

# Memorandum



CITY OF DALLAS

DATE January 12, 2023

TO Honorable Chair Blackmon and Members of the Environment and Sustainability Committee

SUBJECT **Summary of Proposed State Environmental Legislation**

This purpose of this memorandum is to summarize proposed state environmental legislation that support the City's 2023 State Legislative Program, which was adopted on October 26, 2022. This information is based upon coordination with the Office of Government Affairs, the City Attorney's Office, Texas Municipal League, the Environmental Commission, and other reliable sources. The attached list of proposed legislation focuses on the following goals of the Program:

- **Natural resources must be sustained for the residents of Dallas:** *Supporting legislation that focuses on resource sustainability, conservation, climate change, and environmental equity to build a more resilient city.*
  - Require local approval of standard permits for polluting industries and impose minimum distances from schools, hospitals, and residences.
  - Advance the deployment of and infrastructure for solar power and electric vehicles.
- **Sustainable and resilient infrastructure drives economic growth in Dallas:** *Support legislation that protects and enhances the City's infrastructure network while continuing to deliver innovative, safe, and equitable solutions.*
  - Enhance and fund mobility infrastructure, including but not limited to bike and pedestrian improvements.
  - Improve water, stormwater, and wastewater infrastructure through dredging and other sustainable practices.
  - Allow municipalities to lower the *prima facie* speed limit in residential areas from 30 to 25 miles per hour.
  - Elevate broadband service as a critical utility. Strengthen the state's electric grid.

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Please let us know if you have information on other related legislation of concern. Should you have any questions, please reach out to Carlos Evans at [carlos.evans@dallas.gov](mailto:carlos.evans@dallas.gov); 469-617-1925.



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  - Require local approval of standard permits for polluting industries and impose minimum distances from schools, hospitals, and residences.
  - Advance the deployment of and infrastructure for solar power and electric vehicles.

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

- [HB 26](#) (Ordaz Perez) / [SB 173](#) (Blanco) – **Medical Waste Facilities:** This legislation would, among other things, provide that an applicant for an application for or notice of intent to file an application for a permit to construct, operate, or maintain a facility to store, process, or dispose of medical waste shall provide notice of the application or notice of intent by hand delivery, facsimile, or United States Post Service mail to the governing body of the city in which the facility is or is to be located, if applicable. (Companion bill is **SB 173** by **Blanco**.)

**CONCRETE PLANT & RELATED ENVIRONMENTAL PERMITTING BILLS:**

- [HB 94](#) (Jarvis Johnson) – **Concrete Batch Plants:** provide that, in determining whether to approve an application for a standard permit for a concrete batch plant, the executive director of the Texas Commission on Environmental Quality (TCEQ) must base the decision, in part, on a consideration of the potential harm to local property values and the location of the facility relative to homes, schools, churches, parks, and other community assets.
- [HB 124](#) (Jarvis Johnson) – **Concrete Batch Plants:** This legislation would limit the state law under which the TCEQ may issue an air quality permit for a concrete plant located in an area of a city not subject to zoning regulations and require that such a plant comply with certain notice and hearing requirements.
- [HB 137](#) (Sefronia Thompson) – **Concrete Batch Plants:** This legislation would require that the TCEQ provide a governing body in an unincorporated area of a municipality without zoning regulations or county with more than 4.5 million people a copy of the air permit application for such a plant. TCEQ may not permit the plant before the 31<sup>st</sup> day after the aforementioned unincorporated areas receive the permit. Only the affected municipality or county along with permanent residents within 440 yards of the plan may ask for a hearing regarding the plant.
- [HB 344](#) (Jarvis Johnson) – **Concrete Batch Plants:** This legislation would require written notice of a permit application for a proposed permanent batch plant sent to every resident within 440 yards of a proposed facility in any municipality with a population of 1.9 million or more. Requirements are outlined within this bill on what the notice must provide as information.

- [HB 372](#) **(Jarvis Johnson)– Concrete Batch Plants**: This legislation would extend the distance within which a concrete plant or crushing facility must be from a single- or multi-family residence, school, or place of worship from 440 yards to 880 yards.
- [HB 406](#) **(Collier) – Concrete Batch Plants**: This legislation would provide that a representative of a school, place of worship, licensed day-care center, hospital, or medical facility or a person residing within 880 yards of a proposed concrete plant may request a public hearing from the Texas Commission on Environmental Quality regarding the construction of a concrete plant.
- [HB 407](#) **(Collier) – Concrete Batch Plants**: This legislation would provide that a representative of a school, place of worship, licensed day-care center, hospital, or medical facility or a person residing within 880 yards of a proposed concrete plant may request a public hearing from the TCEQ regarding the construction of a concrete plant.
- [SB 149](#) **(Springer) – City Regulation**: This legislation would: (1) prohibit a city from adopting or enforcing an ordinance, rule, or regulation that imposes a restriction, condition, or regulation on commercial activity; (2) allow a city to adopt and enforce an ordinance, rule, or regulation that: (a) is essential to directly regulating a uniquely local concern that the city council determines cannot be of similar concern in another city because of the uniqueness of the local concern; (b) is essential to necessary regulation of local land use; (c) is essential to protecting citizens' physical safety; (d) is expressly authorized to be adopted by a state statute; or (e) requires nondiscrimination in the provision of employment or service to any person; (3) provide that a city acting under (2)(a), above, must contemporaneously adopt a detailed written statement describing the uniquely local concern and the basis for the determination that the concern cannot be of similar concern in another city; and (4) provide that, for purposes of (2)(d), above, a state statute that does not preempt or affect municipal regulatory authority may not be construed to expressly authorize an ordinance, rule, or regulation. [Batch Plants/Local Control]
- [HB 411](#) **(Collier) – Environmental Permit Application**: This legislation would disallow an applicant on an environmental permit whose application has been referred for a contested case hearing to modify an application prior to the contested case hearing on the application.
- [HB 657](#) **(Bailes) – Notice Publication**: This legislation would allow governmental entities to post notice on a third-party online site to satisfy posting requirements in lieu of publication in a newspaper if the posting met certain requirements.
- [HB 766](#) **(Allen) – Public Meetings on Environmental Permits**: This legislation would require the TCEQ to have a public meeting during the public comment period on certain TCEQ permits if the meeting is a) requested by the legislator; or b) there is substantial public interest. This would not apply to permits under certain water code.

- [SB 179 \(Miles\)](#) – **Permits and Cumulative Air Impacts**: This legislation would require the TCEQ to consider the air impacts of other industrial sources within 3 miles of a permit application in granting a new permit for a facility.
- [HB 758 \(Walle\)](#) – **Concrete Plants**: This legislation would provide that the TCEQ must allow the filing of a request for a contested case hearing on an authorization to use a standard permit for a concrete plant that performs wet batching, dry batching, or central mixing at any time during the public comment period.
- [HB 759 \(Walle\)](#) – **Concrete Plants**: This legislation would provide that a person may file with the TCEQ, a motion to overturn as described by TCEQ rule to challenge an executive director's final decision on an authorization to use a standard permit for certain concrete plants.
- [HB 926 \(Dutton\)](#) – **Concrete Plant Permitting**: This legislation would provide that a representative of a school, place of worship, licensed day-care center, hospital, medical facility, or a person residing within 440 yards of a proposed wet batching, dry batching, or central mixing concrete plant may request a public hearing prior to the construction or permitting of the concrete plant.
- [SB 131 \(Campbell\)](#) – **Concrete Plant Permitting**: This legislation would provide that a representative of a school, place of worship, licensed day-care center, hospital, medical facility, or a person residing in a permanent residence within 440 yards of a proposed wet batching, dry batching, or central mixing concrete plant may request a public hearing prior to the construction or permitting of the concrete plant.

#### **CLIMATE BILLS:**

- [HB 57 \(Zwiener\)](#) – **Climate Change Reporting**: This legislation would require the Texas Commission on Environmental Quality to prepare a report on the potential impact of climate change in the state every four years, which would include, among other things, information regarding the impact of climate change on the economy, infrastructure, surface water and groundwater, and state and local finances.
- [HB 846 \(Reynolds\)](#) – **Climate**: This legislation would require the state to establish the Climate Change Impact Assessment Council to study the impact of climate change on the health, safety, and welfare of residents, with the first study to be released by January of 2025.

#### **URBAN AGRICULTURE BILL + SOLAR / WIND (LOCAL CONTROL) BILLS:**

- [HB 92 \(Landgraf\)](#) – **Residential Food Production**: This legislation 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) domestic fowl; or (ii) adult rabbits; or (c) installing: (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; and (b) reasonable regulations on the raising and keeping of rabbits and fowl to control odor, noise, safety, or sanitary conditions 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.

- [HB 328 \(Cortez\)](#) – **Home Solar Installation**: This legislation would clarify the existing regulation of solar installation by a property owners' association. "Solar roof tiles" would be included as a "solar energy device" under this code.
- [HB 330 \(Goodwin\)](#) – **Home Wind Installation**: This legislation would prohibit a property owners' association from preventing the installation of a wind power facility of an appropriate residential scale.
- [HB 695 \(Rogers\)](#) – **Eminent Domain**: This legislation would provide that a city may not take private property through eminent domain for the purpose of developing or operating a wind power.

#### **WILDLAND-URBAN INTERFACE BILLS:**

- [HB 152 \(Goodwin\)](#) – **Wildlife**: This legislation would require commissioners court to adopt a wildland-urban interface code in an unincorporated area of a county of a million or more population. The rule will affect building permits in these areas.
- [HB 1027 \(Slawson\)](#) – **Property Tax Appraisal**: This legislation would repeal the additional property taxes imposed as a result of the sale or change in the use of land appraised as open-space land, timberland, parkland, or public access airport property. (Companion bill is **S.B. 279** by **King**.)

### DISASTER-RELATED BILLS:

- [HB 588](#) (Raymond) – **Disaster Alert System**: This legislation would require the state along with the appropriate agencies to establish a disaster alert system.
- [SB 99](#) (Johnson) – **State of Disaster Declaration**: This legislation would outline requirements of the governor and the legislature regarding renewal of certain declared states of disaster.
- [SB 100](#) (Johnson) – **State Authority of Disaster Declaration**: This legislation would establish the governor's authority and the chain of command during the recovery following a disaster declaration.

### ENVIRONMENTAL JUSTICE BILL:

- [HB 642](#) (Reynolds) – **Environmental Justice**: This legislation would require the state to establish a Texas Environmental Justice Commission to advise state and local governments on environmental justice issues.

### GAS-POWERED APPLIANCE BILLS:

- [HB 743](#) (Dean) – **Gas Powered Appliance Regulation**: This legislation would require that a city may not adopt or enforce a regulation that prohibits or restricts, directly or indirectly, the use of an appliance, system, or component that is fueled by natural gas or propane in the construction, renovation, maintenance, or alteration of a residential or commercial building.
- [HB 744](#) (Dean) [HB 764](#) (Cain) – **Gasoline Powered Tool Regulation**: This legislation would require that a city may not adopt or enforce a regulation that prohibits or restricts the use or sale of gasoline-powered landscaping equipment.
- [SB 104](#) (Johnson) – **Air Emissions and Small Engines**: This legislation would create a small non-road engine purchase incentive program under the Texas Emissions Reduction Plan (TERP).

### POWER/ ELECTRICAL GRID BILLS:

- [SB 31](#) (Zaffirini) – **Electricity**: This legislation would, among other things, provide that: (1) a transmission and distribution utility, municipally owned utility, or electric cooperative that transmits or distributes power purchased at wholesale in the ERCOT power region may construct, own, and operate facilities as necessary to: (a) access transmission service from outside the ERCOT power region; and (b) purchase power at

wholesale from outside the ERCOT power region; and (2) unless otherwise provided by federal law, the Public Utility Commission (PUC) shall require ERCOT to approve the interconnection of a facility in (1), above, unless the PUC or ERCOT determines that the interconnection poses a significant and imminent risk to public health and safety.

- **SB 114 (Menendez) – Electricity**: This legislation would, among other things: (1) provide that a retail electric customer is entitled to: (a) participate in demand response programs; 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.

#### **TRANSPORTATION & EV-RELATED BILLS:**

- **HB 366 (Bell) – High Speed Rail Bond**: This legislation would provide that before a private entity begins operation of new high-speed rail service the entity must file a bond in an amount sufficient to restore real property used for the service to its original condition if the service ceases operation.
- **HB 820 (Ken King) – Additional Hybrid Vehicle Registration Fee**: This legislation 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 TCEQ.
- **HB 960 (Jetton) – Electric Vehicle Registration Fee**: This legislation would provide that at the time of application for registration or renewal of registration of an electric vehicle, the applicant shall pay an additional \$100 road maintenance fee, which must be deposited to the credit of the state highway fund.



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

**WATER UTILITY-RELATED BILLS:**

- **HB 874 (Bowers) – Water Rights:** This legislation 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.
- **HB 349 (Bucy) – Municipal Drainage Service Charges:** This legislation would: (1) authorize a city to exempt property from all or a portion of drainage charges if the property is used as a principal residence of an individual who is a disabled veteran, 65 years of age or older, a veteran of the armed forces of the United States, or a member of the armed services of the United States on active deployment; and (2) authorize a city to impose additional eligibility requirements for an exemption under (1), above.
- **HB 583 (Raymond) – Drinking Water Report:** This legislation 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.
- **HB 585 (Raymond) – Water Treatment Facilities Reporting:** This legislation 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.
- **HB 40 (Zwiener) / HJR 25 (Zwiener) Water and Ad Valorem Tax Exemption – Property Tax Exemptions:** This legislation would provide that a person is entitled to an exemption from taxation of the portion of the appraised value of the person's

property that is attributable to the installation in or on the property of a rainwater harvesting or graywater system.

- [SB 40 \(Zaffirini\)](#) – **Water Alert System:** This legislation would provide that the TCEQ establish and implement a boil water alert system.
- [SB 223 \(Campbell\)](#) – **Wastewater Treatment Permits:** This legislation would require the TCEQ to hold at least one public meeting on a permit application for a wastewater treatment facility in the county where the facility is to be located.