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TEXAS BUSINESS LAW FOUNDATION BUSINESS LAW SECTION, STATE BAR OF TEXAS

TEXAS LEGISLATIVE UPDATE First Called Session

August 18, 2017

As previously reported, the First Called Session of the 85th Legislature convened on July 18th. Governor Abbott included 20 items for legislative deliberation in the special session call. 582 bills and resolutions were actually filed. As anticipated, very few of the filed bills were of relevance to the TBLF or the Business Law Section. The notable exceptions were bills filed impacting property tax reform.

After 29 days of the maximum 30-day session, the Legislature adjourned *sine die*, passing 12 bills which addressed 10 items in the Governor's package. As the session rolled out, the deep philosophical divide between the House and Senate on several key issues, and related communications between Governor Abbott, Lt. Governor Patrick, and Speaker Straus, appeared to become more important than the actual bills or the issues.

Bills that finally passed addressed municipal annexation reform, mail-in ballot election fraud deterrents, limitations on municipal tree protection ordinances, and new restrictions on abortion and do-not-resuscitate issues. The emergency issue triggering the special session (the sunset reauthorization of five state agencies) also passed. Key items that did not pass were property tax reform and significant school finance reform.

Property tax reform, a top priority for the Governor, failed to pass, with House and Senate hostilities on the issue reaching a high point as the session wound to a close. Much of the final discourse focused on political rhetoric and positioning rather than reaching a consensus. In actuality, the two houses were completely in sync on new procedural and transparency requirements for levying taxes, and only 2 percentage points apart on rollback caps.

With respect to school finance, no fundamental policy action on reform was taken, but an interim study commission was created. Lawmakers did approve \$560 million in extra funding for schools and retired teachers, much less than an initial request by the House for \$1.8 billion.

The special session closed without passing the “bathroom bill”, which largely dominated much of the media coverage during the special session as well as the regular session. The bill's demise was sealed with an unprecedented show of opposition by major business organizations and economic development entities, which supported Speaker Straus and House efforts in killing the bill. Despite the significant opposition, Lt. Governor Patrick vows to continue efforts in future sessions.

Special session issues and bills that passed:

- Municipal annexation reform - [SB 6](#) by Donna Campbell (R-New Braunfels);
- Strengthening mail-in ballot fraud protections - [SB 5](#) by Kelly Hancock (R-North Richland Hills);
- Limiting local regulation of trees on private land - [HB 7](#) by Dade Phelan (R-Port Neches);
- Various additional funding appropriations for public schools and the Teacher Retirement System, and establishment of an interim statewide commission to make recommendations on the school finance system - [HB 21](#) by Dan Huberty (R-Humble) and [HB 30](#) by John Zerwas (R-Houston);
- Prohibiting health insurance plan coverage for elective abortions - [HB 214](#) by John Smithee (R-Amarillo);
- Requiring additional reporting by health care providers on abortion complications - [HB 13](#) by Giovanni Capriglione (R-Keller);
- Requiring additional reporting by health care providers on abortions provided to minors - [HB 215](#) by Jim Murphy (R-Houston);
- Instituting patient protections for do-not-resuscitate orders - [SB 11](#) by Charles Perry (R-Lubbock);
- Extending the Maternal Mortality and Morbidity Task Force - [SB 17](#) by Lois Kolkhorst (R-Brenham); and
- Texas Medical Board and other agencies sunset extension - [SB 20](#) and [SB 60](#) by Van Taylor (R-Plano).

Special session issues that did not pass:

- Property tax reform;
- Bathroom privacy/prohibiting local regulation of multi-occupancy showers, locker rooms, restrooms, and changing rooms;
- Teacher pay increase;
- School choice for special needs students (vouchers);
- Caps on state and local spending;
- Expedited local permitting;
- Preventing local governments from changing rules midway through construction projects;
- State pre-emption of local regulation of mobile communication devices while driving;
- Prohibiting public entities from collecting union dues; and
- Prohibiting local taxpayer funding for abortion providers.

Whether an additional special session will be called, particularly as agreement on the property tax reform issue was so close, is an open question. The redistricting issues and federal court findings on improperly drawn Congressional and Texas House seats is still looming, and could impact the calling of another session.