

Still Waiting for an Ending

By John Sharbaugh, CAE | TSCPA Managing Director, Governmental Affairs

Normally by this issue of Capitol Interest, we are able to give you a final account of what happened in the Texas Legislature. The regular legislative session ended on Memorial Day (May 29). But “normal” is not a word that defines the 2017 legislative session.

And while the regular session is now over, Gov. Greg Abbott has called a special session to start on July 18. A special session runs for 30 days and the governor can always call additional special sessions if he so desires. So until the Legislature goes home for good, there is always an opportunity for additional laws to be passed. Until that happens, here is a review of some of the things that took place during the regular session and some insight into the call for a special session.

Some Nice Wins for CPAs and the Public

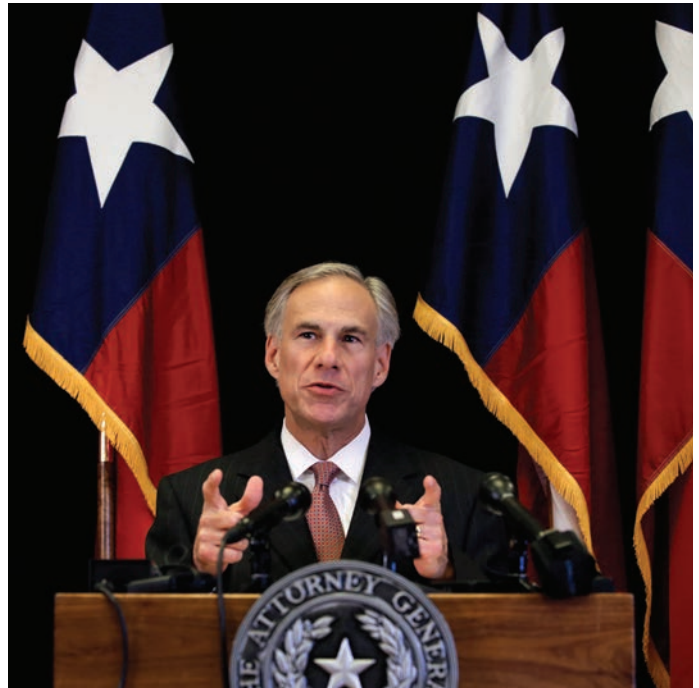
TSCPA-supported legislation that would require state and local governments to comply with GAAP, and would repeal Texas Code Section 2266, was approved by the Legislature in the final days of the session and was signed by the governor. It will become effective on Sept. 1, 2017. Our sincere thanks to Sen. Charles Perry, CPA, (R-Lubbock) and Rep. John Frullo, CPA, (R-Lubbock) who sponsored the legislation and helped shepherd it through the legislative process.

This is a nice win for TSCPA and our members, but more importantly this is a big win for the public. We now rejoin the rest of the country in requiring state and local governments in Texas to follow GAAP in all of their financial reporting. Having transparency in the financial reporting process is important for the public so they can understand the true cost of government and the size of future liabilities. GAAP compliance is critical to that goal.

Our other success this session was in seeing passage of a bill to provide a de Minimis exemption from the insurance services tax for licensed CPA firms. This legislation was also signed by the governor and will become effective on Jan. 1, 2018. Perry and Frullo were also the sponsors on this legislation and again deserve our thanks.

This issue was brought to our attention after a CPA firm was audited by the comptroller’s office and advised that they had provided insurance services that were taxable. The firm involved thought they were providing traditional accounting services, which are not taxable. After many meetings with the Texas comptroller’s office, we were able to work out a limited exemption for licensed CPA firms in Texas that realize less than 1 percent of their total firm revenue in a year from providing taxable insurance services as defined by the comptroller.

The comptroller was willing to support this type of proposal and issued a no significant revenue impact statement on the legislation. That was critical, as any bill that was classified as having a significant revenue impact was going to be DOA in the Legislature, especially this year when the state was facing severe fiscal challenges. So the



legislation that was eventually passed will provide relief for those CPAs who do a very limited amount of this type of work or who unknowingly stray into providing insurance services thinking they were offering traditional accounting services.

The 2017 Session by the Numbers

The success that TSCPA enjoyed on our 2017 legislative agenda is looking even better in light of the final statistics for the regular session of the Legislature. According to the *Texas Legislature Online*, the 85th session saw 6,631 House and Senate bills filed and only 1211 passed. So that’s an 18.2 percent pass rate. We are very happy that our two bills were among that 18 percent. This is actually a downward trend from the legislative session two years ago. In 2015, fewer House and Senate bills were introduced – 6,276, but more were passed – 1,323, for a pass rate of 21 percent.

The Budget Controversy That Wasn’t

While many felt that the budget was going to be the big controversy in this legislative session and possibly lead to the need for a special session to get agreement, in the end it didn’t happen. Instead, after several weeks of negotiations in a conference committee comprised of House and Senate members, they emerged with a compromise budget that encompassed ideas from both chambers.

Perhaps the biggest point of contention going into the conference committee negotiations was the differences between the two chambers on how to raise some of the needed revenue to support

the budget. The House was in favor of tapping the state's Rainy Day Fund for \$2.5 billion, which the Senate vehemently opposed. The Senate wanted to delay sales tax payments to the highway fund to pick up a similar amount (\$2.5 billion), which the House called an "Enron" accounting gimmick.

In the end, what the conference committee proposed was a combination of the two. The final approved budget will tap the Rainy Day Fund for \$990 million and pick up \$1.9 billion by delaying sales tax payments to the highway fund.

Going into conference, the House was proposing a budget of \$218.1 billion and the Senate \$217.7, and what was approved was less than both of those offers. The final budget is slightly higher than the current budget (\$216.7 billion versus \$216.4) and is less in general revenue funding than the current budget (\$106.7 billion versus \$108.1).

The budget for 2018-19 spends slightly more than the current two-year budget, but after factoring in inflation and population growth, it translates to a 7.6 percent cut compared to current spending levels, according to the Legislative Budget Board (LBB). You can get all the details on the final budget by going to the LBB website here: <http://www.lbb.state.tx.us/>.

The Special Session and Sunset Shenanigans

If we ever needed a reminder of how important the sunset process is to regulated professionals like CPAs, we got a dramatic example in what happened this session to the Texas Medical Board and several other state agencies. This reinforces the seriousness of our mission for the 2019 legislative session, when the Texas Public Accountancy Act and Texas State Board of Public Accountancy (TSBPA) will be up for renewal under the sunset process.

When an agency (like TSBPA or the Texas Medical Board) goes through the sunset review process, they must get legislation passed that extends their "life." Otherwise, they will no longer exist. Each agency has its own authorizing statute. In the case of CPAs, it's the Texas Public Accountancy Act – Chapter 901 of the Texas Occupations Code. So this year, the agencies that were going through the sunset review process (including the Texas Medical Board) were all working to seek the passage of legislation that would "reauthorize" them and continue the existence of their "practice acts."

In addition to the individual bills applying to each agency going through sunset, the Legislature will traditionally sponsor and pass a "safety net" sunset bill to assure the continued life of the affected state agencies in the event their individual reauthorizing legislation does not get passed during the session. This year, the safety net sunset bill was sponsored in the House, by agreement with the Senate. The problem was the House did not pass the legislation by the deadline under the House rules. Speaker Joe Straus then made an appeal to Lt. Gov. Dan Patrick to have the Senate pass the bill, but Patrick countered with a request to have the House pass bills on bathroom privacy and property tax reform he wanted in return. That did not happen and the session ended without legislation being passed on any of these issues.

Without action by the Legislature, the agencies without regulations (including the Texas Medical Board) would enter a



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one-year "wind-down" period after Sept. 1, 2017, in which they would begin the process of shutting down completely. This would leave the state without an agency whose job it is to police doctors who practice in the state. Anybody, anywhere in Texas could call themselves a doctor. There would be no statute that says you have to do anything to be a doctor and there would be no process for handling complaints against doctors.

This is what led to the need for Abbott to call a special session. When he issued the call, he said that the first issue of business is for the Legislature to pass a "sunset" bill. Once that is accomplished, he also provided a list of 19 other issues for the Legislature to consider during the special session. Among other things, that list includes the bathroom privacy and property tax reform matters Patrick would like to see passed. You can read the entire agenda for the special session by going to the governor's website here:

<https://gov.texas.gov/news/post/governor-abbott-announces-special-session>.

We will be back in a future issue of Capitol Interest with the final analysis of the 2017 Legislature when they finally stop meeting and go home for good.

Thanks to Our Advocacy Volunteers

Passing legislation is not easy, even on issues that are non-controversial and do not have major opposition. There is never a guarantee that your bill will make it through the legislative process. To have a chance, you need to be organized and have a good legislative team to support you.

I want to thank all the folks who were involved in our efforts this session who helped us reach success, especially all of our legislative key persons and PAC contributors. Their involvement made a big difference and we sincerely appreciate what they do to help advocate for the CPA profession and TSCPA. ■

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