

Report on the Texas Legislative Session in Austin

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

TSCPA Advocacy Day a Success

At the TSCPA Advocacy Day and Midyear Board of Directors Meeting, a couple hundred TSCPA members came to Austin to help us carry our message to Texas legislators. Our program was a success and even the unpredictable Texas weather cooperated, making it a beautiful day for CPAs to trek to the Capitol for personal visits with their elected representatives and senators.

At our Advocacy Day, attendees got to hear from a variety of speakers on topics ranging from what's likely to happen in the current legislative session to how to effectively communicate and establish relationships with legislators.

Rep. Angie Chen Button, Rep. John Frullo and Senator Charles Perry, all CPAs, served on a panel moderated by former Rep. John Otto, CPA, now a TSCPA lobbyist, to discuss their take on the current legislative session and a variety of topics. It was a lively session with the panelists providing very frank comments and responding to a number of questions from attendees.

Rep. Button shared that earlier on Tuesday morning, she had sponsored a resolution on the House floor acknowledging TSCPA's CPA Day at the Legislature and the important work that Texas CPAs do for the public. You can read the resolution on the TSCPA website.

All in all, it was a great meeting and we thank all of the TSCPA members who traveled to Austin to help us communicate with Texas legislators and form effective relationships with them. Members are the "heart" of our grassroots program and without them, we could not effectively represent the interests of Texas CPAs. So thanks to all who help us in this effort.

State of the State

While TSCPA Advocacy Day was the big event in January in our CPA world, in the world at large another event was also taking place. That was the governor's State of the State address. In it, Governor Greg Abbott laid out his agenda and vision to the Legislature and to the citizens of Texas.

The governor named four emergency items in his address to lawmakers, including: reforming Child Protective Services, banning sanctuary cities, implementing meaningful ethics reforms and passing a resolution calling for a convention of states. Naming these as "emergency items" means the Legislature can take immediate action on them by passing legislation in the first 60 days of the session or before March 10. Otherwise, all legislation is barred from being passed before this two-month mark.

Abbott opened his speech talking about how the state of Texas is exceptional. He noted that since his first State of the State address two years ago, more kids are graduating from high school, Texas doubled the number of tier one universities and more Texans have jobs today than ever before. Last year when oil hit bottom, Texas still added more than 200,000 new jobs. He stated that our national and international rankings continue to rise. Texas is now second in the number of *Fortune*

500 companies. He also noted that if Texas were its own country, we would now be the 10th largest economy in the world. Our economy is larger than Australia, Canada and even Russia.

Following the speech, the office of the governor released a web video highlighting the governor's legislative priorities. You can view it on their website at <http://gov.texas.gov/>. Or you can read the speech in its entirety at <http://gov.texas.gov/news/speech/20659>.

The speech was not all good news, however, and in it the governor also announced he was directing state agencies to impose a hiring freeze as a way of dealing with the state's tight budget. He said the move would free up about \$200 million in the current budget. He also took a dig at legislators saying the Legislature spends too much on itself. With the economy still recovering from an oil-drilling slowdown, Abbott noted that it's "a time for addressing essential needs and eliminating the nonessential wants."

Abbott earned his loudest applause from legislators when he said this session will be the one in which lawmakers ban "sanctuary cities," places where local officials do not fully cooperate with federal immigration authorities. Since his speech, the Texas Senate passed Senate Bill 4, commonly known as the "anti-sanctuary cities bill." If enacted, it would punish local government entities and college campuses that refuse to cooperate with federal immigration officials or enforce immigration laws. The bill was sponsored by Senator Charles Perry, CPA (R-Lubbock). Its fate in the Texas House is unclear.

Also since the governor's speech, the Senate unanimously passed Senate Bill 14, legislation that requires elected officials to disclose their government contracts, prevents lobbyists from concealing which legislators they wine and dine, and targets corruption by revoking pensions of elected officials convicted of felonies related to their office. The legislation also requires legislators to disclose bond counsel work and legal referral fees above \$2,500 if they are not involved in the case, and eliminates the "revolving door" that allows former legislators to immediately become lobbyists. The House must now take up the legislation for consideration and vote.

Bill to Eliminate the Franchise Tax

In February, legislation was filed to abolish the state's business franchise tax over the next decade. Senate Bill 17 would reduce the franchise tax every year that the comptroller of public accounts certifies that the state will experience at least 5 percent revenue growth.

Introduced by Senate Finance Chair Jane Nelson (R-Flower Mound), she noted that based on current estimates it would mean an end to the hated business tax in 10 years. While conservative groups applauded the proposal, saying it will help grow Texas' economy, the measure falls short of a faster repeal that has been advocated by other leaders. Nelson's bill is expected to get the issue on the table for discussion with a phase-out plan rather than an immediate cut in the tax and is expected to pass in the Senate. It is not clear where the House is on this issue, but with the financial challenges of the current budget, it may not play as well in that body.

Fiscal Challenges

The biggest issue in the 2017 legislative session, bar none, is the lack of funds for the Legislature to spend. This is in stark contrast to two years ago when the state was flush with money and tax cuts were all the rage. While everyone knew it was coming, the bad news was officially delivered by State Comptroller Glenn Hegar on Jan. 9, 2017, the day before the Legislature convened. That's when he provided his revenue estimate for the biennial budget. The number came in at \$104.87 billion, a 2.7 percent decrease from his estimate two years ago. However, his revenue estimate does not cover the scope of the entire Texas budget. Instead, it sets a limit on the state general fund, the portion of the budget the Legislature has the most control over. The state general fund typically covers about half of the total budget. Adding in federal funds and other revenue sources, the comptroller estimated that there will be \$224.8 billion in total revenue for the 2018/19 biennium, which starts in September. That's almost \$4 billion more than two years ago when it was estimated at \$221 billion.

Exacerbating the fiscal problem is that in 2015, the Legislature moved to dedicate up to \$5 billion in sales tax revenue every two years to the state's highway fund, rather than making it available to spend on other priorities. Folks knew this day of reckoning was coming and back in July, Texas' top elected officials (governor, lieutenant governor and speaker) directed state agencies to scale back their budget requests by 4 percent.

The comptroller estimated the state's Rainy Day Fund (derived largely from taxes on oil and gas development) will have a balance of \$11.9 billion at the end of the next two-year budget, up slightly (.8 billion) from two years ago, assuming legislators don't tap that savings account this session. Generally speaking, in order to use the Rainy Day Fund, the Legislature requires a two-thirds vote. And legislators are typically not crazy about raiding the fund, so we will see if that is an option they choose.

Those in the know say the amount of general revenue available for lawmakers is in the neighborhood of \$5-6 billion less than what is required to cover the current services of the state when you factor in inflation and the growth of the state. This financial challenge is going to be the number one issue in the current session.

House and Senate Far Apart on Budgets

In January, the Senate and House issued their initial "markers" on the budget by introducing base budgets to establish the state's funding priorities for the next two years. The two chambers are very far apart in their plans.

The Senate budget allocates \$103.6 billion of the \$104.9 billion the Legislature will have available and includes additional resources for transportation, Child Protective Services and other priorities. It eliminates one-time expenditures from the previous budget, includes many agency recommendations for 4 percent savings, reduces funding for non-educational higher education initiatives and calls for a 1.5 percent across-the-board budget reduction, exempting the Foundation School Program.

The initial 2018-19 budget introduced by Texas House leadership puts additional resources into public education, child protection and mental health while increasing state spending by less than 1 percent without raising taxes. It appropriates \$108.9 billion in general revenue. It reduces funding for administrative costs and discretionary programs across state agencies. It eliminates one-time funding provided by the last Legislature, such as completed capital and information technology

projects. It also includes cost-containment efforts to reduce spending in Medicaid by \$100 million.

The House budget provides funding to pay for expected enrollment growth of about 165,000 students over the next two years. It also includes an additional \$1.5 billion for public education that is contingent upon the passage of legislation that reduces recapture and improves equity in the school finance system.

The Legislative Budget Board has the fine print of both the House and Senate plans, which you can find at <http://www.lbb.state.tx.us/>.

TSCPA Legislative Agenda

TSCPA's limited legislative agenda for 2017, approved by our Legislative Advisory Committee (LAC) and Executive Board, includes the following items.

TSCPA is seeking to repeal Chapter 2266 of the Texas Government Code relating to the acceptable financial accounting and reporting standards for use by state and local governmental entities. This chapter gives governmental entities in Texas the ability to opt out of following GAAP as it relates to other postemployment benefits and use a statutory modified accrual basis of accounting.

In February, Senator Charles Perry, CPA, filed a bill requiring state and local governments to follow GAAP. It is SB 753 and you can read it here: <http://www.legis.state.tx.us/tlodocs/85R/billtext/pdf/SB00753I.pdf#navpanes=0>. It states that a regulation adopted under this section may not be inconsistent with generally accepted accounting principles as established by the Governmental Accounting Standards Board. Rep. John Frullo, CPA, introduced a bill in the House. It is HB 1930. We are hopeful we will see this legislation passed in this session and have gotten good feedback about support from our members who conducted visits with their legislators during TSCPA Advocacy Day. Our thanks to Senator Perry and Rep. Frullo for sponsoring the legislation.

Other items on TSCPA's legislative agenda include:

- TSCPA is seeking to obtain an exemption from the insurance services sales and use tax for licensed CPAs who work in a licensed CPA firm.
- TSCPA will continue opposition to any attempt to tax professional services. We don't expect anything on this front, but one never knows what can happen.
- TSCPA will stay alert to all franchise tax legislation hoping to provide reliable input to legislators interested in franchise tax reform and provide recommendations developed by the TSCPA State Taxation Committee for improving the franchise tax.

We will also be watching all legislation filed to determine any effect it may have on the profession. At press time, we do not have bill numbers on our legislative proposals, but are working on those and hope to see legislation introduced and passed before the session ends.

You can keep up with on-going legislative activity by reading our blog at <http://tscpaatthecapitol.com> or by following me on Twitter @jsharbaugh. ■

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