

# 88th Regular Session Legislative Update

Texas Municipal Human Resources Association  
September 15, 2023

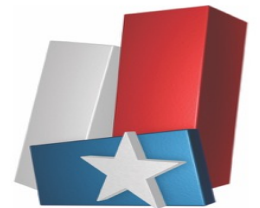
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# 88th Legislative Session

## 88<sup>th</sup> Legislative Session – By the Numbers

Year	Total Bills Introduced	Total Bills Passed	City-Related Bills Introduced	City-Related Bills Passed
2011	6303	1410	1500+	160+
2013	6061	1437	1700+	220+
2015	6476	1329	1600+	220+
2017	6800	1220	2000+	290+
2019	7541	1437	2000+	330+
2021	6927	1073	2000+	240+
2023	8344	1258	1800+	230



# Special Sessions

- **1<sup>st</sup> Called: May 29**
  - Property tax relief and border security
  - No legislation passed
- **2<sup>nd</sup> Called: June 27**
  - Property tax relief through tax rate compression and pathway to eliminate school district maintenance and operation property taxes
  - **S.B.2 and 2S.J.R. 2**
    - \$100,000 homestead exemption for school property taxes, over \$12 billion in state funding for schools, 20% appraisal cap on non-homesteaded property for 3 years, 3 newly elected positions on local appraisal boards
- **Future specials?**
  - School vouchers in the fall
  - Teachers pay



# Cutting Room Floor

- Automatic civil service over 10,000 population
- Increased minimum wage
- Paid leave, including family medical leave, family violence leave, and paid sick leave.
- Unemployment benefits
- Gender identity and sexual orientation discrimination
- Marijuana drug testing
- Severance pay



# Super Preemption – H.B. 2127

- Expressly preempts certain home rule city regulations.
- Potentially preempts other home rule city regulations in fields occupied by state statute in particular codes, depending on how courts rule.
- Creates a cause of action for lawsuits against a home rule city to determine whether a city regulation is preempted.
- Requires three months' notice before a claimant may bring a lawsuit against a city.



# Super Preemption – H.B. 2127

## **What HR-related city authority is expressly protected?**

- Ability to negotiate terms of collective bargaining agreements
- Adoption of policies related to city employees

## **Which HR-related city regulations are expressly preempted by the bill?**

- Regulations relating to employment leave, hiring practices, breaks, employment benefits, scheduling practices, and other terms of employment that exceed or conflict with federal or state law.



# Super Preemption – H.B. 2127

## Which city regulations *may* be preempted by the bill?

Unless expressly authorized, a city ordinance that regulates conduct in a field of regulation that is occupied by a provision of one of the following codes is void and unenforceable:

- Agriculture Code
- Business & Commerce Code
- Finance Code
- Insurance Code
- **Labor Code**
- Natural Resources Code
- Occupations Code
- Property Code



# Super Preemption – H.B. 2127

## When does a state statute occupy a field of regulation?

- Following the bill’s passage, the City of Houston—later joined by the cities of San Antonio and El Paso as intervenors —filed a lawsuit in Travis County to have H.B. 2127 declared unconstitutional.
- On August 31, the court declared H.B. 2127 unconstitutional in its entirety.
- More appeals to follow and the extent of city preemption won’t be fully known for years while courts define “field preemption.”





# CROWN Act – H.B. 567

- Provides that race discrimination includes discrimination because of or on the basis of an employee's hair texture or protective hairstyle (braids, locks, and twists) commonly or historically associated with race.
- Make it an unlawful employment practice if an employer adopts or enforces a dress or grooming policy that discriminates against a hair texture or protective hairstyle commonly or historically associated with race.



# Illness and Injury Leave – H.B. 471

- H.B. 471, effective June 12, 2023, creates mandatory paid leave for the following paid first responder city employees:
  - Permanent firefighters (includes fire chief);
  - Emergency medical services personnel; and
  - Full-time licensed police officers who regularly serve in a professional law enforcement capacity in the city's police department (includes police chief).
- A city is required to provide a first responder with a leave of absence for an illness or injury related to the first responder's line of duty.



# Illness and Injury Leave – H.B. 471

- The leave is with full pay for a period commensurate with the nature of the line of duty illness or injury, and if necessary, the leave of absence shall continue for at least one year, and the city may extend the leave at full or reduced pay.
- If the first responder is unable to return to work after the leave of absence and any extension granted by the city, the first responder who requires additional leave shall be placed on temporary leave.
- A first responder who is temporarily disabled by a line of duty illness and who has exhausted his or her leave of absence and any extension thereof may use accumulated leave and other accrued benefits before being placed on temporary leave.

# Illness and Injury Leave – H.B. 471

- If able, a first responder may return to light duty while recovering from a temporary disability, and if medically necessary, the light duty assignment may continue for at least one year.
- A first responder who has recovered from a temporary disability shall be reinstated to the same rank and with the same seniority he or she had before going on temporary leave.
- Any benefits a first responder is entitled to under workers' compensation will be diminished by any benefits the first responder receives under the bill.
- A labor agreement that provides a benefit for an ill or injured first responder must provide a benefit that, at a minimum, complies with the bill.
- TML prepared an [FAQ](#) on this bill.



# Mental Health Leave Policy – H.B. 1486

- Requires a city that employs a full-time telecommunicator to develop and adopt a mental health leave policy for use by a telecommunicator who experienced a traumatic event in the scope of their employment.
- The policy must:
  - Provide clear and objective guidelines establishing circumstances in which a telecommunicator is granted and may use mental health leave;
  - Provide that the mental health leave shall be taken without a deduction in salary or other compensation;
  - List the number of mental health leave days available for use by a telecommunicator; and
  - Detail the level of anonymity for a telecommunicator who takes mental health leave.

# Workplace Violence Hotline – H.B. 915

- Requires each employer to post a notice to employees of the contact information for reporting instances of workplace violence or suspicious activity to the Department of Public Safety (DPS).
- The notice must be posted:
  - In a conspicuous place in the employer's place of business;
  - In sufficient locations to be convenient to all employees; and
  - In English and Spanish, as appropriate.
- The Texas Workforce Commission, in consultation with DPS, by rule, shall prescribe the form and content of the notice (by March 1, 2024).



# Police Hiring Age – H.B. 1661

- Allows a person who is 45 years of age or older to be certified for a beginning position in a police department under civil service.



# Workers' Compensation – H.B. 2468

- A first responder who sustains a serious bodily injury in the course and scope of the first responder's employment or volunteer services as a first responder that renders the first responder permanently unemployable is entitled to receive lifetime income benefits paid until the first responder's death.





# Workers' Compensation – H.B. 3335

- For purposes of workers' compensation, a peace officer's travel en route to an emergency call is considered to be in the course and scope of the peace officer's employment.

# Repealing Civil Service Status – H.B. 4227

- Provides that a city council in a city with a population of less than 950,000 that has operated under civil service laws for its police officers or firefighters for at least one year shall order an election if the city council receives a petition requesting an election to repeal civil service that is signed by at least 10 percent of the qualified voters of the city.



# TikTok Ban – S.B. 1893

- Requires a city to adopt a policy prohibiting the installation or use and requiring the removal of TikTok or any successor application, or any other social media application specified by the Department of Information Resources and Department of Public Safety, on any city-owned or leased electronic device.
- Exceptions apply for law enforcement or information security purposes.



# Mask and Vaccine Mandates – S.B. 29

- S.B. 29, adds Chapter 81B to the Texas Health & Safety Code, and prevents cities from:
  - requiring a *person* to wear a face mask or other face covering to prevent the spread of COVID-19; or
  - requiring a *person* to be vaccinated against COVID-19 (this prohibition only applies to the extent it does not conflict with the final rule adopted by the Centers for Medicare and Medicaid Services published on November 5, 2021).
- Person, includes a city employee/official/contractor



# COVID-19 Disease Presumption– S.B. 22 (2021)

- S.B. 22, which was effective June 14, 2021 (and retroactively applied to a COVID-19 diagnosis on or after the date of the governor's first disaster declaration on March 13, 2020), provided a disease "presumption" for first responders diagnosed with COVID-19.
- S.B. 22 contained a "sunset provision," which provides that the presumption expires on September 1, 2023.
- It's also likely the statutory presumption expired earlier on June 15, 2023, because to be eligible under the presumption, a first responder must work in a COVID-19 declared disaster area. Both federal and state disaster declarations related to COVID-19 have ended, and the state declaration expired on June 15, 2023.



# Paid Quarantine Leave – H.B. 2073 (2021)

- H.B. 2073, effective on June 15, 2021, requires a city to adopt a paid quarantine leave policy for first responders (as applicable for each city) who are employed by, appointed by, or elected to one of those positions.
- The policy comes into effect when someone who holds one of those positions is *ordered by a supervisor or local health authority* to quarantine or isolate due to a possible or known exposure to a communicable disease while on duty.
- The policy is a stand-alone mandate that is unrelated to workers' compensation benefits..



# Stay Informed

- TML *Legislative Update*
- Post-Session Update articles
- Full list of passed bills:

[https://www.tml.org/DocumentCenter/View/3820/LU2023\\_23](https://www.tml.org/DocumentCenter/View/3820/LU2023_23)



# Questions

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