



CITY OF HOUSTON

Office of the Mayor

Interoffice

Correspondence

To: Houston City Council

From: Mayor's Office of Govt. Relations

Date: March 6, 2023

Subject: Update to Council

While continuing to work on passing the City of Houston's Legislative Priorities, the Government Relations team would like to highlight the following bills that directly go against the Legislative Principles passed by City Council on October 19, 2022.

House Bill 2127 by Rep. Dustin Burrows and its companion Senate Bill 814 filed by Sen. Brandon Creighton would give the state exclusive authority over any activity contained in the Agricultural Code, Finance Code, Insurance Code, Labor Code, Natural Resources Code, and Occupations Code unless state law expressly authorizes a city or county to act in these fields. Any local ordinance or order that attempts to regulate any activity within these codes would be void and unenforceable by law.

The Texas Municipal League has provided information in their Legislative Updates regarding the consequences that this legislation would pose on municipal regulation. The GR Team would like to offer the following examples that would directly impact the City of Houston:

- The Occupations Code includes state statutes concerning consequences of criminal convictions (Chp. 53), outdoor music festivals (Chp. 2104), regulation of fireworks (2154), boarding homes (Chp. 2155), and vehicle towing and booting (Chp. 2308).
- On the Insurance Code, regulation for employers' contributions to health insurance (See Tex. Ins. Code Section 1221.001) would directly preempt the City's Pay or Play (POP) policy would be voidable as this is not a policy that is expressly authorized in the Insurance Code. In FY2022, the policy disbursed \$1,290,000 of POP dollars to support these programs which collectively served over 32,000 uninsured and Houston residents.
- For the Labor Code, the City's Executive Order relating to minimum wage in connection with certain airport contracts could also be preempted and voidable under Chapter 62.

While we are still analyzing the full impact of this bill, the consequences are far-reaching. Anyone impacted by a local ordinance or order in these fields may bring suit against a local government or local official. If a court finds that the challenged ordinance

or order is not expressly authorized by law, the plaintiff would be entitled to declaratory and injunctive relief, costs, and attorney's fees. Governmental, official, or qualified immunity would not apply to any such claim.

Senate Bill 149 by Senator Drew Springer would prohibit the City from adopting or enforcing any ordinance, regulation, or other measure that imposes any restriction, condition, or regulation on commercial activity.

This preempts a municipality's authority to regulate concerns and issues that impact their municipality. In Houston, it would limit requirements to various permits and regulatory schemes, such as noise, donation boxes, mini-warehouses, dance halls, lodging facilities, and alternate housing facilities.

Issues such as metal recycling, accessible pedestrian sidewalks, special event parking, valet parking policies would also be severely restricted.

House Bill 1247 by Rep. Charles "Doc" Anderson and Senate Bill 577 by Senator Drew Springer would limit how the City can regulate and enforce sound regulations.

The City has recently gone through a two-year process developing and fine-tuning noise and sound regulations for the City. The recently adopted permitting structure has 4 different types of permits, which the Houston would no longer be allowed to require for food establishments.

It will also void Section 30-5 of the City's ordinance setting maximum sound limits for food establishments, currently set in residential areas at 65 dB(A) and 58 dB(A) during daytime and nighttime hours to a statewide standard of 75 dB(A) as well as largely end Houston's ability to regulate sound from mobile food trucks.

Senate Bill 175 by Senator Mays Middleton would ban taxpayer lobbying this session after he filed bills to ban the practice as a state representative in the last two legislative sessions. SB 175 would amend Chapter 556 of government code to prohibit political subdivisions from using public funds for lobbying activities.

- It also would prohibit political subdivisions from paying nonprofit state associations or organizations that primarily represent political subdivisions or hire or contract with lobbyists (specifically, the Texas Municipal League).

The Houston Government Relations Team has worked to provide transparency and accountability for our lobby teams with both legislative reports and testimony before Houston City Council. The recent state lobby contract was approved by Houston City Council on November 16th by a vote of 16 to 1 for a two-year total of \$757,000 (the same total as in 2011).