

Memorandum



CITY OF DALLAS

DATE May 1, 2023

TO Honorable Mayor and Members of the City Council

SUBJECT **88th Texas Legislature – Legislation relating to Environment and Sustainability**

On October 26, 2022, the Dallas City Council adopted the 88th Texas Session Legislative Program (Resolution 22-1637). The legislative priorities include supporting legislation that focuses on resource sustainability, conservation, climate change, and environmental equity to build a more resilient city.

The purpose of this memorandum is to provide the Environment and Sustainability Committee with a high-level overview of proposed state legislation that may have an impact on the City. This list includes bill updates through Thursday, April 27, 2023. Prior bill summaries that have been briefed to the committee via memorandum can be found [here](#).

Environment-related bills include, but are not limited to the following:

H.J.R. 27 (Craddick) – Grow Texas Fund: would amend the Texas Constitution to, among other things: (1) create the Grow Texas Fund (Fund) within the state treasury; (2) authorize the legislature to appropriate money from the Fund for use in areas of the state from which oil and gas are produced and then only to address infrastructure needs in areas of the state determined by the legislature to be significantly affected by oil and gas production; and (3) authorize the grant of money from the Fund to state agencies and other political subdivisions for an authorized purpose. **Committee report sent to calendars on April 25, 2023.**

H.B. 1158 (Darby) – Clean Energy Projects: would: (1) remove the requirement that an application for a permit for an advanced clean energy project under the Clean Air Act had to be received by the commission before January 1, 2020; (2) add to the list of programs that may be considered for a new technology implementation grant: (a) the installation of a system to reduce or eliminate carbon dioxide emissions; and (b) projects that utilize technology to capture, use, reuse, store, or sequester carbon dioxide emissions for the principal purpose of preventing carbon dioxide from entering the atmosphere and are constructed integral or adjacent to a petrochemical plant or an electric generation facility, including a facility powered by coal, natural gas, hydrogen, or ammonia; and (3) exempt from the sales tax components of tangible personal property used in connection with the capture, use, reuse, storage, or sequestration of carbon dioxide emissions for the principal purpose of preventing carbon dioxide from entering the atmosphere. **Passed the House on April 26, 2023.**

- Companion: **S.B. 2243** (Johnson)

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H.B. 26 (Ordaz Perez) – Medical Waste Facilities: would require applicants for a facility to store, process, or dispose of medical waste to provide notice of the application to state, county, city, and tribal government officials. **Passed out of House; referred to Senate committee on April 24, 2023.**

- Companion: **S.B. 173** (Blanco)

S.B. 471 (Springer) – Complaint Fees: Would impose fees on citizens who file more than 3 complaints before TCEQ in a calendar year, charging them a fee for filing any additional complaints. **Voted out of committee; placed on Senate calendar on April 27, 2023.**

Concrete Plant & Related Environmental Permitting Bills:

H.B. 1505 (Bell) – TCEQ Sunset Bill with Concrete Considerations: would create additional mandates for TCEQ concrete plant permits, public meetings for permit applications, and electronic postings of permit applications. Creates an enforcement diversion program for small businesses and local governments. **Heard in committee on March 23, 2023.**

- Companion: **S.B. 1397** (Schwertner) **Passed Senate and referred to House committee on April 21, 2023.**

Climate Bills:

H.B. 2211 (Landgraf) – Greenhouse Gasses: would disallow cities from creating an ordinance that directly regulates greenhouse gas emissions. **Passed committee on April 14, 2023.**

- Companion: **S.B. 784** (Birdwell) **Passed the Senate on April 11, 2023.**

S.B. 179 (Miles) – Emissions Permitting: would mandate TCEQ to consider the cumulative effects of contaminant emissions when determining whether and under which conditions a preconstruction permit should be renewed. **Left pending in committee on April 26, 2023.**

H.B. 2374 (Landgraf) – Restricting a Fuel Source: would disallow cities from creating an ordinance or regulation that limits access to an energy source. This includes a wholesaler, retailer, energy producer, or even a service station. A city may not adopt an ordinance or regulation that restricts the use, sale, or lease of an engine based on a fuel source. **Committee substitute issued on April 24, 2023.**

- Companion: **S.B. 1017** (Birdwell) **Passed the Senate on April 5, 2023, passed the House on April 25, 2023.**

S.B. 1114 (Hancock) – Restricting a Fuel Source: would disallow cities from passing an ordinance or regulation that restricts the use of a fuel source to aid in the reduction of greenhouse gases or conservation of natural resources. This includes entering into a contract that would directly or indirectly the use or sale of a product otherwise permitted

by law. **Passed the Senate on April 6, 2023; referred to House committee on April 12, 2023.**

Urban Agriculture Bill + Solar / Wind (Local Control) Bills:

H.B. 92 (Landgraf) – Residential Food Production: would, among other things, (1) prohibit a municipality and a property owners' association from adopting or enforcing an ordinance or restrictive covenant that prohibits any of the following activities on a residence homestead property: (a) the growing of fruits and vegetables; (b) the raising or keeping of: (i) six or fewer domestic fowl; or (ii) six or fewer adult rabbits; or (c) installing for on-site use: (i) a solar or wind- powered energy device; (ii) an underground shelter; (iii) rain barrels or a rainwater harvesting system; or (iv) a standby electric generator; (2) allow a municipality and a property owners' association to impose: (a) reasonable regulations on the growing of fruits and vegetables on a residence homestead that do not have the effect of prohibiting growing those plants, including a requirement that the growing area be maintained in good condition if visible from the street or adjoining property and for the trimming or removal of a tree for the maintenance of a utility easement; and (b) reasonable regulations on the raising and keeping of rabbits and fowl on a residence homestead to control odor, noise, safety, or sanitary conditions that do not have the effect of prohibiting the raising or keeping of these animals, including: (i) limitations on the number of animals that is more than the minimum number allowed by this law or a total combined number of eight fowl and rabbits; (ii) a prohibition on raising or keeping of a rooster; (iii) defining the minimum distance between an animal shelter and a residential structure; (iv) requiring fencing or shelter sufficient to contain the animals; (v) defining the minimum requirements for combined housing and outdoor space as provided by this law; (vi) adopting requirements to address sanitary conditions to prevent offensive odors or pests; or (vii) requiring that the animals be kept in the side or rear yard; and (3) provide that an adopted ordinance or restrictive covenant that violates this law is void. Enabling legislation for HJR 9. **Passed the House on April 18, 2023, referred to Senate committee on April 20, 2023.**

H.B. 692 (Rogers) – Land Applications: would mandate the Texas Commission on Environmental Quality to issue an authorization by rule for land application of dairy waste and to allow the disposal of dairy waste from a concentrated animal feeding operation into a control or retention facility. **Passed House committee on April 14, 2023; placed on House calendar on April 28, 2023.**

- Companion: **S.B. 872 (Springer)** **Left pending in committee on April 13, 2023.**

Wildland-Urban Interface Bills:

H.B. 260 (Murr) – Appraisal of Open Space Land: would require the chief appraiser to take into consideration the effect that the presence of a disease or pest, or the designation of an area as a wildlife or livestock disease or pest area, has on the net income from the land when calculating net to land of open-space land located in or adjacent to an area

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designated as a wildlife or livestock disease or pest area. **Passed out of the House on April 14, 2023; referred to Senate committee on April 19, 2023.**

Waste:

H.B. 1503 (M. Gonzalez) – Scrap Tires: would create a scrap tire remediation grant program for the elimination of unsightly scrap tires for both inland and along coastal areas and public rights-of-ways. **Passed out of committee on April 19, 2023; placed on House calendars on April 28, 2023.**

Disaster Related Bills:

H.B. 558 (Raymond) – Executive Orders: would provide that an executive order, proclamation, or regulation issued by the governor during a declared state of disaster that restricts the operation of or the hours of operation for a business that sells alcoholic beverages may not include a federal tax-exempt organization that benefits veterans of the United States armed forces. **Passed out of House committee and sent to House calendars on April 25, 2023.**

H.B. 911 (Harrison) – Disaster Orders: would, among other things, provide that: (1) a state or local official may issue recommendations and nonbinding guidelines to assist with a state of disaster and may coordinate public and private resources to prevent or respond to the disaster; (2) notwithstanding any other law, an order issued by the governor or a state or local official that regulates or infringes on the rights of any private person must be: (a) narrowly tailored to serve a compelling public health or safety purpose; and (b) limited in duration, applicability, and scope to reduce any infringement on individual liberty; (3) district and appellate courts have jurisdiction to hear cases challenging a state or local disaster order and shall expedite hearings for the cases; (4) a court may invalidate or enjoin a disaster order or the application of a disaster order that is not narrowly tailored to serve a compelling public health or safety purpose because of the order's inequality in application to or impact on groups, situations, or circumstances; (5) only the governor may issue an order that infringes on a protected constitutional right in a non-trivial manner, including but not limited to: (a) the rights to travel, work, assemble, and speak; (b) the freedom of religious exercise; (c) the right to contract without state interference; (d) property rights; (e) the freedom from unreasonable searches and seizures; and (f) the freedom to purchase lawfully acquired firearms and ammunition; (6) an order in (5), above, expires on the 30th day after the date the governor issues the order unless the governor or legislature terminates the order on an earlier date or the legislature extends the order on or before the expiration date; and (7) the governor may only suspend state agency orders and rules (not statutory requirements) during a state of disaster.

H.B. 1023 (Harrison) – Disaster Declarations: would provide that during a federally declared public health emergency, a clinical laboratory is considered a state agency for purposes of regulation by the United States Food and Drug Administration when the laboratory is performing a laboratory developed test on a pathogen or agent that is the basis for the emergency declaration.

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H.B. 1078 (Martinez) – Disaster Identification System: would, among other things, provide that: (1) the Texas Division of Emergency Management may include in its state emergency plan provisions for the use of a disaster identification system; (2) in an area subject to a state of disaster declaration, a person may elect to participate in a disaster identification system activated for that area; (3) the disaster identification system shall authorize the use of a device that is capable of displaying a flashing light and continuous light in either the color white or the colors blue, green, red, and yellow to communicate with disaster relief personnel; and (4) an executive order or proclamation declaring a state of disaster activates for the area subject to the declaration the disaster identification system described above. **Left pending in committee on April 25, 2023.**

Power/Electrical Grid Bills:

H.B. 2502 (Reynolds) – Energy Efficiency: would allow for the creation of a fund administered by SECO to issue loans for energy audits, upgrades or retrofits, etc. for commercial and residential buildings to make them more energy efficient. **Left pending in committee on April 13, 2023.**

H.B. 2263 (Darby) – Energy Conservation: would give the Texas Railroad Commission exclusive jurisdiction over any energy conservation program and would disallow preventing a customer from participating in such a program based on the type of energy used. **Passed House committee on April 24, 2023.**

- Companion: **S.B. 1050 (Hughes) Passed the Senate on April 26, 2023.**

S.B. 114 (Menendez) – Electricity: would, among other things: (1) provide that a retail electric customer is entitled to: (a) participate in demand response programs through retail electric providers and demand response providers; and (b) receive notice from the retail electric provider that serves the customer: (i) when the independent organization for the ERCOT power region issues an emergency energy alert about low operating reserves to providers of generation in the power region; or (ii) of planned outages and the length of time the outages are expected to last; and (2) require the Public Utility Commission to adopt rules that require each retail electric provider in the ERCOT power region to create a residential demand response program to reduce the average total residential load by at least: (a) one percent of peak summer and winter demand by December 31, 2024; (b) two percent of peak summer and winter demand by December 31, 2025; (c) three percent of peak summer and winter demand by December 31, 2026; and (d) five percent of peak summer and winter demand by December 31, 2027. **Vote taken in committee on April 25, 2023.**

S.B. 330 (Hall) – Electric Grid Resilience: would, among other things: (1) prohibit a city from enacting or enforcing an ordinance or other measure that bans, limits, or otherwise regulates inside the boundaries of the extraterritorial jurisdiction of the city a micro-grid that is certified by the Texas Grid Security Commission; and (2) require the Texas Grid Security Commission to establish resilience standards for cities. **Passed the Senate on April 25, 2023.**

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- Companion: [H.B. 1412](#) (Schaefer)

Transportation & EV-Related Bills:

[H.B. 2214](#) (Johnson) – **Electric Vehicle Funding**: would increase funds allocated from the Texas Emissions Reduction Plan for battery storage related to renewables and clean fleets while decreasing the allocation of funds toward natural gas vehicles. **Left pending in committee on March 30, 2023.**

[H.B. 108](#) (Cortez) – **Classroom Teachers Park Free**: would: (1) require the Texas Department of Transportation to issue specialty license plates to: (a) classroom teachers with at least 15 years of service teaching public school students; and (b) retired classroom teachers with at least 20 years of service teaching public school students; and (2) prohibit a governmental authority from collecting a parking fee through a parking meter for a vehicle displaying these licensees. **Passed House committee and sent to calendars on April 25, 2023.**

[H.B. 167](#) (Cortez) – **Red Light Cameras**: would provide that photographic traffic signal enforcement contracts, including those executed before May 17, 2019, are void.

- Companion: [S.B. 446](#) (Menendez), **Left pending in committee on March 29, 2023.**
- [H.B. 177](#) (Cortez)

[H.B. 820](#) (King) – **Additional Hybrid Vehicle Registration Fee**: provides that applicants for registration or renewal of registration for a hybrid or electric vehicle shall pay an additional fee of \$200 if the vehicle is an electric vehicle and \$100 if the vehicle is a hybrid vehicle with 90% of the fees to be deposited into the state highway fund and 10% to be deposited into a new electric vehicle battery disposal account administered by the Texas Commission on Environmental Quality. **Left pending in committee on April 5, 2023.**

[H.B. 1156](#) (Rogers) – **Surplus Traffic Safety Equipment**: would provide, among other things, that the Texas Department of Transportation and Texas Department of Public Safety may directly donate or sell at a discounted rate surplus traffic and roadwork safety equipment to Texas cities. **Left pending in committee on March 22, 2023.**

[H.B. 820](#) (King) – **Additional Hybrid Vehicle Registration Fee**: provides that applicants for registration or renewal of registration for a hybrid or electric vehicle shall pay an additional fee of \$200 if the vehicle is an electric vehicle and \$100 if the vehicle is a hybrid vehicle with 90% of the fees to be deposited into the state highway fund and 10% to be deposited into a new electric vehicle battery disposal account administered by the Texas Commission on Environmental Quality. **Left pending in committee on April 5, 2023.**

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S.B. 1001 (Schwertner) – EV Charging Vendors: would establish a framework for the licensing of EV charging and supply equipment. **Voted out of the Senate on March 29, 2023. House committee substitute reported favorably on April 24, 2023.**

- Companion: **H.B. 3343 (K. King) Reported favorably without amendments on March 29, 2023.**

Water Related Bills:

H.B. 40 (Zwiener) – Property Tax Exemption: would exempt property taxes the portion of appraised value of a person's property that is attributable to the installation in or on the property of a rainwater harvesting or graywater system. Enabling legislation for HJR 25. **Left pending in committee on April 10, 2023.**

H.J.R. 25 (Zwiener) – Property Tax Exemption: would amend the Texas Constitution to authorize the legislature to exempt from property taxation the portion of the appraised value of a person's property that is attributable to the installation in or on the property of a rainwater harvesting or graywater system. Enabling legislation is HB 40. **Left pending in committee on April 10, 2023.**

H.B. 640 (Julie Johnson) – Street Maintenance Sales Tax: would, among other things, provide that: (1) for a city in which a majority of the voters voting in each of the last two consecutive elections concerning the adoption or reauthorization of the street maintenance sales tax favored adoption or reauthorization and in which the tax has not expired since the first of those two consecutive elections, the city may call an election to reauthorize the tax for a period of eight or ten years, instead of four years; and (2) revenue from the street maintenance sales tax may be used to maintain and repair: (a) a city street or sidewalk; and (b) a city water, wastewater, or stormwater system located in the width of a way of a city street. **Left pending in committee on March 27, 2023.**

- Companion: **S.B. 612 (Johnson) Passed out of Senate on April 12, 2023. Referred to House committee on April 14, 2023.**

H.B. 583 (Raymond) – Drinking Water Report: would require the Texas Commission on Environmental Quality to produce an annual report on public drinking water supply systems in Texas and deliver the report to the legislature not later than September 1 of each year. **Left pending in committee on April 18, 2023.**

- Companion: **S.B. 382 (Zaffirini)**

H.B. 585 (Raymond) – Water Treatment Facilities Reporting: would: (1) require the Texas Commission on Environmental Quality (TCEQ) to create a plan to protect water treatment facilities from: (a) electrical outages; (b) catastrophic weather events; (c) terrorist attacks; (d) the projected effects of climate change; and (e) other potential disruptions to providing water service; and (2) require TCEQ to submit the plan to the governor and the legislature by September 1, 2024. **Committee substitute reported favorably on April 19, 2023.**

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H.B. 874 (Bowers) – Water Rights: would provide that a water right is not cancelled for nonuse if the nonuse resulted from an executed temporary or permanent forbearance agreement that: (1) promotes restoration, preservation, or enhancement of instream flows; (2) was entered into by the holder of the permit, certified filing, or certificate of adjudication; and (3) was filed with the Texas Commission on Environmental Quality not later than the 180th day after the date the agreement was executed. **Left pending in committee on April 18, 2023.**

- Companion: **S.B. 894** (Zaffirini)

S.B. 40 (Zaffirini) – Water Utilities: would require the Texas Commission on Environmental Quality to develop and implement an alert system that must include the ability to provide notifications through electronic instant messaging to be activated in the event of a boil water notice and any related information, including any rescission or expiration of the boil water notice.

S.B. 53 (Zaffirini) – Texas Water Development Board Financing: would provide that: (1) a political subdivision may use financial assistance from the Texas Water Development Board (TWDB) to pay for the installation, maintenance, operation, and fueling of a backup power generator for a facility of a public water supply and sanitary sewer system; (2) assistance under the bill shall only be provided to political subdivisions that demonstrate an inability to pay for the installation, maintenance, operation, and fueling of a backup power generator described by (1), above, in accordance with TWDB rules; (3) if the TWDB determines that a political subdivision to which assistance has been provided under (1), above, is ineligible to receive the assistance, the TWDB may seek reimbursement from the political subdivision; and (4) the TWDB shall adopt rules to implement the bill.

S.B. 223 (Campbell) – Wastewater Permitting: would require the Texas Commission on Environmental Quality to hold at least one public meeting on an application for an initial permit for a wastewater treatment facility in the county in which the facility is proposed to be located.

S.B. 382 (Zaffirini) – Drinking Water Report: would require the Texas Commission on Environmental Quality to produce an annual report on public drinking water supply systems in Texas and deliver the report to the legislature not later than September 1 of each year.

- Companion: **H.B. 583** (Raymond) **Left pending in committee on April 18, 2023.**

S.B. 469 (Springer) – Water Infrastructure: would: (1) for purposes of the Texas Water Assistance Program and other funding initiatives by the Texas Water Development Board (TWDB), define “rural political subdivision” as: (a) a nonprofit water supply or sewer service corporation, district, or municipality that has a service area with a population of 10,000 or less no part of which is located in an urban area as defined by the United States Bureau of the Census or otherwise qualifies for funding from a federal agency; or (b) a

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county in which no urban area has a population of more than 50,000; and (2) provide that the TWDB may direct the comptroller to transfer amounts from the financial assistance account to the rural water assistance fund to provide financial assistance to rural political subdivisions for the purpose of providing low-interest loans for water or water-related projects. **Passed Senate and received from the house on April 27, 2023.**

Local Regulation of Commercial Activity:

S.B. 149 (Springer) – Restricting Commercial Activity: would disallow a city to adopt or enforce an ordinance that imposes a restriction, regulation, or condition on commercial activity. This would apply to the proposed gas-powered landscape equipment and concrete batch plant ordinance of Dallas and perhaps other commercial activity affected by climate plan measures. **Left pending in committee on March 14, 2023.**

S.B. 814 (Creighton) – Restricting Commercial Activity: is a preemption bill that would allow a taxpayer to take action against a municipality or county if adversely affected by an ordinance or regulation. Specific state administrative codes applicable to this bill include agriculture, finance, insurance, labor, occupational, and the natural resource code. A claimant is entitled to declaratory and injunctive relief plus attorney fees. Again, this could apply to the gas-powered landscape ordinance of Dallas, perhaps the concrete ordinance, and more. **Left pending in committee on March 4, 2023.**

- **Companion: H.B. 2127 (Burrows) Passed House on April 19, 2023. Received from the Senate on April 20, 2023.**

S.B. 1860 (Hughes) – Relating to the adoption of a climate policy in a municipal charter: Would require that city climate plans be voted on by city constituents and would require approval by the appropriate state agency. **Left pending in committee on April 24, 2023.**

- **Companion: H.B. 4930 (Craddick) Left pending in committee on April 19, 2023.**

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Should you have any questions, please contact me or Clifford Sparks, State Legislative Director, at Clifford.Sparks@dallas.gov.

Sincerely,



Carrie Rogers
Director
Office of Government Affairs

c: Members of the Ad Hoc Legislative Committee
T.C. Broadnax, City Manager
Tammy Palomino, Interim City Attorney
Mark Swann, City Auditor
Biliera Johnson, City Secretary
Preston Robinson, Administrative Judge
Kimberly Bizer Tolbert, Deputy City Manager
Jon Fortune, Deputy City Manager

Majed A. Al-Ghafry, Assistant City Manager
M. Elizabeth (Liz) Cedillo-Pereira, Assistant City Manager
Dr. Robert Perez, Assistant City Manager
Carl Simpson, Assistant City Manager
Jack Ireland, Chief Financial Officer
Genesis D. Gavino, Chief of Staff to the City Manager
Directors and Assistant Directors
Clifford Sparks, State Legislative Director