



TEXAS CONSTRUCTION ASSOCIATION

NEWSLETTER

Summer 2019

BUILDING SOMETHING GREAT

POST 2019 LEGISLATIVE SESSION



Recap of the 86th Regular Session by Jocelyn Dabeau, Bob Kamm & Eric Woomer

The 86th Legislature convened, as constitutionally required on the second Tuesday in January of every odd-numbered year, on Tuesday January 8, 2019. In preparation for the Session, TCA staff worked with the TCA Board to develop the legislative agenda for TCA, and with TCA counsel to draft proposed legislation. Staff met with other stakeholder groups to discuss issues common to our industry, and with opponents in an effort to seek common ground and resolve potential

sticking points. TCA staff, members and outside lobbyists also met with several elected officials to explain our issues and to seek their support for TCA's legislative agenda.

Once again, TCA adopted an ambitious agenda focused on reducing design defect liability, modernizing lien laws, securing retainage liens, reducing construction defect litigation and limiting the statute of repose. Prior to the session beginning, TCA staff

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New Laws Benefit Construction Industry

After 140 days of work, Texas legislators concluded the 86th biennial legislative session with a streak of high-profile bipartisan bills sent to Governor Greg Abbott's desk, while avoiding the many pitfalls that threatened to derail their efforts. In contrast to the high-profile feuds that highlighted the previous session, the 86th session saw passage of multiple top-priority pieces of legislation, providing big wins on both sides of the aisle. While not without controversy, the session was historically productive, addressing issues ranging

from school finance reform, to property tax reductions, to disaster preparedness. With the 86th session officially in the books, legislators have returned to their districts and, to some extent, their normal lives, while at the same time already gearing up for the 2020 elections and the redistricting fight that is sure to follow.

The 86th session gaveled in quietly in January; following the November 2018 elections, legislators returned to Austin to the unanimous selection of Rep.

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Message from the President

In a June issue of "The Texas Minute", Michael Q. Sullivan of Empower Texans, focused on perseverance. He wrote, "We are called to persevere, to keep going. Perseverance isn't an issue in good times; it's about when times are tough." Sullivan had more: "It's ok to slow down, to change up the pace, to even walk a few steps. But it's not OK to give up. It's not acceptable to stop. We must persevere. We must keep going, keep pursuing, never stopping. Not now, not ever."

Sullivan also had the oft-used Winston Churchill quote, "Never give in, never give, in..."

Looking for ways to persevere is a main focus of what we do at TCA to advocate on issues of importance before the Texas Legislature. The route to pass legislation is filled with potholes and land mines, not to mention actions by opposing forces and the clock that keeps ticking during the short legislative session. The potholes sometimes can be overcome. Land mines are deadly and might be the end of a bill's life.

Continuing to press forward while looking for alternative routes is what we do during a Texas legislative session. We do the same during the time between sessions. After the legislative session ended in May, we took a breath and then worked to design a strategy to help the association move forward. It is being implemented. It includes doing things that have been successful for us and trying new approaches to help achieve our goals. The best "tried and true" methods sometimes aren't successful. We look for other arrows to fill our quiver.

Whether a legislative session is highly successful, a bust, or something between, TCA's ongoing legislative program is to be an acknowledged presence for the construction industry and advocate honorably on our members behalf.

Our newsletter is filled with information on what passed and didn't pass for the construction industry and on other major issues, proposed amendments to the Texas Constitution, thoughts from TCA lobbyist, member benefit updates and more. I am hopeful you will find it of interest.

Meanwhile, never giving in "except to convictions of honour and good sense" as Churchill said, is our mantra.

Raymond

LET'S GET SOCIAL

We are ready to
connect with you!



Twitter- TX ConstructionAssoc or @Texcon1



Facebook -Tca Tca



LinkedIn- Texas Construction TCA



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Building Something Great



Constitutional Amendments

November 2019 Ballot

The Texas Constitution provides that the Legislature, by a two-thirds vote of all members of each house, may propose amendments to the constitution and that the proposed amendments must then be submitted for approval to the qualified voters of the state. The regular session of the 86th Texas Legislature passed ten resolutions proposing amendments to the Texas Constitution. These resolutions will be on the November 5, 2019, ballot. The Texas Secretary of State's office will randomly assign each resolution listed below a ballot number prior to the General Election.

A brief description of each resolution and the enabling legislation, if applicable, is provided below. The full text of the resolution and/or the associated bill may be found at www.capitol.texas.gov.

HJR 4 (enabling legislation SB 7). Proposing a constitutional amendment creating the Flood Infrastructure Fund to be administered by the Texas Water Development Board and funded by \$50.4 million from the Economic Stabilization Fund.

HRJ 12 Proposing a constitution amendment authorizing the Legislature to increase the maximum bond amount authorized for the Cancer Prevention and Research Institute of Texas from \$3 billion to \$6 billion with an associated cost of \$12.5 million in General Revenue for debt service.

HJR 34 (enabling legislation **HB 492**) Proposing a constitutional amendment authorizing the Legislature to provide for a temporary exemption from ad valorem taxation of a portion of the appraised value of certain property damaged by a disaster.

HJR 38 Proposing a constitutional amendment prohibiting the imposition of an individual income tax (the current constitution requires majority approval in a statewide referendum and dedicates 2/3 of any tax to a reduction in property taxes and the remaining 1/3 to public education).

HJR 72 (enabling legislation HB 1717). Proposing a constitutional amendment permitting a person to hold more than one office as a municipal judge at the same time (current law allows this for appointed judges, this change would apply to elected judges).

HJR 95 (enabling legislation HB 2859). Proposing a constitutional

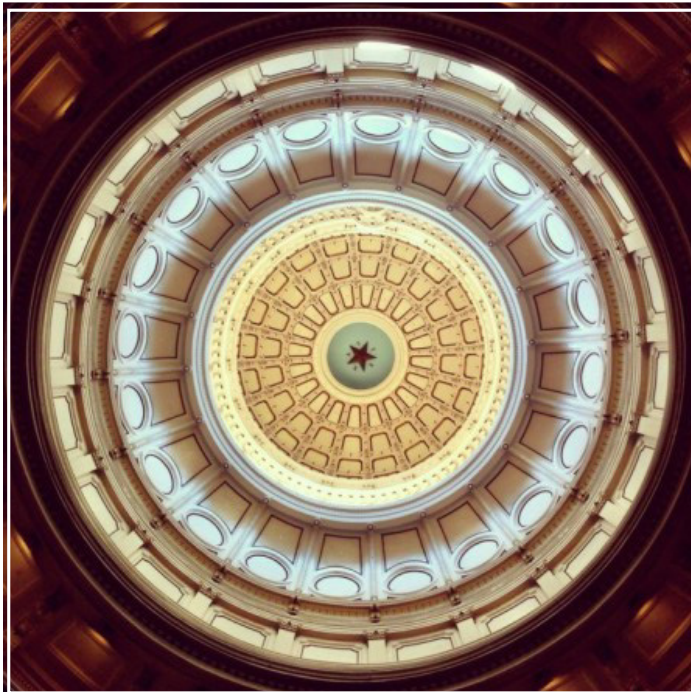
amendment authorizing the Legislature to exempt from ad valorem taxation precious metal held in a precious metal depository located in this state.

HJR 151 (enabling legislation HB 4611). Proposing a constitutional amendment allowing an increase in distributions to the available school fund from amounts contributed by the General Land Office from \$300 million to \$600 million.

SJR 24 (enabling legislation SB 26). Proposing a constitutional amendment to set the appropriation of the net revenue received from the imposition of state sales and use taxes on sporting goods at 94% to the Texas Parks & Wildlife and 6% to the Texas Historical Commission (current law dedicates the proceeds, but allows the Legislature to adjust proportions via the appropriations process).

SJR 32 (enabling legislation 2100). Proposing a constitutional amendment to allow the transfer of a law enforcement animal to a qualified caretaker in certain circumstances.

SJR 79 (enabling legislation SB 2452). Proposing a constitutional amendment providing for up to \$200 million of general obligation bonds by the Texas Water Development Board to provide financial assistance for the development of certain projects in economically distressed areas at a cost of \$3.5 million in General Revenue for debt service. (Past statutory authority of up to \$250 million.) ★



secured authors for a majority of the proposed bills. TCA champions this session included Representative Jeff Leach (R-Plano), Representative Ramon Romero, Jr. (D-Fort Worth) and Representative Joe Deshotel (D-Beaumont). If a bill was important to the construction industry these champions either filed it themselves or worked to shepherd it through the process. And although not all of TCA's priority bills passed, TCA will continue to work with our champions and work hard for our members in anticipation of a successful legislative session in 2021. You can view the new laws below at the TCA website www.texcon.org.

Construction Industry Bills That Will Become Law

Right to Repair on Public Projects

HB 1999 by Representative Jeff Leach (R-Plano) requires that prior to litigation, a public entity must obtain a report detailing alleged construction defects and share the report with the contractors. Not later than the fifth day after the date a contractor receives the report, the contractor must provide a copy of the report to each subcontractor whose work is subject to the defect claim. All contractors will then have 30 days to inspect and 120 days to repair damages if they so choose. HB 1999 was signed by the Governor on June 14, 2019, and will apply to any cause of action accrued on or after June 14, 2019.

Construction Defect Litigation by School Districts

HB 1734 by Representative Justin Holland (R-Rockwall) increases oversight of construction defect litigation by school districts and requires that proceeds from such litigation be used to repair the construction defects. The changes to the Texas Education Code will apply to any cause of action accrued on or after September 1, 2019.



"The 86th legislative session was one of the most productive in recent memory for the construction industry. This was in large part due to the collaborative nature of the legislative session and the hard work of numerous legislators. But, of course, the successes for the industry would not have occurred but-for the dedication, expertise and toil of industry leaders, professionals, attorneys and other stakeholders. While we did not achieve success on every single legislative initiative – there is no question that our collective work has resulted in more transparency, fairness and a level playing field for owners, contractors, subcontractors and all parties involved in construction projects across the state of Texas." – Representative Jeff Leach

Contingency Fee Contracts For Legal Services

HB 2826 by Representative Greg Bonnen (R-Friendswood) places restrictions on local governments and school districts wishing to enter into contingency fee contracts for legal services. The new restrictions are similar to those currently in effect for state agencies and include items such as a requirement that the entity make a public statement setting forth the reason for hiring, the qualifications of the attorney and a reason why the matter cannot be pursued with in-house attorneys. HB 2826 becomes effective September 1, 2019.

Design Defect Liability For Transportation Projects

HB 2899 by Representative Jeff Leach (R-Plano) provides that a contractor who contracts with a governmental entity on a transportation project is not liable for defects, or the consequences of defects, in the adequacy, accuracy, sufficiency, or suitability of plans, specifications, or other design or bid documents provided to the contractor by the governmental entity, or for any errors, omissions or negligent acts

of the governmental entity or a third party, in the rendition or conduct of duties arising out of or related to the project specifications.

Other Bills of Interest to the Industry

Several other pieces of legislation passed that may impact businesses in the construction industry and/or construction trade license holders.

HB 985 by Representative Tan Parker (R-Flower Mound) prohibits a governmental entity or an institution of higher education from prohibiting, requiring, discouraging, or encouraging a contractor from entering into or adhering to an agreement with a collective bargaining organization for a state-funded project. Effective September 1, 2019.

HB 1342 by Representative Jeff Leach (R-Plano) makes several changes regarding the impact of criminal convictions on occupational licenses. Effective September 1, 2019.

- ♦The Texas Department of Licensing & Regulation may reinstate a license on the first anniversary of revocation if revocation was based on licensee's failure to pay an administrative fine and the person has paid the fine.

- ♦Allows for the issuance of a "restricted license" as an alternative to denial/revocation/suspension for air conditioning and refrigeration contractors and electricians.

- ♦Clarifies the consideration that may be given to a licensee with a criminal conviction.

- ♦Removes from the list of grounds for suspension and revocation a criminal conviction for an offense that does not directly relate to the duties and responsibilities of the licensed occupation and clarifies what kind of offense would be directly related to the duties and responsibilities of the license occupation.

- ♦Provides due process to an applicant that may be denied a license on the grounds of a prior criminal conviction.

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Patience & Persistence

by Clint Hackney

When I was in elementary school in the early 1960s, I had not yet developed my interest in politics, but while I was working on my readin' writin' and cipherin' over in Deep East Texas, there were two State Senators working hard in Austin that I would eventually get to know well. One would become my mentor and a famous U.S. congressman. The other became an Austin lobbyist and taught me the importance of two of the cornerstones of the legislative process.

The first fellow was Congressman Charlie Wilson of "Charlie Wilson's War" fame. Charlie taught me how to campaign and how to win elections. I worked in his first campaigns for Congress and he kept giving advice and tips for years.

But the other State Senator, Mr. J.P. Word, taught me about passing bills. I had met Wilson growing up in Angelina County, but I didn't meet Senator Word until I got elected to the Texas House of Representatives. I was 28 years old. I didn't know near as much about the legislative process and how to pass a bill as I thought I did.

Senator Word was much older and much wiser than I, and after spending some time with him, I grew to trust him. He was the lead lobbyist for the Texas Chiropractors Association. I had asked myself what in the heck did the Chiropractors need a lobbyist for? So, I thought I'd ask Word what they needed. As you might guess, he had an answer.

At the time of this conversation I had only filed one bill. I can still remember that one - I wanted to regulate wreckers that towed people off from parking spots. My bill didn't pass. Neither did any of my others that first Session, except for one that a group of lobbyists helped me get done. It was their 4th

try with that bill and they finally "got 'er done".

So back to Senator Word and why the Chiropractors needed lobbyists. He told me there were at least three reasons for the Association to have lobbyists in Austin. First, they need somebody at the Capitol collecting information and protecting their interests. "Most everybody else have lobbyists in Austin so they'd better watch out." Secondly, he said, "they want to be called doctors because they are -- they just aren't physicians." And third, "they want a law that allows insurance to cover Chiropractic treatment."



Then he started teaching and preaching. He was already working me and I didn't even know it. He began telling me why I should support the Chiropractors and suggested I might want to get involved in a leadership role in helping them.

Then he talked about the history of the Chiropractors and eventually floored me with one statement. The Session we were involved with - 1981 - would be their sixth attempt at passing legislation allowing insurance coverage for Chiropractic treatment. In other words, when they first tried, I was still in High School back in East Texas.

I wondered how in the heck could they fail for 12 years, and continue to try, but he told me without me asking. "Two things you need to remember in this business, Clint.....patience and persistence," he said.

He handed me a list of 28 ways to kill a bill, primarily to illustrate that if you are trying to pass a bill, the list becomes 28 hurdles to jump before you can win. That long conversation with Senator Word was one of the most important I ever had. Not only do I pay homage to the patience and persistence 38 years later, but I also carry the list of 28 ways to kill a bill in my right inside coat pocket every work day.

In the Texas legislative process, if you keep trying, one of three things will likely resolve the issue:

1. You will absorb enough information to realize that your request is not needed (By the 3rd time I tried the Tow Truck bill I was convinced state regulation wasn't needed.).
2. You will change enough minds that you will win (That's how Texas got a "call before you dig" law 10 years after first trying.).
3. Your opposition will make a mistake that you can take advantage of (The TCA broad form indemnity bill finally passed when an opposing lobbyist allowed a politically incorrect inter-office memo to be distributed.).

The 2019 Legislative Session was my 20th as either a member of the Texas House or a government affairs lawyer and lobbyist. I have learned, one way or another, that the Texas legislative process is designed to be difficult to achieve change. It is designed for a strong consensus to prevail before change will be adopted or more money spent.

Continued on page 6..

Paid Sick Leave Ordinances

On February 15, 2018, the City of Austin enacted an ordinance requiring private employers to provide paid sick leave to employees working in Austin. The City of San Antonio adopted a similar ordinance on August 16, 2018, and the City of Dallas followed suit on April 24, 2019. The Dallas and San Antonio ordinances are scheduled to go into effect beginning August 1, 2019.

On April 24, 2018, several private business organizations filed a lawsuit in Austin to prevent that city's ordinance from going into effect. The local court denied their request for a temporary injunction and the plaintiffs appealed to the Third Court of Appeals. The Court of Appeals reversed the denial of the request for a temporary injunction and remanded the case back to the trial court for further proceedings. The Court of Appeals held that (1) the Texas Minimum Wage Act

preempts local regulations that establish a wage; (2) the Austin Ordinance establishes a wage; (3) the Act preempts the Austin Ordinance as a matter of law as a result; and (4) the Austin Ordinance is therefore unconstitutional (see Texas Constitution Art. XI, § 5 no city ordinance "shall contain any provision inconsistent with the Constitution of the State, or of the general laws enacted by the Legislature of this State").

Following the Third Court of Appeals proceeding, TCA joined with several other Texas business organizations to advocate for the

passage of legislation to clearly prohibit local ordinances that impact the employer/employee relationship. Senator Brandon Creighton (R-Conroe) filed SB 15, SB 2485, SB 2486, SB 2487, and SB 2488 to preempt local ordinances regulating areas such as leave, scheduling, benefits and criminal background checks. However, the bills failed to pass.

So, where are we now? The City of Austin's ordinance is still under an injunction from the Third Court of Appeals. However, the parties are seeking review of the appellate court's decision by the

Texas Supreme Court (TCA joined ABC, TAB, AGC and AGC-TBB in a "friend of the court" brief requesting that the Supreme Court take up the issue). Additionally, on July 15, 2019, suit was filed against the city of San Antonio. The city of Dallas ordinance is set to go into effect August 1, 2019. ★



Patience & Persistence *Continued...*

I am supportive of the Texas Legislative process, but I also know how this marketplace of ideas and attempts at change can become chaotic. I'm also very aware of the warts and black marks on the system. There will be some lies here and there, some mistakes, and some folks that change their mind and don't tell you. Like most organizations it's not always smooth and perfect. You can get mad and even decide you simply don't like or trust someone. Some can get mad enough to quit when they shouldn't.

However, I think the chaos, the black marks and passionate attempts at

change, eventually produce a consensus for some of the best issues, and that the cream usually rises to the top.

And I also agree with a former lawyer who gained national acclaim as a Texas lobbyist for the Vinson Elkins law firm in Houston in the 70s, 80s, and 90s. His name was Sandy Sanford. In an interview with a political journalist who was asking questions regarding the defects in the legislative process mentioned above, Sanford told the journalist, "Look," he said. "It ain't perfect, but I think that regarding the elected legislators, who are in charge, after all.....well, I think that 90 percent

of the time 90 percent of 'em are trying to do what they think is best.

It is hard to feel that positive when you've lost your most important legislative initiative for the 6th Session in a row like J.P. Word, but I still think Sanford's right.

Oh, and the Chiropractors passed their bill for insurance coverage, as well as their bill to use the designation "Dr." on that 6th try.

Just a Reminder...

...Patience & -



New Laws Benefitting Construction Industry *Continued...*

HB 2240 by Representative Jim Murphy (R-Houston) clarifies the law regarding payment of wages by an employer through a payroll card account and allows an employee to opt-out. Effective September 1, 2019.

HB 2439 by Representative Dade Phelan (R-Beaumont) prohibits a governmental entity from adopting a provision, ordinance or building code that limits the use or installation of a building product or material that is approved for use by a national model construction code. Effective September 1, 2019.

HB 2784 by Representative Dade Phelan (R-Beaumont) creates the Texas Industry-Recognized Apprenticeship Programs Grant Program to provide grants to trainees who participate in on-the-job training in industry-recognized apprenticeship programs. The Program is to be administered by the Workforce Commission and grants may be up to \$10,000. Effective September 1, 2019.

SB 37 by Senator Judith Zaffirini (D-Laredo) abolishes student loan default or breach of a student loan repayment or scholarship contract as a ground for nonrenewal of professional license. Effective for all applications filed after June 7, 2019.

SB 1055 by Senator Judith Zaffirini (D-Laredo) establishes a workforce diploma pilot program to be administered by the Texas Workforce Commission in consultation with the Texas Education Agency aimed at reimbursing eligible entities for assisting adult students in developing technical career readiness skills. Effective September 1, 2019.

SB 1531 by Senator Kelly Hancock (R-North Richland Hills) revises eligibility criteria for select occupational licenses; specifically, with regard to an electrician's license, the bill removes the current requirement that an applicant demonstrate their "honesty, trustworthiness, and integrity". Effective September 1, 2019.

TCA-Opposed Bills That Failed to Pass

The following bills were opposed by TCA and they failed to pass.

HB 3498 by Representative Dustin Burrows (R-Lubbock) was a pro-owner lien bill that contained damaging provisions for subcontractors such as the dilution of lien waiver requirements. HB 3498 died in the House Committee.

HB 1918 by Representative Jim Murphy (R-Houston)/SB 845 by Senator Bryan Hughes (R-Mineola) sought to clarify when a claim is made on a bond, not only is the mechanic's lien discharged, but the owner is released from all liability. However, the bills also included several other anti-subcontractor provisions. Both bills died without even being heard in committee.

TCA-Supported Construction Bills that Failed to Pass

HB 589 by Representative Joe Deshotel (D-Beaumont) was the lien modernization bill supported by TCA, ABC and AGC-TBB. HB 589 was heard in the House Business & Industry Committee along with HB 3498 by Burrows; however, it was never brought up for a vote and died in Committee.

HB 790 by Representative Sarah Davis (R-West University Place) would have closed the loophole in the Civil Practices & Remedies Code that prevents recovery of attorney's fees from limited liability companies. The bill was also applicable to the state, or a state agency or institution of the state. Unfortunately, it died in the Senate never being referred to committee.

HB 1737 by Representative Justin Holland (R-Rockwell) would have shortened the statute of repose for construction defects. The bill died in the House Calendars Committee.

HB 2024 by Representative Ramon Romero, Jr. (D-Fort Worth) would have insured that a retainage lien survived foreclosure. Unfortunately, it

was opposed by several other groups: banking, title, owners. The bill died in the House Committee.

HB 2268 by Representative Senfronia Thompson (D-Houston) would have provided a methodology for a party to receive all documents incorporated by reference into a contract prior to contract execution.

Unfortunately, although HB 2268 was voted out of the House Business & Industry Committee on April 9th and had agreed upon amendments planned for the House Floor, it died in the Calendars Committee.

HB 2901 by Representative Jeff Leach (R-Plano) would have reversed the *Loneragan* holding by ensuring contractors are not held responsible for construction defects caused by other peoples' design. Unfortunately, the bill died in House Calendars.

Texas State Board of Plumbing Examiners Sunset

The Texas State Board of Plumbing Examiners went through the Sunset Review process during the 2018-19 interim. Absent statutory amendment, the Board, as well as the statutes regulating plumbing, were set to expire September 1, 2019. S.B. 621 was filed to extend the regulation of plumbing; however, in the waning hours of the legislative session it failed to pass. On June 13, 2019, Governor Abbott issued Executive Order GA-06 to extend the activity of the Texas State Board of Plumbing Examiners past September 1, 2019. The Governor's order reasoned that in the wake of Hurricane Harvey, "a qualified workforce of licensed plumbers throughout the state, including from areas not directly affected by Hurricane Harvey" will be necessary to rebuild from Harvey, as well as to prepare the state for any future disasters. Thus, the Board will continue to operate at least until 2021. ★

Grassroots - Get Involved!

by Alan Burrows

The Texas Construction Association has a grassroots advocacy program to build relationships with legislators and give the construction industry a stronger voice in Austin. From lien reform, to addressing unfair retainage, to protecting our members, there are a host of issues that TCA continues to work on.

As TCA continues to build on its legislative successes, our initiatives are garnering more attention, and with them, more prominent opponents such as the oil and gas industry and banking associations. The best way to overcome the big banks, chemical companies and oil giants is to build strong relationships back home between our members and their legislators.

During a campaign season, air waves, mailboxes and social media feeds become inundated with conflicting, misleading and false messages. Simple face-to-face conversations with voters become even more important for candidates, and volunteers who give their time to talk to voters and help candidates cut through the noise of modern politics become more valuable. That is the focus of TCA's grassroots advocacy program, where our members work with TCA to direct volunteer labor to help critical legislative campaigns. This also gives TCA members the opportunity to talk with candidates about the challenges they face and build meaningful relationships with their legislators.

TCA has simple commonsense messages on so many issues: we want to be paid on time for the work we do; we don't want to be held liable for someone else's faulty design; we want our lien laws to protect our investment in a project and not act as a barrier to being paid. However, the legislative process complicates even the most basic message, and legislators hear from hundreds of lobbyists a week. But -- we know this -- if legislators hear from someone back home, a constituent, who has worked on their behalf, that person's message is likely to resonate and stay with them when they are hearing from so many others.

Getting Involved



Last election cycle, TCA members across the state volunteered on fifteen Primary and General elections campaigns, and eleven of those candidates won. That was fifteen conversations TCA members had with candidates and legislators about issues that are important to them.

Most people who volunteer on a campaign block walk, and the feedback we got from those who block walked during the last election cycle was overwhelmingly positive. This isn't going door-to-door selling vacuums. A block walker is given a briefing on the candidate and a targeted list of individuals who have voted before and are likely to vote in the upcoming election. The people we talk to are civic minded and appreciate that we are volunteers. Some even share valuable feedback that we can provide to the campaigns. In fact, oftentimes the briefing is provided by the candidate themselves and afterwards the volunteers are able to spend time visiting with the candidate over a meal or a cup of coffee.

Starting this Fall, TCA will kick off its grassroots program for the 2020 election cycle. For those who are not interested in block-walking, you can also phone bank, put out campaign signs or work as a poll greeter during early voting and on election day. We'll be looking to help our friends at the Capitol and make new ones. There will be plenty of opportunities for you to get involved. We may not have the biggest PAC or lobby payroll, but with your help, TCA can have the biggest grassroots effort, which is often more valuable to candidates. Stay tuned for more details. ★

TEXAS CONSTRUCTION ASSOCIATION PAC

Q: WHAT IS A POLITICAL ACTION COMMITTEE (PAC)?

A political action committee is the name given to a group organized to combine the contributions of many individuals and make contributions to elect or defeat candidates for public office.

Q: WHAT DOES THE TEXAS CONSTRUCTION ASSOCIATION PAC (TCA★PAC) DO?

The Texas Construction Association PAC is organized primarily to make contributions to individuals running for the Texas Legislature. Contributions are also made to Texas statewide races such as those for governor, lieutenant governor, and comptroller. The PAC also supports grassroots organizing efforts by TCA

Q: WHY DO CONSTRUCTION INDUSTRY MEMBERS NEED A PAC?

The Texas Legislature is involved in your business. Its decisions affect the way you do your business every day. It passes or defeats laws involving your taxes, your tort liability, your contracts, your insurance protection, the roads you travel, the education and regulation of your workforce, and a myriad of other issues. In order to have a say in these issues, you have to be involved and your advocates must have the ability to make contributions to candidates who share your viewpoint. If you don't have a well-funded PAC, you are at a disadvantage.

Q: WHO DECIDES WHERE THE TCA★PAC MONEY GOES?

The TCA staff provides information about the candidates to the TCA★PAC Board. The board is made up of TCA members and ultimately determines which candidates to support or oppose. Factors considered include a candidate's position on construction issues, support by local construction industry members, and the candidate's ability to win.

Q: WHY SHOULD I CONTRIBUTE TO THE TCA★PAC WHEN I ALREADY MAKE CONTRIBUTIONS TO CANDIDATES?

The TCA★PAC is able to pool the resources of numerous construction industry members to have a greater impact than a single individual. Individual contributions are important, and TCA members are encouraged to continue making individual contributions, but the combined dollars of the PAC have a greater impact on more races.

Q: IF I CONTRIBUTE TO THE TCA★PAC, DO I HAVE A SAY AS TO WHERE THE DOLLARS GO?

All contributors to the TCA★PAC can inform the TCA★PAC Board which candidates the contributor supports or opposes. Input from members is strongly considered when making decisions to support or oppose a candidate.

Q: ARE THERE LIMITS ON HOW MUCH I CAN CONTRIBUTE?

There are no limits to how much an individual can contribute to the PAC. The only limitation is that corporate funds cannot be used as contributions to candidates in Texas. The TCA★PAC contributions to the candidates must be non-corporate dollars. Thus, the funds contributed to the TCA★PAC must be non-corporate funds.

Q: WHEN SHOULD I MAKE A CONTRIBUTION?

Right now! Contributions to the PAC can be made throughout the year.

Q: HOW DO I BECOME INVOLVED WITH TCA★PAC?

Easy. Contact the Texas Construction Association if you want to become involved. To contribute monetarily, complete the form provided and return to Texas Construction Association PAC at 1011 San Jacinto Blvd, Suite 330, Austin, TX 78701. For more information on the TCA★PAC contact TCA at 512-473-3773 or visit www.tcapac.org.



Texas Construction Association PAC EZ PLEDGE

Now joining TCA★PAC is faster and easier than ever before with less immediate impact on your wallet! The new TCA★PAC EZ Pledge allows you to automatically pay your TCA★PAC membership monthly. You specify the contribution amount and the account to be charged each month. You can make your contribution on a Discover, VISA, MasterCard, or American Express account. Your contribution amount will be conveniently charged as you direct until you make changes or cancel the service. TCA★PAC can accept only non-corporate contributions. Contributions are not deductible for federal income tax purposes.

1011 San Jacinto Blvd, Ste 330 Austin Texas 78701-2494
512-473-3773 Phone 512-473-3777 Fax

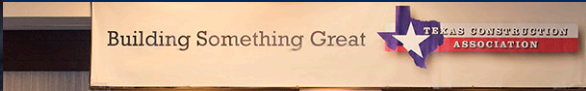
MEMBER INFORMATION

First Name	Last Name	Occupation
Email Address	Preferred Telephone Number	
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Contribution Amount: <input type="checkbox"/> Check for \$	Check #	Monthly billing will occur on or about the 1 st of each month. Contact TCA★PAC if you wish billing to stop.
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2019 TCA Roundup & Walk on the Capitol





Thank You for Joining Us!

TCA members from across the state gathered in Austin on the 29th of January for the TCA PAC Roundup and on the 30th for the TCA Walk on the Capitol. After an informative lobby briefing by the TCA lobby team, TCA members gathered at El Mercado for an evening Roundup, which provided TCA members an opportunity to network with legislators and members in a fun, relaxed atmosphere. The night was full of excitement, with good food and even better company!

The following day, TCA members met for breakfast and a briefing on TCA Issues. Afterwards, everyone headed to the Capitol for a day of meetings with legislators and staff. These visits made an impact about issues important to TCA members' businesses.

Thank you to all of the participants who made the Walk and Roundup a great, memorable success. We are excited that 97% of participants who responded to the post-event survey believed the TCA Walk on the Capitol and TCA PAC Roundup was a good use of their time and look forward to attending the next one in 2021. We look forward to seeing YOU at the 2021 TCA Walk on the Capitol!

ADAMS
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Andrews  Myers
Attorneys at Law



Tuesday, August 20, 2019
Houston Area Subcontractors
Clay Shoot
Fundraiser for TCA PAC



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Event Registration Form

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You may register a team without providing all team member names in advance.

PLEASE PRINT **ALL** Requested Info: Registrar/Shooter Name, *Email, Company, Telephone w/Area Code

*To receive a receipt, it is necessary to include your **email address**, please. Thank you!

Registered by: _____

Shooter 1 _____

Shooter 2 _____

Shooter 3 _____

Shooter 4 _____

Fee per Shooter: \$225 # shooters _____ X \$225 per shooter = \$ _____

☐ Personal Credit Card (below) OR ☐ Personal Check Enclosed Payable to TCA PAC

No Corporate payments, please.

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Return completed form by August 10th to:

Texas Construction Association 1011 San Jacinto Blvd., Ste 330 Austin, TX 78701-2494
Or Fax to 512-473-3777 Questions?: 512-473-3773 or pfinnegan@texcon.org

Spotlight on Executive Director

Wendy Lambert Central Texas Subcontractors Association

Wendy Lambert, Executive Director, Central Texas Subcontractor Association (CTSA), has been with the organization since 2008 and has loved being an integral part of growing the group and getting more involved at the state level. She graduated from Texas Tech with a BBA in Business Administration in 2002 and moved to Austin. As the director of CTSA, Wendy has been able to learn so much about the construction industry through her work in member education, event planning, website development, marketing coordinator, financial manager, and media administrator all while under the direction of the board of directors. Being married to an electrical contractor, TCA Board Treasurer Chris Lambert, has fueled her love and devotion to subcontractors. Wendy's goal is to continue to empower subcontractors and suppliers to excel in the construction market by engaging in advocacy and sharing industry knowledge. ☆



TCA staff thanks you for all you do!

ASA North Texas Awards Gala



86th Legislature Education & Workforce Summary

by Mike Meroney

While the big headline in education during the 2019 Texas Legislature was the passage of House Bill 3 by Rep. Dan Huberty (R-Houston) – which overhauled the state's broken school finance funding system – lawmakers also made significant progress in both career and technical education (CTE) in public schools, and properly funding effective, high-quality, workforce development training programs after graduation.

A landmark law, HB 3 will lower property taxes and reduce “Robin Hood” recapture payments, but employers are also cheering the provision that expands CTE into middle school (now grades 7-12)... courses that are currently only available in high school. It also adds a career, college and military readiness (CCMR) outcomes bonus of \$5,000 for economically disadvantaged students, and a \$3,000 bonus for all other students.



Perhaps the biggest funding win of the 2019 session occurred when budget writers fully appropriated the Texas State Technical Colleges (TSTC)'s “commission rate” funding model, which pays the Waco-based technical college system based on their graduates' incomes, not contact

hours. While TSTC's funding was cut short during the previous two budget cycles, I am proud to report that TSTC received their FULL funding amount of 36% (\$132 million) for the next biennium, and \$2.2 million for dual credit programming. Governor Greg Abbott signed the budget (House Bill 1) on June 15th with no line-item vetoes.

In the area of higher education course credit transferability, legislators passed SB 502 by Sen. Kel Seliger (R-Amarillo) that requires colleges and universities to issue a report each year on the transferability (or the lack of transferability) of course credits. Also passed: SB 25 by Sen. Royce West (D-Dallas) to facilitate the transfer of courses, push academic progress, and work towards the timely graduation of all higher education students.

Other important bills that passed during the 86th Texas Legislature focus on job training programs:

- HB 2784 by Rep. Dade Phelan (R-Beaumont) and will create a grant program at the TWC for industry-led workforce training apprenticeship programs that must: a) be earn-while-you-learn paid training, b) guarantee employment upon completion, c) must result in a credential or industry recognized certification, d) must be less than 26 weeks, and e) targets veterans, unemployed, underemployed, ex-cons and welfare recipients;

- HB 700 by Rep. Ryan Guillen (D-Rio Grande City) will expand the entities that can apply for the Texas Workforce Commission's (TWC) Skills Development Fund to include local workforce development board;

- SB 1055 by Sen. Judith Zaffirini (D-Laredo) would establish a workforce diploma pilot project where the TWC would grant eligible high



school diploma-granting entities to be reimbursed for getting adult students a diploma and technical readiness skills for employability;

- HB 277 by Rep. Tom Oliverson (R-Houston) will require electronic common admission applications to include a link to comparative gainful employment data compiled by the Texas Higher Education Coordinating Board and the Texas Workforce Commission; and

- SB 37 by Sen. Zaffirini that will abolish student loan default as grounds for nonrenewal or disciplinary action regarding a professional or occupational license. ★



*Mike Meroney
Texas Workforce Coalition*

Update on Texas Construction Safety Group & Texas Mutual Dividends

by Gina O'Hara



Gina O'Hara
Program Administrator for
Texas Construction Safety Group

Our TX Mutual Safety Group program is continuing to have phenomenal success in growth, dividends and loss ratios. As of June 30, we had reached a group premium of \$70 million with 1673 policy holders. Our current loss ratio is 31.8% which has us comfortably in dividend range so far for this term. The payroll represented for our members is almost \$3.5 billion.

Thank you to all of the TCA members who are utilizing this benefit. Your participation makes the work of TCA possible.

To those of you who aren't participating currently, the examples below might be eye-opening to you. This is the Texas Mutual dividend history for three of

our members. This is a combination of the regular dividends along with the safety group dividend. Dividends are not guaranteed, but Texas Mutual has a track record of never missing a year in paying one. The longer a company is insured with Texas Mutual and in the group, the higher the percentages can be. The Texas Mutual dividend has a loyalty component to it.

Accessing the insurance group is simple. Just ask YOUR agent to request a quote in the group from Texas Mutual. Additional answers can be found at www.TXConstructionWC.com or by calling me, program administrator, Gina O'Hara at 512-330-9836, ext. 6324. info@txconstructionwc.com ★

Texas Mutual Dividend Examples

Example 1 - PAINTER

<u>Policy Effective Date</u>	<u>Premium Total</u>	<u>Total Dividends</u>	<u>Total Net Premium</u>	<u>Avg. Percentage Premium Returned</u>
10/1/2015-7/1/2019	\$175,000	\$112,000	\$63,000	67%

Example 2 – CONCRETE

<u>Policy Effective Date</u>	<u>Premium Total</u>	<u>Total Dividends</u>	<u>Total Net Premium</u>	<u>Avg. Percentage Premium Returned</u>
10/1/2015-7/1/2019	\$353,000	\$105,000	\$246,000	33%

Example 3 – ELECTRICAL

<u>Policy Effective Date</u>	<u>Premium Total</u>	<u>Total Dividends</u>	<u>Total Net Premium</u>	<u>Avg. Percentage Premium Returned</u>
10/1/2015-7/1/2019	\$783,000	\$270,000	\$509,000	35%

Recap of the 86th Regular Session *Continued...*

Dennis Bonnen as the new Speaker of the House, who replaced longtime Speaker Joe Straus after his retirement last session. With both Governor Abbott and Lieutenant Governor Dan Patrick retaining their positions after the midterm elections, the first month of session began with the top three statewide officials presenting a united front. Together, they pledged to address a wide range of issues, including statewide priorities such as reigning in property taxes, improving school finance, and increasing teacher pay.

BUDGET

The final 2020-2021 budget was spearheaded by Senate Finance Chair Jane Nelson and House Appropriations Chair John Zerwas, and totaled \$250 billion in federal, state, and local funds (compared to \$216.758 billion in the 2018-2019 biennium; \$216.399 in the 2016-2017 biennium and \$196.9 billion in the 2014-2015 biennium).

The funding bill, buttressed by cautiously optimistic fiscal estimates, saw a 16% increase in overall spending to support priorities across the state. Highlights of the bill include:

◆ \$94.5 billion in school funding, including:

- An increase of \$6.5 billion to fund: an increase to the basic allotment

to \$6,160 per student, funding to provide salary increases to teachers, librarians, counselors, nurses and other school employees; full-day pre-K for eligible students; and major structural reforms to the school finance system. Districts and charters are required to spend at least 30 percent of their funding gain from the increased basic allotment on salary increases; and

- Over \$5 billion in funding to buy down property tax rates across the state;

- \$66.5 billion for Medicaid;

- \$31.1 billion in transportation funding,

- \$3.5 billion from the Economic Stabilization Fund to fund initiatives that address damage to the state due to Hurricane Harvey, including:

- \$806.5 million to the Texas Education Agency to provide funding to school districts and charter schools affected by Hurricane Harvey, including funds for additional compensatory education-eligible students, facilities remediation costs, and amounts to hold schools harmless for revenue losses due to the loss of students and local property tax revenue due to the disaster;

- \$74.8 million for assistance

to repair damaged facilities at institutions of higher education; and

- \$350.5 million to state agencies, primarily either to reimburse agencies for response costs incurred during the immediate aftermath of Hurricane Harvey, or to provide facilities repair funding.

◆ \$1.68 billion in funding for the Texas Infrastructure Resiliency Fund and the Flood Infrastructure Fund, including:

- \$838.0 million in state funds to assist local entities in drawing down federal disaster recovery funds under the Federal Emergency Management Agency's (FEMA) Public Assistance and Hazard Mitigation grant programs, and long-term infrastructure projects by the U.S. Army Corps of Engineers; and

- \$840.0 million to the Water Development Board to develop and fund projects under the State Flood Plan.

◆ \$4.4 billion in behavioral health funding;

◆ \$3.8 billion for child protective services;

◆ An additional \$343.5 million for school safety efforts;

◆ An additional \$1.1 billion to make the Teacher Retirement System actuarially sound and provide an additional one-time payment to certain retired teachers;

◆ An estimated \$58.4 million for the prevention, investigation, and prosecution of human trafficking-related activities, an increase of \$39.6 million from the previous biennium; and

◆ \$800.6 million for border security.

Governor Abbott approved the budget with no line item vetoes. Only one member of the Legislature voted against the measure, Representative



Jonathan Stickland, who has since announced he will not be seeking reelection.

PROPERTY TAX REFORM

In an effort to curb the growth of local property taxes, the legislature approved language effectively capping the rate local governments can increase tax rates without seeking voter approval. With the passage of S.B. 2, cities and counties are limited to increasing their property tax rates by 3.5% annually before triggering a voter referendum on the increase (previously the limit had been 8%). Similarly, school districts are now capped at annual increases of 2.5% before requiring voter approval. The property tax legislation also includes provisions enabling chief appraisers to maintain lists of free services available to taxpayers wishing to appeal their property tax values, eliminating conflicts of interest on Appraisal Boards, and improving notification of taxpayers who qualify for exemptions. While many legislators are praising the bill's caps on tax growth, the bill did draw opposition over concerns that it would limit local governments' ability to fund needed services in their districts.

SCHOOL FINANCE REFORM

Following a 2016 Texas Supreme Court decision that the statewide school finance system was constitutionally inadequate and general public disapproval of the "Robin Hood" system of payments from richer school districts, the Legislature rewrote the school finance process. As passed, school finance reform matches the budget in providing \$6.5 billion to improve public schools and boost teacher salaries and lowers school district taxes by \$5.1 billion. This effectively increases overall funding per student and reduces necessary reliance on the Robin Hood system. Additionally, H.B. 3 includes full-day pre-K for eligible students, incentives for dual-language and

dyslexia programs, and provisions to develop teacher merit pay systems. While a major win for Governor Abbott, Lt. Governor Patrick, and Speaker Bonnen, some observers have questioned the sustainability of these changes and how legislators will be able to pay to maintain them in the future.

SCHOOL SAFETY AND MENTAL HEALTH

Following the tragic school shooting at Santa Fe High School in 2018 and a rash of school shootings across the country, the legislature enacted a sweeping school safety initiative to reduce the risk of future shootings. S.B. 11 by Sen. Larry Taylor has been signed by the Governor and includes provisions requiring specific training for school resource officers, strengthening mental health initiatives in schools, setting requirements for classroom access to electronic communications in the event of an emergency, and the creation of teams to identify potentially dangerous students. Additionally, the legislation incorporated language from S.B. 10 by Sen. Nelson related to the establishment of a Texas Mental Health Consortium, which died on the House floor during the last days of session. The goal is to bring psychiatrists together with pediatricians in an effort to expand access to mental health services for children and adolescents.

HURRICANE RELIEF AND RECOVERY

In August of 2017, Hurricane Harvey dumped more than 50 inches of rain in the Houston area, causing 68 deaths and an estimated \$125 billion in damage. In response, in 2019, the 86th Legislature appropriated \$3 billion in relief for Harvey-impacted areas from the Rainy Day Fund. Governor Abbott made this issue an emergency legislative item this session, resulting in several bills being passed intended to better prepare the state for future disasters.

H.B. 5 requires the Texas Division of Emergency Management (TDEM) to develop a catastrophic debris management plan and training and establishes a work group to make recommendations on how local governments and property owners' associations can assist with recovery efforts. It also requires TDEM to develop a model contract for debris removal.

H.B. 7 requires the Office of the Governor to develop a list of statutes and rules that may be suspended following a disaster, and requires TDEM to develop a plan to assist local communities with disaster preparation contracts for services.

S.B. 6 requires TDEM to develop a disaster response model guide and a wet debris study group for local communities. S.B. 6 also creates a disaster recovery loan program within TDEM for communities that suffered significant infrastructure damage.

S.B. 7 establishes the framework for providing a total of \$1.6 billion through the Texas Infrastructure Resilience Fund as matching funds available to those communities hardest hit by Hurricane Harvey, and through the Flood Infrastructure Fund for statewide infrastructure projects to mitigate future flooding events.

In total, over 100 bills were filed after Hurricane Harvey to help with hurricane relief, recovery, and preparedness. Additional bills that passed include:

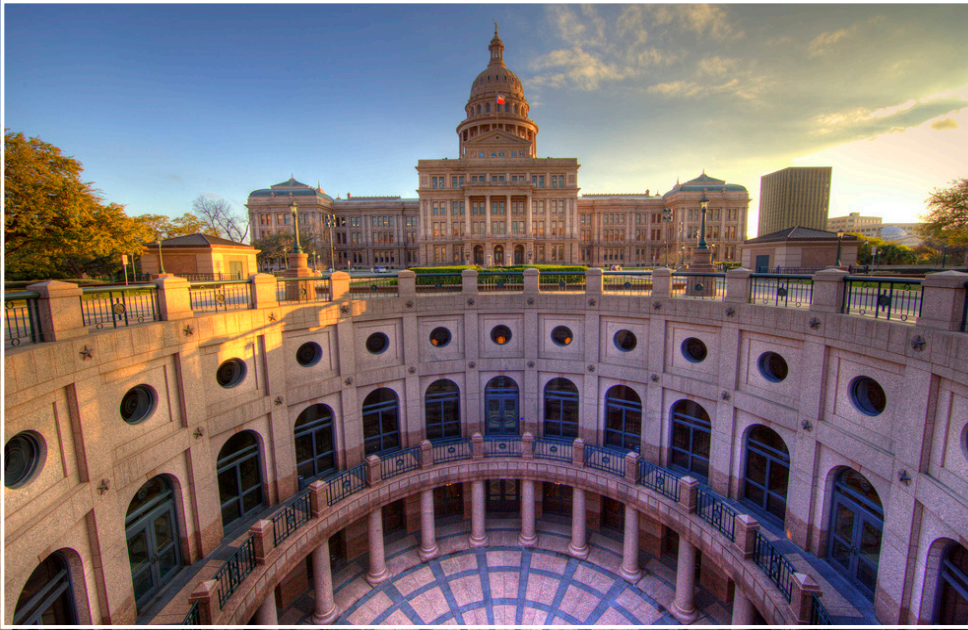
H.B. 26 - notice of releases of water from dams

H.B. 1307 - disaster case management system by the TDEM

H.B. 2310 - appropriate title for flood damaged vehicles

H.B. 2315 - automatic issuance of natural disaster housing titles

Continued on next page...



H.B. 2320 - improving emergency management services during and after a disaster

H.B. 2325 - standardizing emergency communications during and after a disaster

H.B. 2330 - intake system for state and federal disaster assistance

H.B. 2340 - emergency and disaster management, response and recovery

H.B. 2794 - transferring administration of the Division of Emergency Management from the Texas Department of Public Safety to the Texas A&M University System

H.B. 2856 - restrictions under disaster remediation contracts - vetoed

H.B. 3022 - emergency warning systems of cities and counties - vetoed

H.B. 3175 - confidentiality of personal information of applicants for disaster recovery funds

H.B. 3616 - task force on faith-based programs providing assistance during a disaster

H.B. 3668 - grants for disaster response by nonprofit food banks

HJR 34 - reappraisal of property damaged by a disaster

S.B. 285 - hurricane preparedness and mitigation

S.B. 300 - contracts for services to declared disaster areas following a natural disaster

S.B. 339 - seller's disclosure notice for residential property regarding floodplains, flood pools, floodways or reservoirs

S.B. 475 - creates the Texas Electric Grid Security Council

S.B. 494 - open meetings law suspension during an emergency or catastrophic event

S.B. 537 - allows TxDOT to purchase food and beverages for employees during emergencies or disasters

S.B. 799 - emergency management and disaster recovery

S.B. 981 - disaster supplemental nutrition assistance program

S.B. 982 - disaster and emergency health care services

S.B. 986 - management of contracts related to emergency management

OTHER BILLS OF NOTE

In addition to the major state priorities above, the Legislature passed, and failed to pass, a number of other bills that made headlines:

PASSED

"Born alive" Act - Requires doctors to treat a baby born alive in the instance

of a failed abortion attempt.

Raising the smoking age - Raises the legal age to buy tobacco products from 18 to 21, except for military personnel.

Defunding abortion providers - prohibits state and local governments from partnering with agencies that perform abortions, even if they contract for services not related to the procedure.

Rules governing alcohol sales - "Beer-to-Go" laws - allows breweries to sell beer to go and allows individuals to hold up to 250 liquor store permits.

Red-light cameras - bans cities' use of red-light cameras.

Religious freedom - the "Save Chick-fil-A Bill" - prevents government entities from taking adverse action against people or businesses based on their religion.

Repealing the Driver Responsibility Program - after multiple sessions, the Legislature finally repeals this program can result in a suspended driver license for failure to pay ticket surcharges; the bill offers alternative funding sources for trauma care.

Extending statute of limitations for sex abuse lawsuits - doubles the amount of time that victims of certain types of sexual abuse have to sue abusers or entities, from 15 years to 30 years after a victim turns 18.

Constitutional ban on state income tax - a proposed constitutional amendment will go to the voters in November.

Surprise billing - bans surprise billing by out-of-network providers to consumers of state health plans and health plans regulated by the state; creates procedure for the Texas Department of Insurance to determine "reasonable" cost of certain out-of-network healthcare services.

Drug Price Transparency - requires manufacturers, health plans and others

to provide certain information about drug prices to be published on a state agency website.

Healthcare High Risk Pool – reinstates ability of Texas to operate a healthcare high risk pool for those unable to obtain coverage due to pre-existing conditions, presumably in anticipation of the possible overturning or repeal of the federal ACA.

Compassionate Use – increases list of medical conditions for which low-THC cannabis can be prescribed to include epilepsy; a seizure disorder; multiple sclerosis; spasticity; amyotrophic lateral sclerosis; autism, terminal cancer, or an incurable neurodegenerative disease.

FAILED TO PASS

Sales tax increase – would have increased the sales tax by 1 percentage point with the intent of using that

money to lower property taxes statewide.

Elections - would have elevated the penalty for Texans who vote when they are ineligible, even if they did so unknowingly.

Lessen pot penalties – would have provided that those possessing small amounts of marijuana face smaller criminal penalties.

Daylight saving time – would have let voters decide on Texas' permanent time by choosing to exempt the state from daylight saving time or observing daylight saving time year-round.

Scooter regulation - would have banned electric scooter riding on sidewalks and required that scooter users be at least 16 years old.

Ban on certain abortions - would have banned abortions on the basis

of the sex, race or disability of a fetus; would have also disallowed abortions after 20 weeks of pregnancy even if the fetus has "severe and irreversible" abnormalities.

Confederate monuments - would have required that two-thirds of the members in both chambers of the Legislature approve of the removal, relocation, or alteration of any monuments or memorials that have been on state property for more than 25 years.

Bail reform - would have created a pretrial risk assessment tool for county officials to use when making bail decisions.

Social media - would have let the Attorney General take legal action based on consumer complaints of censorship against social media platforms like Facebook and Twitter. ★

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