

TML LEGISLATIVE UPDATE



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Several Texas Cities File Lawsuit Seeking Franchise Fees from Streaming Services

Last week, a group of 25 Texas cities [filed a lawsuit](#) alleging that streaming services Disney, Hulu, and Netflix have failed to pay city franchise fees for use of the city rights-of-way in providing their services, as required by state law. Similar lawsuits have been filed in other states as people continue to “cut the cord” and switch from cable to streaming video services.

Specifically, the cities argue in *City of Dallas v. Disney DTC, LLC* that the streaming services fit the definition of “video service providers” under [Chapter 66 of the Texas Utilities Code](#) because they provide video programming services through wireline facilities located in the public right-of-way. The suit alleges that, by not seeking a state-issued certificate of franchise authority and paying a five percent franchise fee to cities like other cable and video services providers, the streaming companies have violated Chapter 66. The plaintiff cities also contend that failure to pay statutorily-required franchise fees violates the provisions of the Texas Constitution prohibiting cities from giving gifts for private purposes.

The League will continue to monitor the litigation and will provide updates as they become available.

Federal Infrastructure Bill Update

In November 2021, the federal Infrastructure Investment and Jobs Act (IIJA) was signed into law. The IIJA is altogether a \$1.2 trillion bill that will invest in the nation's core infrastructure priorities including roads, bridges, rail, transit, airports, ports, energy transmission, water systems, and broadband.

The League will monitor state and federal agencies and work with the National League of Cities (NLC) to access the latest information relating to the IIJA. We will be providing periodic updates in the Legislative Update on resources for Texas cities on how to access IIJA funding for local infrastructure projects.

U.S. Department of Agriculture (USDA)

Last week, the USDA [announced](#) it is accepting applications for the second round of 2022 funding for the Rural eConnectivity Program, also called the ReConnect Program. The program is designed to facilitate broadband deployment in rural areas. Local governments are eligible applicants, among many others. Beginning on September 6, applications can be submitted through the Rural Utilities Service on-line application portal until 10:59 am CST on November 2. More on the program can be found [here](#).

National League of Cities (NLC)

The [Local Infrastructure Hub](#), sponsored by NLC and the U.S. Conference of Mayors, among others, is now live. The Hub is designed to help city officials navigate the funding programs made available by the IIJA. Interested city officials can sign up for the mailing list, attend virtual learning events, and access articles and other resources on some of the key IIJA funding opportunities. [Upcoming events](#) include:

- August 16: Focusing on Broadband ([register](#))

Last Call: Resolutions Due August 22 for 2022 Annual Conference

Resolutions for consideration at the Annual Conference are due no later than 5:00 p.m. on **August 22, 2022**. The TML Constitution provides that resolutions must be submitted by any member city, TML region, or TML affiliate to the TML headquarters 45 calendar days prior to the first day of the Annual Conference.

The League's advocacy efforts are based on a legislative program that is developed by member city officials in two ways.

First, a member city, TML region, or TML affiliate may submit a resolution for consideration at the business meeting of each year's Annual Conference. Each city is asked to provide one delegate to serve as its liaison at the meeting. The representatives will be briefed on the content of the resolutions and given a chance to discuss and vote on whether they merit inclusion in the legislative program. The resolutions form the basis of a fixed legislative program, under which – each session – modifications to the program will be made only if needed.

Second, member city officials can participate in the League's Municipal Policy Summit during the summer of 2022. The report of the Summit takes the form of a resolution that is submitted to the Annual Conference in interim years. The summit participants have been appointed by the TML President based on volunteers and others chosen to balance the demographics of the TML membership at large.

Details on the submission process can be found [here](#).

Mandated Cybersecurity Training and Reporting Due August 31

Cybersecurity training is mandated by Texas Government Code Section 2054.5191 for city employees, elected officials, and appointed officials who have access to a local government computer system or database and use a computer to perform *at least 25 percent* of their duties. The training must be certified by the Texas Department of Information Resources (DIR). Cities must certify their compliance by **August 31, 2022** by using the [Cybersecurity Training Certification for State and Local Governments](#) form.

The Texas Municipal League Intergovernmental Risk Pool (TMLIRP) has three DIR-certified options available free of charge. TMLIRP's free cybersecurity training program can be assessed [here](#). Other DIR-certified training programs are listed on the agency's [website](#).

DIR has developed an optional tool, Texas by Texas (TxT), for cities to track compliance of individual employees and officials training compliance. For any city using TxT, employees will report their training completion and DIR will send reporting from the TxT application to each city to verify training compliance. Interested cities must submit the [Texas by Texas Self Reporting Form](#).

More information on training requirements can be found [here](#).

House and Senate Committee Interim Hearings

The Texas House and Senate Committees are underway studying interim charges outlined by Speaker Phelan and Lt. Governor Dan Patrick.

Below is a full list of committee hearings set to hear certain city-related charges. All hearings will be held at the Texas Capitol unless otherwise indicated. If a committee has a newly posted notice and was not included in last week's edition of the *Legislative Update*, it is indicated as such.

House Committee on Natural Resources

The committee will meet on Tuesday, August 23 at 10:00 a.m. to hear the following interim charges:

Review the adequacy and efficiency of current mechanisms used to compensate water right holders when the Texas Commission on Environmental Quality temporarily transfers a water right under an emergency authorization. Make appropriate recommendations for the protection of private property rights of water right holders.

Information on the hearing, including how to register and submit electronic comment, can be found [here](#).

House Committee on Natural Resources

The committee will meet on Wednesday, August 24 at 10:00 a.m. to hear the following interim charges:

Examine the condition of Texas' water and flood mitigation infrastructure capabilities and consider future infrastructure needs. Evaluate sustainable funding sources to provide for water project development and infrastructure repair and replacement. Examine and make recommendations for cost-effective improvements that enhance the state's available water supply.

Note: the desalination portion of this charge will be held at a later date.

Examine the state's groundwater management policy and regulatory framework. Include a review of large-scale water transfers and their impact on groundwater resources. Make appropriate recommendations for legislation or state agency action to:

- Promote the achievement of planning goals under Chapter 36, Water Code, including those involving desired future conditions;
- Provide adequate transparency to the permit application process;
- Further the state's groundwater quality protection efforts, including an assessment of risks posed to groundwater by abandoned and deteriorated water wells and orphan oil and gas wells; and
- Promote conservation and waste prevention.

Information on the hearing, including how to register and submit electronic comment, can be found [here](#).

House Committee on Pensions, Investments, and Financial Services

The committee will meet on Thursday, August 25 at 11:00 a.m. to hear the following interim charge:

Review the impact of investments by public retirement systems of their endowment and other trust funds in businesses and funds owned or controlled by the Russian government or Russian nationals, and determine the need for investment restrictions. Consider the impact of any proposed investment restrictions on fund performance.

Information on the hearing, including how to register and submit electronic comment, can be found [here](#).

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