

A SLOW START AND A FAST FINISH

By Kenneth Besserman, JD, TXCPA Director of Government Affairs and Special Counsel

(Author's Note: This article was written the first week of April 2021 with approximately seven weeks left in the legislative session. A supplemental article will be published this summer detailing the final weeks of session.)

The 87th session of the Texas Legislature is beginning its final stretch of one of the most interesting sessions in recent memory and history. With just under two months remaining, we have witnessed everything from pandemic-related health and safety protocols in the Capitol to extended (more than usual) early session recesses to battles over power grid reform to partisan battles over social issues and access to the ballot box.

What we have not seen (at least as of the time of this writing) is a battle over the state budget and redistricting. The decennial battle over redistricting has largely been in the shadows during this legislative session because of the delay associated with states receiving Census numbers with which to draw new state and congressional maps. The latest news from Washington, D.C., is that states will receive their Census numbers in fall 2021, thereby starting the special session and litigation whirlwind that we have become accustomed to in recent decades. Texas is projected to gain three new congressional seats, which will put the pressure on state leaders to balance their party's interests against the growing population centers. Hold on for an interesting fall special session(s).

The debate about the state budget battle is not quite as heated and controversial as had been predicted. The Comptroller's somewhat dire budget predictions of summer 2020 (a possible \$4-5 billion deficit) are now just a distant memory.

When the legislature gaveled in on January 12, Comptroller Glenn Hegar's Biennial Revenue Estimate



had whittled down the budget deficit to about \$1 billion – barely a blip on a \$210 billion two-year state budget. The significant uptick in sales tax revenue in the last half of 2020 (online shopping and more retail in-store openings) had brought the state budget predictions back in line and gave the legislature some breathing room to avoid budget cuts or tax increases to close the deficit.

The big unanswered question related to the state budget is the amount, timing and use of federal funds that were allocated to Texas in the 2021 American Rescue Plan Act (ARPA). Projections indicate that Texas is set to receive over \$16 billion (some estimates are showing Texas could receive \$30+ billion) in federal funds. There are some significant strings attached to the use of those funds – funds cannot be used to supplant or offset any state or local taxes.

Currently, there is no provision in the state budget that addresses the use of ARPA funds. State budget leaders are continuing their conversations with federal officials to better understand the use of these funds.

Bottom line – the large budget cuts of past budget deficit sessions seem to be off the table. The Senate has passed the budget and we are awaiting debate on the House

floor before the bill heads to a conference committee to hammer out a final version of the budget.

Beyond the state budget and redistricting, there are quite a few hot-button issues that are being debated and starting to move through the legislative process. Issues such as abortion restrictions, penalizing cities that decrease police budgets (defunding), election reform, social media censorship prohibitions, transgender restrictions, and permitless/constitutional gun carry have risen the temperature considerably in the legislature and once again placed Texas in the national spotlight on social issues.

Governor Greg Abbott has placed some of these issues on the emergency items list, and Speaker of the House Dade Phelan and Lt. Governor Dan Patrick have also made many of these issues high priority items. In the Senate, legislation has passed to prohibit an abortion after a fetal heartbeat is detected, allowed lawsuits against doctors and providers for providing abortion services, and further limits on funds and information that can be shared with health care providers about abortion services.

In addition, the Senate passed legislation restricting social media companies from censoring or restricting access of a person with whom they may not share the same views. The Senate has also passed "election integrity" legislation, Senate Bill 7, which will tighten up mail-in ballot access, limit early voting locations, prohibit drive-through voting, and allow non-governmental poll watchers to film voters and raise concerns with law enforcement.

As of the time of writing this article, the House has not yet debated these issues on the House floor, but hearings have begun on permitless gun carry legislation, penalizing local jurisdictions for decreasing police budgets and election integrity reform. Hearings in the House tend to be longer and more contentious, making the process of getting to the House floor a little less certain. It is very likely that most of these contentious and highly partisan issues will make it to the House floor in the final months of the session, which will engender long nights on the House floor.

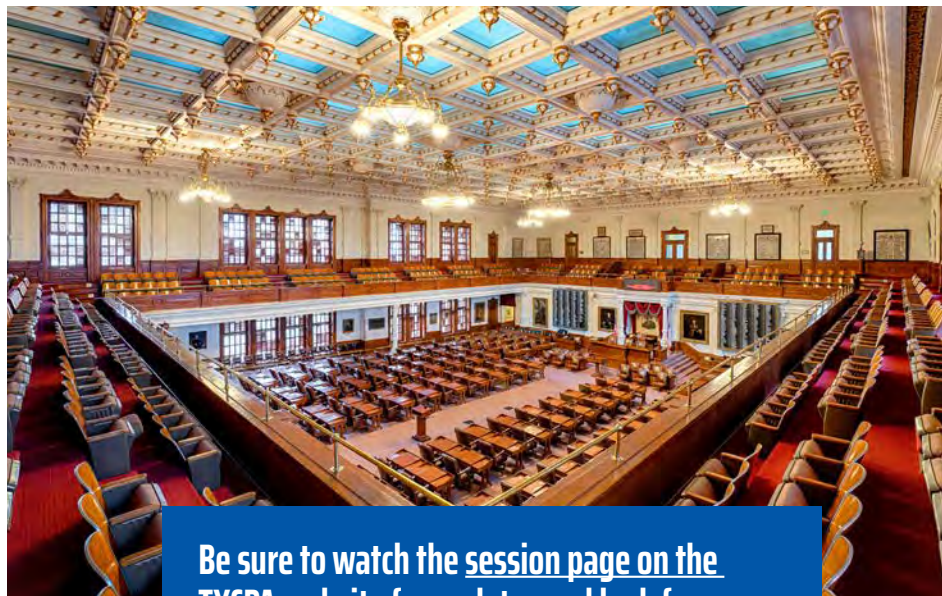
The session got off to a very slow start (even compared to the usual slow start of all Texas legislative sessions). The COVID-19 pandemic and the large increase of positive test results during the winter holiday season pushed the House and Senate to slow down the legislative process during the opening months of the session until vaccines

were more widely available and the positivity rate started to decline. That did start to happen in March and April, which was exactly when the pace of the session picked up considerably.

TXCPA Priority Legislation

Thus far, the 87th session has been very good news for TXCPA. On the tax front, there has been no movement on legislation to impose a state sales tax on professional services. The state budget does not appear to need more revenue nor is there an appetite amongst the legislators to raise taxes.

TXCPA has been working closely with our professional colleagues (architects, engineers, realtors and others) to educate and remind the legislature of the reasons why it is not a good idea to tax professional services. During TXCPA's Advocacy Day in January, we had a very good response to maintaining that professional services remain untaxed.



Be sure to watch the [session page on the TXCPA website](#) for updates and look for programs and articles in the coming months for a complete recap of the session.

Senate Bill 297 (Sen. Perry), which extends the fingerprinting requirement for CPA license renewals until August 31, 2022, has passed the Senate unanimously and is making its way through the House. TXCPA advocates pushed this issue with legislators during the TXCPA Advocacy Day and during Senate and House hearings, ensuring that the issue was not controversial and had wide support. All signs are positive that this bill will make it to the governor's office.

CAPITOL INTEREST

TXCPA has also been very successful in pushing to make sure that loans forgiven under the Paycheck Protection Program (PPP) are not taxed under the state franchise tax law. House Bill 1195 (Rep. Geren) is extremely important to TXCPA and to businesses that have PPP loans forgiven. Unforeseen and unintended tax consequences could arise if this legislation is not passed. The legislation has passed the House and is predicted to have smooth sailing through the Senate as well.

TXCPA has also been watching for any efforts to deregulate the accounting profession or to lessen any licensing requirements that we have fought so hard for in the past. The good news is that there has been no legislation or talk about any deregulatory efforts of the accounting profession, which will benefit the public and ensure that the profession is being properly and effectively regulated.

Civil liability reform relating to COVID-19 litigation has been front and center this session for TXCPA and the wider business community, and the governor has made this issue a priority. Businesses, business groups, trade associations and the trial bar have been meeting and negotiating on pandemic liability reform.

SB 6 (Hancock) is a priority piece of legislation for TXCPA. It passed the Senate on April 8. Senate Bill 6 is common-sense pandemic liability protection that represents stakeholder consensus on the best way to move forward during and post-pandemic. SB 6 does not provide blanket immunity, nor does it protect bad actors. Instead, SB 6 provides much-deserved protection from litigation for businesses that have acted in good faith during the pandemic. TXCPA has been involved in the stakeholder process.

Since the governor has made this issue a priority, we can look forward to legislation moving toward the end of the session.

This session has been memorable for many reasons – COVID-19, no redistricting debates, an abundance of federal money available and a myriad of controversial issues moving through the legislature. The final weeks are sure to be controversial and interesting.

ABOUT THE AUTHOR: Kenneth Besserman, JD, is TXCPA's Director of Government Affairs and Special Counsel. Contact him at kbesserman@tx.cpa.



Christy Hudson
CBI
Broker

Kathy Brents
CPA CBI
Broker, Managing
Member

Selling your firm is complex.
Let us make it simple.

- ✔ Confidentiality
- ✔ Maximizing Firm Value
- ✔ Negotiations
- ✔ Closing
- ✔ Transition
- ✔ Financing

Learn more and get a FREE Market Analysis at
www.AccountingBizBrokers.com



Office: 866-260-2793
Kathy: 501-514-4928
Christy: 501-499-4357

✉ kathy@accountingbizbrokers.com
christy@accountingbizbrokers.com
*member of the Texas Society of CPAs

