



The Top Seven Under-Publicized Bills

BY CARL S. RICHIE, JR.

Texas lawmakers returned to Austin in January for the 79th Texas Legislature facing a mix of new and familiar problems.¹ Compared with the 78th Legislature, this session began on a brighter financial note because the state had more money in its coffers and was not confronting a massive budget deficit. Legislators were first confronted with determining the winners in three election contests filed with the House of Representatives. A special committee and master were appointed to hear evidence and take testimony. The three losing candidates who had challenged the election results later withdrew their petitions, avoiding a potentially divisive vote among House Democrats and Republicans.

In the wake of a decision by a Travis County district court, legislators were again faced with reforming and financing the state's public school system. Other familiar issues included reforming a broken workers' compensation system, asbestos litigation reform, restoration of funding for social service programs, changing the water delivery system, and updating legislation dealing with air emissions. Legislators worked on other major issues such as telecommunications, rewriting of the banking code, and pay raises for state judges.

Additionally, a few new issues developed during the interim that required the 79th Legislature's attention. An outcry to reform the state's adult and child protective services system developed after a number of highly publicized child and elder abuse complaints surfaced. Eleven states adopted constitutional amendments in 2004 banning same-sex marriages, serving as a catalyst for Texas legislators to introduce similar legislation. Further, the plan to convert some of Texas' public highways to toll roads drew intense opposition during the interim, causing the

Legislature to revisit that issue. This set the stage for a very busy 79th Legislature.

While major issues dominated the press headlines, less publicized, though arguably farther-reaching, bills were also considered and adopted. The following seven bills signed into law by the governor received minimal attention but will significantly impact Texans.

1. H.B. 1130 (effective Sept. 1) Privacy Policy

(REP. BYRON COOK/SEN. RODNEY ELLIS)

Currently, a person is not required to provide a privacy policy to individuals when he or she requires those individuals to disclose their Social Security number to obtain goods or services or enter into a business transaction. With the increasing threat of identify theft, the Legisla-

ture felt the need to take proactive steps to protect Texans.

H.B. 1130 amends the Business & Commerce Code to read that a person requiring the disclosure of an individual's Social Security number must adopt a privacy policy and make the policy available to the individual when that person's Social Security number is required in order to obtain goods or services or to enter into a commercial transaction.

2. H.B. 1068 (effective Sept. 1) Crime Laboratories Accreditation and Forensic Analysis Bill

(REP. JOE DRIVER/SEN. JUAN HINOJOSA)

Existing law permits the Texas Department of Public Safety (DPS) to audit and inspect crime laboratories that are authorized to use the national DNA database operated by the Federal Bureau of Investigation. However, if a crime lab loses its ability to access, or is ineligible to operate in, the national DNA database, DPS cannot inspect the lab. This prevents oversight of all private labs and those governmental labs not taking part in the national DNA database. The Legislature adopted H.B. 1068 to address this statutory problem. H.B. 1068 authorizes DPS to make rules and audit and inspect all crime labs operating in Texas.

Further, under H.B. 1068, the Legislature created the Texas Forensic Science Commission that will establish standards to investigate the operations of crime labs. The Legislature authorized the commission to establish standards for the timely production of crime lab results and permitted the commission to investigate when the timeliness standards are not met.

A rider contained in S.B. 1, the general appropriations bill, provides \$5 million in state funding to reduce the current backlog existing in regional crime labs. Moreover, a provision in S.B. 1 allows the state to qualify for federal funding to address the backlog problem.

3. S.B. 356 (effective Sept. 1) Urban Land Banks

(SEN. RODNEY ELLIS/REP. SENFRONIA THOMPSON)

Houston has approximately 27,000 vacant properties that are delinquent on the tax rolls for an average of 17 years. In some cases, these vacant lots contain

structures that are havens for criminal activity. The Legislature adopted S.B. 356, the Urban Land Bank Program, which allows Houston to acquire delinquent tax property at a private sale.²

Under the Urban Land Bank Program, the city — through its Land Assemblage Revitalization Authority — will place the property in a land bank and sell it to the adjacent property owner, a qualified community development corporation (CDC), or private developer.³ The property's use is restricted to development of affordable housing.

Under S.B. 356, the adjacent property owner, who has demonstrated an interest in the property by maintaining it, has the first right of refusal to purchase the property. If the adjacent property owner passes on the property, a CDC can acquire and develop the property. However, if the CDC passes on the property a private developer may acquire and develop the property.

While S.B. 356 was bracketed to Houston, Austin will implement a similar, but slightly different, urban land bank program under a provision contained in H.B. 525 — Homestead Preservation Districts, which the Legislature also adopted.

4. H.B. 1765 (effective June 14) Texas Emerging Technology Fund

(REP. GEANIE MORRISON/SEN. FLORENCE SHAPIRO)

Texas competes economically with a number of large states that heavily invest dollars in research and development. These investments are used to cultivate new economies spawned from the emergence of new technology markets. Texas relies on local and state economic development initiatives, but lacks funding to foster emerging technology concepts that generate marketable products.

Gov. Perry sought the creation of the Emerging Technology Fund in an effort to make Texas competitive with other major states. H.B. 1765 established the Texas Emerging Technology Fund to stimulate economic and technological opportunities that will allow Texas to remain competitive in national and global markets. The emerging technology fund will be used for research and development activities in emerging technolo-

gy industries. More important, the fund will be used to expedite innovation and commercialization; attract, create, or expand private sector entities that are expected to drive a substantial increase in high quality jobs; and increase higher education applied to technology research capabilities.

The fund has three components. First, it will provide incentives to create regional centers of innovation and commercialization. These centers will be located in Bexar, Dallas, El Paso, and Tarrant counties, the Lower Rio Grande Valley, and other suitable locations. Second, the fund will offer research matching grants to colleges and universities. Finally, the fund will assist Texas in acquiring research superiority by attracting leading researchers from outside the state.

An emerging technology committee, utilizing a strict peer review process, will analyze various funding proposals and submit them to the governor, lieutenant governor, and House speaker for final consideration and approval. Unanimous



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approval by the state's leadership will be required before funding any proposal.

5. H.J.R. 80

Economic Development Programs

(REP. MIKE KRUSEE/SEN. STEVE OGDEN)

A Travis County district court in February ruled in *Save Our Springs Alliance, Inc. v. Village of Bee Cave* that Chapter 380 Economic Development Agreements that exceed a year create an unconstitutional debt because the sales tax rebate unlawfully binds future city councils. The Village of Bee Cave entered into a Chapter 380 development agreement with HCS Holding Company for a sales tax rebate to develop a retail mall. Chapter 380 agreements are a common economic development mechanism that allow for loans and grants of public funds such as municipal sales tax rebates.⁴

The ruling was appealed, but the Legislature quickly responded to the court's decision by adopting a constitutional amendment that will be on this November's ballot. H.J.R. 80 proposes to amend

the Texas Constitution by clarifying that certain economic development agreements exceeding one year between a municipality and a business under Chapter 380 are not unconstitutional debts.

6. S.B. 771 (effective June 18)

Tax Increment Financing

(REP. WILL HARTNETT/SEN. ROYCE WEST)

The Legislature gave municipalities significant economic development tools through the adoption of S.B. 771. S.B. 771 has four components: expansion of a municipality's condemnation powers inside a reinvestment zone; reduction of a municipality's participation in a reinvestment zone; use of economic development grants; and financing of municipal services in a reinvestment zone.

Dallas, like a number of major cities around the nation, is experiencing the doughnut phenomenon, which occurs when businesses flee the downtown business district for the suburbs and blight begins to set in the core of the downtown area. Vacant buildings become a major

impediment to economic development because commercial property owners need a certain density of redevelopment in the area to make a successful investment decision.

Under S.B. 771, a city may create a tax increment reinvestment zone (TIRZ) for a specified period to upgrade an area and increase its taxable value. Taxes paid by landowners or developers on improvements they make to property in the zone go into a tax increment fund, which pays for new or upgraded infrastructure and other public improvements in the zone. S.B. 771 attempts to address the doughnut phenomenon by providing a mechanism — condemnation of vacant buildings inside a TIRZ — to rid areas of unattractive vacant buildings, thereby promoting economic success of existing businesses in a TIRZ.

S.B. 771 permits the use of a municipal tax increment to be used for economic development grants within a TIRZ. This tool will likely assist in attracting retail or commercial centers to TIRZ



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areas where public infrastructure is adequate, but economic activity is stifled.

S.B. 771 allows a city to enter into an agreement with the development board or a local government corporation that manages the reinvestment zone to allocate available municipal funds to the increased costs of incremental municipal services resulting from the development of the TIRZ. As land develops within a TIRZ, the city must provide additional public services such as police and fire protection because of increased population or density. S.B. 771 provides cities with tools to fund the increased demand for public services within the TIRZ.

**7. H.B. 1485 (effective Sept. 1)
Test for the Detection
of Human Papillomavirus
and Cervical Cancer**

(REP. SENFRONIA THOMPSON/SEN. RODNEY ELLIS)

According to a study conducted by Women in Government: HPV & Cervical Cancer Policy Resource Center, Texas' mortality rate due to cervical cancer is 30 percent higher than the national rate.

Human papillomavirus (HPV) is one of the world's leading sexually transmitted diseases. HPV consists of as many as 13 different strains that are considered to be high risk and are associated with the development of precancerous abnormal cells. These precancerous cells may progress in females to become cervical cancer if left undetected. The presence of precancerous abnormal cells may be detected by a Pap smear test or pelvic exam.

H.B. 1485 requires a health benefit plan that provides coverage for diagnostic medical procedures to provide coverage for expenses for an annual medically recognized diagnostic examination for the early detection of cervical cancer to each woman 18 years of age or older enrolled in the plan. The coverage must, at a minimum, cover a conventional Pap smear screening or a screening using liquid-based cytology methods as approved by the U.S. Food and Drug Administration or other FDA-approved test for the detection of HPV. The health benefit plan issuer must provide in the plan a written notice of the coverage.

H.B. 1485 applies to a health benefit plan that provides benefits for medical or

surgical expenses incurred as a result of a health condition, accident, or sickness, including an individual, group, blanket, or franchise insurance policy or insurance agreement, a group hospital service contract, an individual or group evidence of coverage, or a similar coverage document that is offered by certain entities.

Notes

1. In Texas, the Legislature meets in regular session every odd numbered year for 140 days. The period in between the legislative sessions is referred to as

the interim. The governor can call the Legislature into a 30-day special session. As of the date of drafting of this article, the Texas Legislature is in the middle of the second special session.

2. The property has to be delinquent with all taxing jurisdictions for a minimum of seven years.
3. The LARA is a 13-member public citizen board whose members are appointed by the city, county, and school district.
4. Chapter 380 of the Local Government Code.

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