

To amend the Insurance Code to give the Texas Department of Insurance authority to regulate performance bonds so that there is an effective way to track unsatisfactory performance bond issuers.

Impact

Central regulation of performance bonds would provide greater assurance when issuing contracts with performance bond requirements and prevent non-performing issuers from charging fees to clients that will not be able to be recovered if project is not completed.

Proposal

To amend Texas Tax Code §111.016 regarding payment to the State of Tax Collections by adding a “responsible person” provision.

Background

Currently, the Tax Code does not give local governments a right to claim payment for municipal access fees as a tax priority. Adding a “responsible person” section to tax code would define such entities/persons. Additionally, the term “tax” would be defined. Please see below:

(1) “Responsible person” includes an officer, manager, director, or employee of a corporation, association, or limited liability company or a member of a partnership who is under a duty to perform an act with respect to the collection, accounting, or payment of a tax or money subject to the provisions of Subsection (a).

(2) “Tax” includes any tax or money subject to the provisions of Subsection (a), including the penalty and interest computed by reference to the amount of the tax or money.

Action

To amend Texas Tax Code §111.016 regarding payment to the State of Tax Collections by adding a “responsible person” provision.

Impact

If enacted, local governments could see potential increases in difficult to collect municipal access fees that in some cases go uncollected.

Proposal

To enact a computer crimes law which makes it a crime to use, communicate with, store data in or retrieve data from a computer, computer system or computer network for the purpose of using such communication or access to violate any of the provisions of the Texas State Statutes.

Background

Individuals involved in criminal activity are increasingly using computers and the Internet to further their criminal endeavors. Gambling and prostitution are advertised over the Internet. Child Pornography cases have been documented using computers and the Internet. Identity Theft is a growing problem and access to computers and computer networks provide a fertile field for these thefts. It is not unreasonable to assume that individuals involved in narcotics offenses use these avenues to promote their criminal activities as well as help launder their money. Communication through computers may be used to further other crimes as well. The current statutes under Chapter 33 of the Texas Penal Code (Computer Crimes) address specific areas of concern and need to be expanded.

Action

To enact the above referenced computer crimes law with penalties for violation as follow:

- State Jail Felony
- Felony of the Third Degree if the victim or intended victim is less than 17 years of age.
- Felony of the Second Degree if the victim or intended victim is less than 14 years of age.

Impact

This law will provide another important tool for law enforcement to use against those involved in criminal activity. This will also lessen the use of the Internet in the commission of crimes.

Electronic Data Entry of Pawnshop Data

Proposal

To require mandatory electronic data entry of pawnshop data. Data received must include all information currently required for provision by law enforcement.

Background

Since the mid 1990's we have tried to get electronic pawn data transmission required throughout the state. Dallas currently has approximately 55% of shops (49 pawnshops) reporting electronically on a voluntary basis. Required electronic filing would allow all pawn and purchase items to be available for review by detectives. This bill has passed in the last two legislative sessions (2003R HB1839 and 2005R SB757). The Governor vetoed both bills at Law Enforcement's request due to prohibitive language that would have restricted the information reported to property only and no name information. The 3 data entry clerks in the Property Recovery Squad are unable to enter all of the information received. Dallas currently receives an average of 70,000 pawn tickets per month listing over 166,000 items pawned each month. (2005 yearly total of items pawned was 1,993,300)

Action

To require electronic reporting of pawn data to police departments or third party Internet Service Provider (ISP's) as chosen by the Chief. Include all reportable transaction data as is currently required under the Texas Pawnshop Act (Chapter 371, TX Finance Code).

Impact

This would result in faster and complete listing of pawn information for detective use in the recovery of stolen property. Clerks are unable to enter 100% of data at present due to limited manpower capability. This action would save time and money and provide rapid, complete and accurate information availability.

Proposal

To amend the Transportation Code 601.051, "Requirement of Financial Responsibility," to require that all auto insurance carriers provide a twenty-four (24) hour contact number to State of Texas law enforcement agencies.

Background

Several city municipalities throughout the State of Texas have enacted ordinances requiring the towing of motor vehicles involved in accidents where the driver cannot produce proof of financial responsibility. In the event that a motorist is unable to provide proof of financial responsibility at the scene, but insists that the vehicle is covered, the investigating officer will take reasonable steps to verify the motorist's claim. If the motorist is able to provide the name of their insurance company or agent, the officer will attempt to make telephone contact to verify the existence of financial responsibility. Each law enforcement agency will maintain a list of phone numbers for all auto insurance carriers.

Action

To add an amendment to 601.051, "Requirement of Financial Responsibility," to require that all auto insurance carriers provide a twenty-four (24) hour contact number to State of Texas law enforcement agencies.

Impact

This amendment will assist law enforcement agencies in making timely verification of insurance coverage allowing investigating officers to expeditiously clear accident scenes.

Request a Fingerprint for City Issued Citations

Proposal

To allow peace officers to request a fingerprint on any city issued citation if a subject has no valid identification.

Background

Subjects are reciting other citizens personal information when issued citations by peace officers for violations of traffic laws or city ordinances. Citizens are reporting being arrested over citations they were never issued. The true violator escapes responsibility for the citations since the only fact witness to the citation is the peace officer, but the suspect remains unidentified. Two states that currently have a similar statute are California and Florida; California Vehicle Code 40504 and Florida Statute Chapter 322.15.

Action

To allow peace officers to request a subject who is not in possession of a valid identification card to place a fingerprint on the back of a citation for any violation of state code or city ordinance.

Impact

Citizens who claim they have been cited erroneously can request a fingerprint comparison and clear themselves conclusively based upon this comparison. The true violator can be identified from this fingerprint comparison, which will facilitate the charges being reentered against the true violator.

Proposal

To lower the statewide residential speed limit from 30mph to 25mph.

Background

The prima facie speed is the default speed on streets without speed limit signage. The prima facie speed is set by the State. Street segments designated with higher or lower speed limits are listed under Chapter 28 of the city code.

To set a speed limit, an engineering study is required. To determine a safe and appropriate speed limit, field data is collected on existing driver speeds, geometric sight distance requirements and road design speeds.

Approximately 25% of citizen requests in the PW&T - Transportation Operations Division are related to neighborhood speeding or traffic calming. The issue of pedestrian and vehicular conflicts will continue to increase as the city population density rises.

HB 87 was recently passed to allow cities to implement 25 MPH speed zones citywide without requiring a traffic engineering study. The 25 MPH limit requires signage for each designated street segment. The funding required to implement signage on a residential streets citywide is cost prohibitive for large cities. Due to the cost impacts, large cities have not used HB87 to implement lower speeds on residential streets.

21 states currently have prima facie speed limits of 25 mph, 13 states including Texas currently have 30 mph, and the rest are higher or not defined. According to the Texas Transportation Institute, Texas has the highest rate of fatal crashes on urban local streets in the United States. Statistics show that fatal crash rates on urban local streets increase as the prima facie speed limit increases. Lowering the prima facie speed limit from 30 mph to 25 mph would reduce the severity of injuries associated with pedestrian and vehicular accidents on residential streets.

Action

To amend section 545.352 of the Texas Transportation Code to lower the prima facie speed limit from 30 MPH to 25 MPH.

Impact

By decreasing the prima facie speed limit drivers would be required to slow down in residential areas throughout the state. Slower speeds will reduce the potential for vehicle-pedestrian accidents and injuries on residential streets.

Proposal

To promote legislation allowing Texas Solid Waste facilities to utilize this very viable and innovative waste handling process.

Background

Bioreactor Technology is becoming an accepted practice in the solid waste field as an economical means of extending valuable landfill space. This technology requires the intentional addition of liquids to landfills to enhance the degradation of solid waste. Throughout this process the landfill stabilizes (settles) more rapidly than normal making additional airspace available for future use. Apart from the benefit of additional airspace, this process enhances the production of methane gas which can be captured and used as a renewable energy source.

Action

To actively pursue efforts to implement Bioreactor Technology.

Impact

By increasing the landfill airspace, your life expectancy of the landfill increases, having a positive effect on the economies involved with this operation. The facility owner will also reap the valuable benefit of producing more methane gas, which can be used as an alternative green energy source.

Proposal

To amend current law to encourage filmmaking in Texas.

Background

Several communities have received significant economic benefit from enticing filmmakers to locate film production in their areas.

Action

To amend state law to provide incentives for filmmakers and media companies to make films in Texas.

Impact

City staff is currently working with interested individuals in the DFW area and the Texas Film Commission to develop incentives and legislative proposals.

Performance Measures for Public Utility Commission and the Electric Reliability Council

Proposal

To create performance measures for the Public Utility Commission (PUC) and the Electric Reliability Council of Texas (ERCOT) and reduce congestion.

Background

The Nodal market for electricity will be developed in 2008. It will create extra monitoring costs and ERCOT administrative cost for the DFW area. However, none of the excess funds are mandated to correct the problem of congestion. Some of the excessive funds generated or collected to implement Nodal pricing need to be directed at eliminating the congestion problem.

Performance measures should be implemented for the PUC and ERCOT to eliminate congestion areas each year. For instance, ERCOT and the PUC must mandate that new construction of generation facilities and transmission lines be mandated in nodal areas with the highest congestion in the previous year.

Action

To create an incentive to reduce congestion for electric delivery with development of the Nodal Market in 2008.

Impact

Performance measures are critical to ensuring appropriate action. However, the cost of a measurement system will be assessed in higher costs to North Texas citizens. Without specific direction, the North Texas region may pay higher fees without seeing a reduction in congestion.
