

States Are Where the Legislative *Action* Takes Place



When it comes to public policymaking, a lot of our attention is drawn to Congress and the federal government. That is understandable, since the federal government drives the national media coverage and the debate on many of the major issues of our time. But if you look at the statistics, it's at the state level where the bulk of the action takes place in terms of legislation being passed. A greater volume of legislation moves faster and is passed at a higher frequency at the state level than the federal level.

State legislatures introduce 23 times the number of bills that the U.S. Congress does (totaling on average 128,145 bills per year). The states also pass a greater percentage of the bills introduced compared to Congress – an average 25 percent pass rate for the states versus 4 percent for Congress. And finally, legislation generally moves much faster in the states, since the majority meet for a limited amount of time and are not full-time legislative bodies.

During President Barack Obama's eight years in office, he signed 1,227 bills into law. Compare that with Texas, where in the 2017 legislative session alone 1,295 bills were passed by the legislature. Gov. Greg Abbott signed 1,091 of them, vetoed 50 and 154 became law without his signature. So, in one legislative session Texas was more active in passing legislation than Congress was in eight years. Add in all the other states and the amount of policymaking at the state level dwarfs what is happening at the federal level.

That is why it is important to be involved and monitor the legislative process at the state level. Through its advocacy efforts, TSCPA strives to do that on behalf of its members and the CPA profession in Texas. Let's look at a few of the issues we may be facing in the 2019 legislative session.

Sunset Leads the Agenda

As reported before in Capitol Interest, Sunset Review of the Texas State Board of Public Accountancy (TSBPA) and the Texas Public Accountancy Act (TPAA) is the number one

“ IN THE 2017 TEXAS LEGISLATIVE SESSION, 1,295 BILLS WERE PASSED BY THE LEGISLATURE. ”

legislative issue for TSCPA in 2019. Our top priority will be to assure a successful completion of the Sunset Review process and the reauthorization of TSBPA and the TPAA so the licensed profession in Texas will continue unabated.

Sunset Review is a regular occurrence for most state agencies in Texas. So, this issue is not a “surprise” and we have been working and will continue to do so to assure the process goes smoothly and we have a successful result.

Other Possible Issues

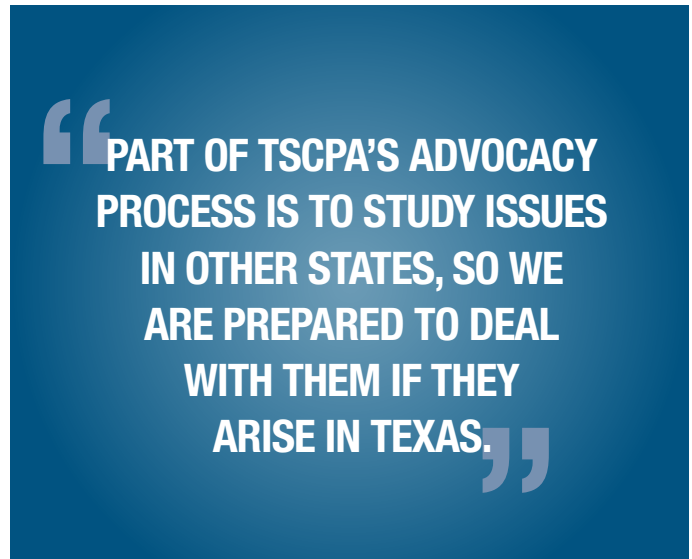
There may be other legislative issues that arise in the next session that could also have an impact on the CPA profession, but are not visible until they are introduced. Part of our advocacy process is to also study issues that manifest themselves in other states around the country, so we are prepared to deal with them if they arise in Texas. A couple examples are highlighted below.

Occupational Licensing Reform and Exemption From Duplicative Regulatory Requirements

An issue that has been getting traction and growing the past few years relates to the occupational licensing process in the states. Some groups and individuals feel that occupational licensing has gotten out of control and the states need to reform the process and eliminate the need for so many licenses to perform services, as well as develop better ways to permit license holders to move across state lines and continue to perform services. They note that today about 25-30 percent of Americans work in jobs that require an occupational or professional license compared to about 5 percent in 1950.

There is bipartisan support on some of the ways to deal with this issue and it also crosses ideological lines. If you would like more details on this issue, you can see information from the Institute of Justice study on the burdens of occupational licensing here: ij.org/report/license-work-2/report/executive-summary/ and a report from the Federal Trade Commission here: www.ftc.gov/policy/advocacy/economic-liberty. Or just Google “Occupational Licensing” and you can see a plethora of information on this issue.

While some reform in this area probably makes sense, the concern is that as legislators move to solve one problem, they could create another by how they implement change. This recently occurred in Louisiana where a bill was introduced in the legislature to try and deal with some of the issues described above relating to occupational licensing. Unfortunately, along the way the legislation was amended to also include a prohibition against anyone using the word “certified” or “certification” unless it was authorized in the laws, rules and regulations of the state entity regulating the profession and individuals possessing a “certification” from a voluntary program would have been banned from using it. If passed, this language would have prohibited many professionals (including CPAs) from using credentials they have legitimately earned



outside the scope of their professional license. Fortunately, after several groups (including the Society of Louisiana CPAs) objected, the bill was amended to eliminate the provisions of concern.

Issues can also arise from other occupational or professional regulatory requirements that can have an effect on CPAs and the services they offer. CPAs are often asked to provide services that may fall under another profession's regulatory statutes. One prime example of this is the provision of a forensic audit, which can sometimes be considered a regulated activity under a state's private investigators statute. We experienced this in Texas a few years ago and fortunately were able to get licensed CPAs exempted from having to get a private investigator license for the routine forensic services they may provide to clients.

Other examples of professions where common CPA services may fall under those professions' respective statutes include client services, which are also performed by real estate appraisers and financial management experts.

CPAs are already regulated by their state boards of accountancy for all services they provide to their clients, including those that may also fall under other regulatory statutes. To avoid duplicative licensure and regulation, we work to explicitly exclude CPAs from these types of requirements.

These are just two examples of the kinds of issues that can get introduced in the legislature that would have an impact on CPAs. There are others, as well. As noted at the beginning of this article, the states are where the greatest legislative activity takes place in our country and it happens at a brisk pace as the process occurs. To protect the interests of our members, TSCPA will continue to monitor the legislative process, so we can react quickly if proposals like this get introduced in the legislature. ■

John Sharbaugh, CAE is TSCPA's managing director of governmental affairs. Contact him at jsharbaugh@tscpa.net.
