

IT'S OVER!

WHAT A DIFFERENCE TWO YEARS CAN MAKE

By John Sharbaugh, CAE

The Texas Legislature ended its 140-day session on May 27, 2019. Right on schedule. What a difference two years can make. In 2017, the legislature was still in the midst of a special session at this point, extending their work past its normal end.

And two years ago, the legislative session was also one defined by controversy and infighting over a variety of social and political issues that played out on a near-daily basis. Heck, last time, a couple of legislators almost came to physical blows on the floor of the House. Not so this session. Rather, this legislative session produced few fireworks and was boringly efficient in addressing some of the major issues facing the state.

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What caused the change? Well, last year's election probably had an effect. The Democrats picked up seats in the House and Senate and the margin of victory for many Republicans fell well short of historical standards. That sent a message to the state's top leaders (all Republicans) that they needed to keep the focus on getting some practical things accomplished for voters, rather than waging battles on controversial issues.

Another factor was that one of those top leaders – the speaker of the House – was a new player. With the retirement of former Speaker Joe Straus, Rep. Dennis Bonnen was elected to fill that leadership post. He worked hard to change the atmosphere in that chamber and he also had a better working relationship with Lt. Governor Dan Patrick and Governor Greg Abbott. All these factors combined to produce less fighting and more cooperation to get things done.

An Active Session

Since legislators weren't fighting as much this session, they had more time to focus on getting things done and the statistics bear that out. There were 7,324 bills introduced, and 1,429 were passed and sent to the governor. That's a pass rate of 19.5% and is in line with recent historic norms.

Many bills are introduced, but only a portion are actually passed. It was the largest number of bills introduced in the last 10 years and there were nearly 700 more bills introduced than in the last legislative session.

Sunset Success

The number one priority for TXCPA and the CPA profession heading into the legislative session was to ensure the renewal and continuation of the Texas State Board of Public Accountancy (TSBPA) and the Texas Public Accountancy Act (TPAA) as they went through the sunset review process. I'm happy to report that we were successful on that front, and legislation (HB 1520) reauthorizing TSBPA and the TPAA was passed and signed by the governor. So, the licensed CPA profession in Texas will continue on for another 12 years until 2031, our turn for sunset review again.

In addition to continuing TSBPA for another 12 years, the legislation passed includes several changes to the TPAA that TXCPA lobbied for as the process played out. The TPAA now conforms with the AICPA/NASBA Uniform Accountancy Act and most other states on the issues of CPA firm mobility and resident manager requirements for CPA firms.

TXCPA was also successful in having the newly enacted fingerprint-based background check requirement for licensed CPAs modified to exempt retired and disabled CPAs. And we were able to convince the Sunset Commission to defer on reducing the number of CPAs

SUCCESSFUL PASSAGE OF THE SUNSET BILL CONCLUDES NEARLY A YEAR OF WORK ON THIS TOP ADVOCACY PRIORITY FOR TXCPA. PASSAGE OF THIS VITAL LEGISLATION ENSURES THAT TSBPA – AND THE CPA PROFESSION IN TEXAS – WILL CONTINUE FOR AT LEAST ANOTHER 12 YEARS.

serving on TSBPA and going to a majority public member board.

In the end, the Sunset Commission recommended, and the legislature adopted, another way to deal with the possible loss of the state exemption under the federal anti-trust laws. SB 1995, which was passed this session, will create a new division within the governor's office that will provide the "active state supervision" to help address this issue for licensing boards that may have a majority of licensees serving on them.

Other Issues Affecting CPAs

In addition to sunset review, TXCPA focused on several other issues on behalf of our members this session. These included:

- **Vendor Monitoring Software:** TXCPA opposed HB 1352, which would have required vendors who provide professional services or technical information technology services to governmental entities in Texas to install software on their computers that would track their key strokes and require that screen shots be captured once every three minutes and be maintained for seven years. TXCPA and several other groups testified against the proposed legislation and the bill did not make it out of committee, so our opposition was successful. But the issue could always come back in the future.
- **Nonprofit Disclosure Requirements:** TXCPA supported passage of SB 1463, a bill that would modify record-sharing requirements for nonprofits in Texas to provide clarity as to exactly what kinds of information they must share with the public on request, hopefully reducing the number of harassing and abusive requests under the current law. SB 1463 was passed in the Senate, but it was never scheduled for a vote in the House before the deadline for passing Senate bills. This issue will have to be re-introduced in the next legislative session.
- **Wayfair Legislation:** There were a couple of bills designed to implement last year's U.S. Supreme Court decision related to the ability of states to make out-of-state sellers collect sales tax on sales to in-state buyers. HB 2153 was passed to allow the Texas comptroller to identify a single tax rate to apply to remote sellers

with the intent to simplify online vendors' sales tax calculations. A related bill, HB 1525, also passed and requires marketplaces such as Etsy, Ebay and Amazon to collect sales tax on third-party, out-of-state sellers. It is expected to yield more than half a billion dollars for the state. HB 2153 and HB 1525 were both signed by the governor and are both effective on October 1. For more information on the *Wayfair* decision, please see the Tax Topics article in this *Today's CPA* issue.

THE OVERARCHING ISSUES THE LEGISLATURE FOCUSED ON THIS SESSION WERE TO ENHANCE AND IMPROVE THE WAY PUBLIC SCHOOLS ARE FINANCED AND TO REDUCE OR SLOW THE GROWTH RATE OF PROPERTY TAXES FOR HOMEOWNERS.

School Finance and Property Tax Reform – The Big Issues

The overarching issues the legislature focused on this session were to enhance and improve the way public schools are financed and to reduce, or at least slow the growth rate of, property taxes for Texas homeowners. The governor had identified both of these issues as priorities at the outset of the legislative session. After months of debate, the House and Senate finally agreed on solutions to both.

On the school finance front, the legislature passed HB 3 that will, among other things, provide an additional \$6.5 billion in funding for public education and increase the state's share of school funding to 45% from the current 38%. It provides money to raise teacher pay and funds full-day pre-K for eligible four-year-olds and increases revenue to educate low-income students. HB 3 also provides \$5.1 billion in property tax relief and limits the future growth of school district property tax increases to 2.5%.

The main property tax relief bill (SB 2) will slow the growth of future property taxes by setting a new ceiling of 3.5% for cities, counties and other taxing units before they would be mandated to let voters approve any larger proposed increase. The effect of these various measures is estimated to provide a property tax decrease of a few hundred dollars on a home valued at \$250,000. While the immediate effect on property taxes may be limited, future increases will likely be smaller, due to the necessity to get voter approval.

Budget

The only thing the legislature is mandated to do each legislative session is pass a budget and they complied with their constitutional duty again this year. The legislature approved spending \$250.7 billion over the next two years.

That's an increase of 16% over the 2018/19 budget.

They also adopted a supplemental budget to cover the shortfall of the current budget to the tune of \$9.9 billion, including using \$6.1 billion from the state's Rainy Day Fund. Much of that supplemental budget will be used to cover the shortfall in the state's Medicaid costs, as well as for Hurricane Harvey relief and some large infrastructure projects.

What's in Store for 2021?

While the legislature had plenty of money to use this go around (the comptroller authorized \$9 billion more than two years ago), that may not be the case in 2021 when the legislature convenes again. If the economy slows and/or oil prices drop, the 2021 legislative session may prove challenging for legislators to maintain some of the initiatives they adopted this year. Since the legislature is required to adopt a "balanced budget" if revenues drop, they will be faced with cutting costs or seeking new sources of income, meaning taxes of some sort.

The 2021 legislative session may be more contentious, since the legislature will re-draw the state's political maps based on the results of the 2020 census. The 2020 election will probably also have an effect on how the next session plays out. Democrats are determined to try and pick up additional seats in the legislature, playing off their success from last year. And Republicans will work to defend their seats and maintain their majorities in both chambers. While this session was relatively mild in terms of political fights, that may not be the case in two years. Only time will tell.

Thanks to Our Advocacy Team

As noted above, passing legislation is not easy and only around 20% of bills introduced end up getting passed. There is no guarantee that a 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.

A big thank you to all of the Advocacy volunteers on our team who were involved in our efforts this session. Many thanks to all of our TXCPA Key Persons and to all who contributed to the TXCPA CPA-PAC. Your involvement made a big difference and our success is directly related to your involvement.

Over the next two years, TXCPA will be planning and strategizing on its agenda for 2021 and studying the issues that may come into play that could affect CPAs and the broader business community. Our various advocacy-related committees will be mapping out our proposed course of action. If you're interested in getting involved in the TXCPA Advocacy program, please volunteer for one of our committees by going to the TXCPA website at tscpa.org. We welcome your interest and your support.