

PROPOSAL

TO THE

TEXAS BOARD OF LEGAL SPECIALIZATION

TO CREATE A

SPECIALTY AREA FOR

LOCAL GOVERNMENT LAW

CONTACT:
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Government Law Section
State Bar of Texas

TEXAS BOARD OF LEGAL SPECIALIZATION

STANDARDS FOR ATTORNEY CERTIFICATION

PART II
SPECIFIC AREA REQUIREMENTS

These are specific requirements that apply to the specialty area listed below. The specific requirements include the definitions, substantial involvement, certification, recertification, and reference requirements for the specialty area.

LOCAL GOVERNMENT LAW

- A. **DEFINITION.** Local Government Law is used to describe the practice of law dealing with the laws, rules and regulations, and other jurisprudence utilized by attorneys who represent or deal with Texas local governmental entities, such as municipalities, counties, school districts, special districts, hospital districts, and associated boards, commissions, and entities appointed or controlled by such local governmental entities. It requires knowledge of the various types of local governmental entities, their general organizational structures, and the main areas of law that apply to the vast majority of local governmental entities.
- B. **SUBSTANTIAL INVOLVEMENT.** These are specific requirements that apply to the specialty area listed below. Applicants will also need to refer to the Standards for Attorney Certification, Part I – General Requirements for requirements that apply to all specialty areas.
- 1. Certification.**
- a. **Percentage of Practice Requirement.** Applicant must have devoted a minimum of **70%** of his or her time practicing local government law in Texas, as defined in Subsection A. above, during each year of the three years immediately preceding application.
- b. **Task Requirements.** Applicant must provide information as required by TBLS concerning specific tasks performed in Texas relating to local government law. In evaluating experience, TBLS may take into consideration the nature, complexity, and duration of the tasks handled by the applicant.

(1) To show sufficient involvement and special competence in Texas local government law, the Applicant must demonstrate substantial knowledge in the subjects set forth in Category 1, and must also have, during each year of the three years immediately preceding application, devoted a minimum of 70 % of his or her time practicing in one or more of the categories set forth in Categories 2 and/or 3:

- (i) **Category 1: General Knowledge** of Local Government Law, including:
1. open government, including open meetings and open records, and records retention;
 2. intergovernmental relations, including supremacy and preemption;
 3. governmental and sovereign immunity;
 4. ethics, including conflicts of interest, nepotism, and bribery; and
 5. parliamentary procedure.
- (ii) **Category 2: Acting In a General Counsel Capacity** by providing legal opinions and advice to a local governmental entity concerning:
1. drafting, revision, or adoption of local government legislation (ordinances, regulations, or orders);
 2. open meetings issues;
 3. open records requests;
 4. employment law;
 5. budgeting, taxation, and debt issuance;
 6. government contracts and procurement;
 7. emergency management;
 8. civil service or government employment issues;
 9. land use (including annexation, eminent domain, and zoning); or
 10. authority of specific governmental entities.
- (iii) **Category 3: Trial and Appellate Advocacy** on behalf of a local governmental entity, with primary responsibility for:
1. civil litigation involving a local governmental entity (including civil rights, tort claims, immunities);
 2. civil appeals involving a local governmental entity;
 3. local regulatory enforcement matters;
 4. administrative law matters, including but not limited to SOAH hearings, local board hearings with quasi-judicial authority, or local advisory board proceedings;
 5. election matters, contests, and recounts; or
 6. local enforcement actions, investigations, and prosecutions.

2. Recertification. Applicant must have devoted a minimum of **70%** of his or her time practicing Local Government Law, as defined by Subsection A above, during each year of the 5-year period of certification.

- C. **REFERENCE REQUIREMENTS.** Applicant must submit a minimum of five (5) names and addresses of persons to be contacted as references to attest to his or her competence in local government law, with at least three persons who are employed outside of the applicant's place of employment. These persons shall be substantially involved in the practice of government law and be familiar with applicant's law practice.

Subject Matter Outline for Certification Knowledge

- Familiarity with U.S. Constitutional Application to Local Governmental Entities in Texas
- Familiarity with Texas Constitutional Application to Local Governmental Entities
- Familiarity with the following laws related to local governments:
 - Chapter 551, Texas Government Code (Texas open Meetings Act)
 - Chapter 552, Texas Government Code (Texas Public Information Act)
 - Chapter 441, Texas Government Code Local Government Records Act)
 - Chapter 554, Texas Government Code (Texas Whistleblower Act)
 - Chapter 252, Local Government Code (Municipal Procurement Act)
 - Chapter 791, Texas Government Code (Interlocal Cooperation Contracts),
 - Chapter 143, Local Government Code (Civil Service Act)
 - Chapter 418, Texas Government Code (Texas Disaster Act of 1974)
 - Chapter 171, Texas Government Code (Conflicts of Interest)
 - Chapter 573, Texas Government Code (Anti-Nepotism Act)
 - Chapter 37, Civil Practices & Remedies Code (Declaratory Judgment Act)
 - Article XVI, Sec. 40 Tex. Const. (Prohibition of Dual Office Holding)
 - Article XI, Sec. 5 and 7 Tex. Const. (Extension of credit)
 - 42 U.S.C. §1983 (Civil Rights Act),
 - Title II of the ADA
- Knowledge of general election law requirements
- Knowledge of the following immunities and their application:
 - Sovereign immunity
 - Governmental immunity
 - Official immunity
 - Qualified immunity
 - Statutory immunity
 - Prosecutorial immunity
 - Legislative immunity

- Judicial immunity
- Knowledgeable in drafting ordinances, resolutions, policies or rules
- Knowledgeable in enforcement of local regulations and codes
- Knowledgeable in trial and appellate practice that is impacted by local regulations, immunity, and specific civil and criminal procedures
- Knowledgeable in local government-specific state and federal laws.