TML
TEXAS MUNICIPAL LEAGUE

President Jungus Jordan, Councilmember, Fort Worth
Executive Director Bennett Sandlin

August 14, 2014

The Honorable Donna Campbell
Texas Senate
P.O. Box 12068 – Capitol Station
Austin, Texas 78711

Dear Senator Campbell,

The Texas Municipal League (TML) watched, with interest, the Senate Finance Committee hearing held on August 12, 2014. At that hearing, you questioned a witness regarding local debt. TML is always ready to work with you and the Senate Finance Committee on city-related finance issues, including local debt.

The story about debt coming out of certain Austin think tanks these days goes something like this: the state has its fiscal house in order, but local governments are greedy, profligate spenders running up the taxpayers' credit card. It's a powerful narrative. But it isn't true.

A December 2013 report issued by the Texas Bond Review Board contains two handy charts that show total outstanding state and local debt for the past few years. For the three-year period, 2009-2012, total local debt increased from $174.5 billion to $195.8 billion, a 12.2% increase. For the same period, total state debt increased from $34.1 billion to $41 billion, a 20.3% increase. In other words, local debt is increasing at a significantly slower rate than state debt in recent years.

The amount of total local debt is certainly significant, at $195.8 billion. However, only a small portion of that—$27 billion—is tax-supported city debt. Another $36 billion is city debt supported by the revenues of city utilities and not by property taxes. The largest portion is tax-supported school district debt, at $63 billion.

School funding, as you know, is a constitutional obligation of state government. The state has chosen to discharge that obligation by creating local school districts that levy the needed taxes. In reality, the $63 billion of school district debt ought to be thought of as a state debt because that's how the state has chosen to fund schools. Shift that $63 billion over to the state debt

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column and a vastly different picture about which governments may be falling dangerously into debt emerges. In any event, the numbers show it clearly isn't Texas cities.

At Tuesday's Senate Finance Committee meeting, you asked a representative from the Legislative Budget Board about the growth of local debt, and whether cities are capped at issuing a certain amount of debt. The LBB representative responded that the Texas Constitution and Texas statutes do not impose any such limitation. That's true, but the answer provided was a bit incomplete. The reality is that the Texas attorney general's office has promulgated administrative rules providing that the attorney general will not approve a city issuance of debt if the debt service property tax rate makes up too great a portion of the larger property tax rate. The attorney general's administrative rules provide that the attorney general will not authorize a city to issue debt if: (1) the debt service portion of the tax rate exceeds $1.00 per $100 of valuation in a city with a population of less than 5,000; or (2) the debt service portion of the tax rate exceeds $1.50 per $100 of valuation for a city with a population of more than 5,000 (unless city charter provides a lower threshold). *See* 1 TEX. ADMIN CODE § 53.5 (TEX ATT'Y GEN, Determinations of Bond Allowable and Annual Tax Funds Available for Debt Retirement).

Article XI, Sections 4 and 5 of the Texas Constitution, provide that the maximum total tax rate for a city over 5,000 population is $2.50 per $100 of taxable value, and the maximum property tax rate for a city under 5,000 population is usually $1.50 per $100 of taxable value. No city tax rate may exceed those amounts when combining the maintenance and operations portion of the tax rate with the debt service portion of the tax rate. In other words, there *is* a legal limit on the total amount of debt that may be issued by a city. A bond or other debt issued by a city must receive attorney general approval prior to issuance, and the attorney general will not approve any city debt exceeding the amounts listed above.

Texas cities are quite prudent with taxpayer dollars, and seldom approach the maximum tax rates prescribed by state law, even with debt included. As of the date of this letter, the most recent public tax rate data from the Texas Comptroller is from 2011. According to that data, in 2011 the highest tax rate of any city was $1.37, and only 25 of 1,198 listed cities had a property tax rate exceeding $1.00. (Website of Texas Comptroller of Public Accounts, *Property Tax Survey Data and Reports - Property Tax Biennial Report,* http://www.window.state.tx.us/taxinfo/proptax/resources/reports.html). The average tax rate of all cities, moreover, has hovered around $0.50 for many years.

TML would suggest that the recent focus on local debt (despite the fact that state debt is growing faster) likely relates to the reality that Texas state government, for better or worse, has gotten out of the business of building new state infrastructure with state dollars. Instead, locals are expected to pick up the slack for things like roads and reservoirs.

Consider the recent water funding proposition that passed last November—it ultimately spends zero state dollars. Instead, through the use of a revolving fund, it *encourages cities to take on debt* to build our state's important reservoirs and other water projects. This is a perfect example of the state essentially forcing locals to take on debt to do the state's work, then blaming the same locals for having taken on the debt in the first place!

Texas cities are willing to partner with state government to build infrastructure in our great state. We would prefer, though, not to be scapegoats within that new partnership. I look forward to continuing a dialogue with you before and during the upcoming legislative session.

Sincerely yours,

Ned Bennett Sandlin

Bennett Sandlin
Executive Director