

A photograph of the Texas State Capitol building in Austin, Texas. The building is a large, classical-style structure with a prominent dome. Scaffolding is visible around the building, suggesting renovation work. In the foreground, there are green trees and some purple flowers. An American flag is flying on a pole to the right of the building.

SINE DIE REPORT

88th Texas Legislature

1. RECAP OF THE 88TH SESSION

Here is your highlight reel of all the action in the last 140 days. It's been a wild ride.

2. INDUSTRY REPORT

With a record setting number of bills this session, narrowing industry priorities is critical for tracking impacts to your business.

3. LEADERSHIP PRIORITIES

See where priority measures for the governor, lieutenant governor, and speaker of the House ended up.

RECAP OF THE REGULAR SESSION OF THE 88TH TEXAS LEGISLATURE

One-hundred and forty days of calm, chaos, and, ultimately, resolution are finally behind us for the most part. The Regular Session of the 88th Texas Legislature adjourned Sine Die on Monday, May 29.

The House and Senate combined filed 8,345 bills and resolutions this session. Of those bills, only 1,245 were passed and sent to the Governor. Some have already been signed into law, but the majority have not. June 18th is the last day for the Governor to act on Legislation. Bills sent to the Governor can be signed, vetoed, or allowed to become law without his signature.

The inauguration of Governor Abbott and Lt. Gov Patrick on January 17 seems like a lifetime ago. While the legislature was slow to get down to business, the drama and political theatre started early and was a near constant throughout. News headlines spanned from an alleged driving while intoxicated offense of a prominent state senator to the expulsion of a state representative for inappropriate conduct and the impeachment of AG Ken Paxton by the Texas House.

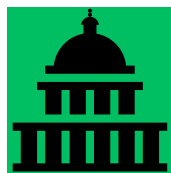
In spite of the onslaught of breaking news that kept the capital press corps on their toes, the legislature did ultimately get a wide range of leadership priorities across the finish line, including the biennial

state budget, electricity market reforms, border security funding, school safety provisions, local preemption, and massive investments in the state's infrastructure.

Unfortunately, some priority measures remain unfulfilled and special session(s) is expected on at least two issues—public education vouchers and property tax relief. And when they come back for one or two issues, the list tends to grow, especially when those setting the agenda might be eying a run for higher office.

Midnight June 18 was the deadline for the governor to veto bills, sign bills, or let bills become law without his signature. Seventy-six bills were vetoed by Governor Greg Abbott (22 HBs and 54 SBs). Nine of the 22 HBs were vetoed because "education freedom" is a higher priority. Two HBs (that were sponsored in the Senate by Sen. Bettencourt) were vetoed because "property tax reform" is a higher priority. Of the 54 SBs vetoed, 46 were vetoed because "property tax reform" is a higher priority.

The 76 vetoes this year by Gov. Abbott were the second highest number of vetoes in the history of the state behind the 83 bills vetoed by Gov. Rick Perry in 2001. 1,040 bills were signed by the governor, and 130 bills became law without his signature.



These bills have been signed into law. Some take effect immediately. Others have an effective date of September 1, 2023 or January 1, 2024.



This is the fate of most bills filed, given only 15% of all bills filed this session actually passed.

INDUSTRY REPORT

TEXAS ASSOCIATION OF DAIRYMEN



Milk Disposal. HB 692 by Rep. Glenn Rogers (R-Graford)/Sen. Drew Springer (R-Muenster), relating to the authorization for certain land applications and disposal of dairy waste, would allow for the safe disposal of milk and milk by-products by land applications and proper disposal in retention facilities as long as those applications protect water quality. It has been signed by the governor and is effective September 1, 2023. The focus now shifts to TCEQ for their rulemaking.



Bosque Watershed CAFO Permitting. HB 2827 by DeWayne Burns (R-Cleburne), relating to the permitting of and performance of annual soil tests for certain concentrated animal feeding operations by the Texas Commission on Environmental Quality, would have streamlined permitting for dairy farmers located within the North Bosque River Watershed by allowing general permits rather than the overly burdensome individual permits they are currently required to obtain. Unfortunately, the bill ultimately died in the Senate where it was never given a committee hearing.



Right to Farm. HB 1750 by Rep. DeWayne Burns (R-Cleburne), HB 2308 by Rep. Trent Ashby (R-Lufkin) and HJR 126 also by Burns and each sponsored by Sen. Charles Perry (R-Lubbock), ensures that agricultural operations in the state are protected by providing for limitations on city and county governmental requirements on agricultural operations and related agriculture services. Under the current Right-to-Farm Law, agricultural operations are protected from nuisance actions. Current protections have fallen short with respect to other legal actions, creating a loophole that has been used to challenge and shut down working agricultural operations. HB 1750 and HB 2308 have been signed by the governor and are effective September 1, 2023. HJR 126 has passed both chambers and has been filed with the Secretary of State. It will take effect if it is ultimately approved by voters in the November election.



Truth in Labeling. SB 664 by Charles Perry (R-Lubbock)/Rep. Brad Buckley (R-Salado), relating to the labeling of analogue and cell-cultured products, provides clear guidelines as to where clarifying terms such as "plant-based," "analogue," or "cell-cultured" may be on the label for alternative proteins by a qualifying term of close proximity. A definition of close proximity is provided outlining that the term may be immediately before or after, within the same phrase, or in the same line of the label of the identifying meat term. It has been signed by the governor and is effective September 1, 2023.



mRNA Labeling Requirements. SB 2632 by Sen. Bob Hall (R-Edgewood), relating to required labeling of food containing mRNA vaccine material, was a last minute attempt to add labeling requirements to meat and all food products for use of a vaccine that is not currently in use. The bill was filed after the filing deadline and was given a hearing three days later. It was voted out of committee 8-0 but was never considered on the Senate floor. This topic has been discussed as a possible interim study in the coming months.

INDUSTRY REPORT

TEXAS ASSOCIATION OF DAIRYMEN



TAHC Biosecurity. HB 3257 by Rep. Kyle Kacal (R-College Station)/Sen. Lois Kolkhorst (R-Brenham), relating to the confidentiality of certain biosecurity and other sensitive information shared with the Texas Animal Health Commission (TAHC), makes all biosecurity plans, secure food supply plans, emergency preparedness plans, and voluntarily supplied biosecurity data that is held by the TAHC confidential. It takes effect September 1.



TCEQ Sunset. SB 1397, by Sen. Charles Schwertner (R-Georgetown)/Rep. Keith Bell (R-Forney), relating to the continuation and functions of the Texas Commission on Environmental Quality (TCEQ), is the TCEQ sunset bill. It extends TCEQ for an additional 12 years; increases penalty amounts in rare cases to \$40,000/violation/day; expands public notice and procedures for public review of applications; makes changes to compliance history classifications, and places guardrails around general permits for concrete batch plants. It takes effect September 1.



Penalty for Frivolous Complaints at TCEQ. SB 471 by Drew Springer (R-Muenster)/Rep. Cody Harris (R-Palestine) would implement fines for residents that make three or more complaints to environmental regulators in a calendar year and their complaints don't result in an enforcement action. Under the bill, TCEQ would decide when to pursue fines against residents and the amount of the fine. Each year, TCEQ conducts more than 100,000 investigations, issues thousands of notices of violation (NOV), assesses millions of dollars in administrative penalties, and provides compliance support. TCEQ received 9,440 complaints in fiscal year 2021 and 10,070 in fiscal 2022. It awaits the governor's action. It takes effect September 1.



Mandatory E-Verify. SB 1621 by Sen. Lois Kolkhorst (R-Brenham)/HB 3846 by Rep. Steve Toth (R-Conroe), relating to requiring state contractors, political subdivisions of this state, and private employers to participate in the federal electronic verification of employment authorization program, or E-verify, would have required all entities in the state to use the federal e-verify system. The Senate bill was voted out of committee but not considered by the full Senate. The House version did not receive a hearing in House State Affairs.



Migrant Labor Housing. HB 238 by Rep. Diego Bernal (D-San Antonio) relating to the regulation of migrant labor housing facilities, attempted to strengthen the TDHCA penalty structure for violations of provisions governing migrant labor housing facilities and provided for increased accountability and enforcement of those provisions. It was placed on the last Senate Local & Uncontested calendar and was on the path for final passage, however, in a late-night maneuver it was removed from the calendar. This was an abbreviated version of what happened to the last Senate L&U calendar last session, when the entire calendar was killed due to political personalities in the House and Senate.

LEADERSHIP PRIORITIES

2024-25 GENERAL APPROPRIATIONS ACT



HB 1, the state's \$321.3 billion two-year budget, which outlines how the \$32.7 billion surplus is allocated, is the only bill the legislature is constitutionally required to pass. It was sent to the Governor on May 29. The plan invests money in tax cuts, mental health, state parks, higher education, the state's energy grid, broadband and water infrastructure. Property tax relief is earmarked at \$17.6 billion (if the House and Senate can compromise on how to deliver it). It awaits the Governor's action. He has line-item veto power.



SB 30, the "supplemental budget" which finishes out our current budget that ends August 31st, spends about half of the budget surplus—around \$15 billion. Items included in the supplemental include school safety grants, state employee pay raises, a "13th check" for retired teachers, border security, flood mitigation, and Medicaid costs. It has been signed by the governor.

Some of the [highlights](#) of the HB 1/SB 30 plan:

- Funding property tax cuts. HB 1 spends \$17.6 billion on property tax relief. Of that, \$12.3 billion is new spending while \$5.3 billion is to maintain tax cuts approved in previous years. The details of how the funds are deployed remains to be seen. Legislators can only spend that extra \$12.3 billion if they come to an agreement on a final tax-cut package.
- A new state water fund intended to jumpstart massive water supply projects and fix aging water infrastructure across Texas received \$1 billion in the supplemental. Additionally, a little over a billion dollars would be allocated to prevent flooding in Texas, including \$550 million for coastal barrier projects and the "Ike Dike" and another \$625 million in the supplemental budget for the Flood Infrastructure Fund, a bucket of money used to finance flood-prevention projects included in the state's first flood plan.
- A new broadband infrastructure fund gets \$1.5 billion dollars in the budget for expanding and ensuring access to reliable, high-speed telecommunications service through funding for 9-1-1, broadband, broadband pole replacement, and matching funds for federal dollars.
- The plan sets aside \$5 billion from the general revenue fund to be used for a proposed program to provide low- or no-interest loans for the construction of natural gas-fueled power plants and bonuses for getting them connected to the grid within a certain timeframe.

INVESTING IN STATE INFRASTRUCTURE

With an unprecedented amount of money to spend this session, the legislature invested massive amounts of money for improvements to the state's aging infrastructure.



Broadband. HB 9 proposes a constitutional amendment election to allocate \$1.5 billion to create a fund for expanding and ensuring access to reliable, high-speed telecommunications services through funding for 9-1-1, broadband, broadband pole replacement, and matching funds for federal dollars. It was signed by the governor. It will take effect if it is ultimately approved by voters in the November election.



Water. SB 28 creates a fund of \$1 billion for new water supply projects and to fix aging water infrastructure across the state. The bill aims to create a water supply four times the size of Lake Livingston, one of the state's largest reservoirs. But it may still be a "drop in the bucket" compared to the state's need. It was signed by the governor. It will take effect if it is ultimately approved by voters in the November election.



Electricity. SB 2627 create a fund to provide low- or no-interest loans for the construction of natural gas-fueled power plants and bonuses for getting them connected to the grid within a certain timeframe. It was signed by the governor. It will take effect if it is ultimately approved by voters in the November election.

LEADERSHIP PRIORITIES

ELECTRIC MARKET REDESIGN & GRID RELIABILITY

Following Winter Storm Uri, the Public Utility Commission (PUC) developed and adopted a proposal in the interim to encourage the development of additional thermal dispatchable generation—the Performance Credit Mechanism (PCM). Consumers (residential, industrial, and retail electric providers) found themselves up against the force of the electric generators. Initial estimates for the undeveloped and untested PCM proposal started at \$5.7 billion annually while failing to add significant reliability to the grid. If implemented, generators would not be required to build new generation; the PCM would pay them as if they had, regardless of whether they built or not.

Lawmakers made it clear at the beginning of the legislative session that they were not supportive of the PCM proposal and promised to pass legislation with meaningful guardrails and directives for the PUC to consider as they build out the program. Generators claimed there would be no new dispatchable thermal generation in Texas unless there was a guaranteed return. Ultimately, consumer groups prevailed and meaningful measures were passed to place protective cost caps on the PCM. The fight will now move to the PUC regarding implementation of the novel construct.

Though they did not all pass, there were over 250 bills that dealt with generation, transmission, type, and uses of electricity this session. While the PUC will work during the interim to implement the PCM and other measures passed this session, this topic will also be part of the interim discussions at the Capitol and into the next session in 2025.



PUC Sunset. HB 1500 by Rep. Justin Holland (R-Rockwall)/Sen. Charles Schwertner (R-Georgetown) was amended in the Senate to include several provisions related to the PCM and electric market design, in addition to the usual administrative changes to the agency's overall function, that were recommended as part of the sunset process. It has been signed by the governor.

SCHOOL SAFETY



HB 3 by Rep. Burrows (R-Lubbock)/Sen. Nichols (R-Jacksonville) calls for significant investments to beef up schools' safety, including requiring armed security officer(s) on campuses, installation of silent panic alert buttons in classrooms, yearly vulnerability assessments on all campuses and would create a safety and security department within the Texas Education Agency. It awaits the Governor's action. It takes effect September 1.

LOCAL PREEMPTION



HB 2127 by Rep. Burrows (R-Lubbock)/Sen. Creighton (R-Conroe), the "Texas Regulatory Consistency Act," or the "death star" legislation, would eliminate local ordinances as part of the state's biggest preemption measure. This controversial bill claims to lessen the burdens on small business resulting from a patchwork of local regulations that frequently differ from one city to another. It has specific preemptions for sexually-oriented businesses, animal safety, collective bargaining, and payday lending. It takes immediate effect.

LEADERSHIP PRIORITIES

PROPERTY TAX RELIEF



Business Tax Abatements. HB 5 replaces Chapter 313 with a new program, Chapter 403. Inclusion of incentives for renewables was a non-starter in the Senate from day one. Other complaints about the old program included a lack of transparency, the pay/conflict of interests of Chapter 313 tax consultants, and “corporate welfare.” As passed by the House, the bill addressed these concerns, providing a very open and transparent approach to a voluntary agreement between businesses and schools, a mechanism to compete with other states for capital investment opportunities, and a way for schools to increase their long-term tax base. HB 5 took a completely different form in the Senate, where a 6-month or longer process would require a legislative oversight committee’s approval, a “but for” test that would only allow abatements after the business proved that they wouldn’t come to Texas unless they received the temporary tax abatement, only a 50%—rather than 100%—temporary tax abatement, and requirements that the wages be 110% of the average wage in the industry. A last minute deal was struck and conference committee report was filed with a rules suspension. Compromise was reached on jobs requirements but by and large the Senate version ultimately prevailed. It takes effect September 1.



Residential Property Tax Relief. The House and Senate agreed on one thing at the outset of the session—they were going to give \$15.7 billion in property tax relief to Texans. But they couldn’t agree on how to do it. The House wanted to include appraisal caps of 5% to homeowners and small business owners to “ensure that tax appraisers don’t steal all the relief.” The Senate wanted to increase homestead tax exemption limits by \$40,000. Both chambers agreed to a “rate compression” of \$0.07 per \$100 valuation. But the appraisal cap vs. homestead exemption fight, fueled by the lieutenant governor’s Twitter war with the speaker of the house derailed plans. But the good news is that the money for tax relief is included in the budget—\$12.3 billion in new property tax relief, and a \$5.3 billion continued “buy-down” of taxes by sending money to school districts. Negotiations went into the waning hours of Sine Die, but ultimately broke down. Both chambers adjourned Sine Die on May 29 without a solution. Governor Abbott called legislators back immediately, with a very specific solution on property tax relief: legislation to cut property-tax rates solely by reducing the school district maximum compressed tax rate in order to provide lasting property-tax relief for Texas taxpayers. The House has passed a measure to do exactly that and has already adjourned Sine Die. The Senate has passed a bill that would focus on compression as well as an increase to the homestead exemption. A solution still seems far off as neither party is willing to budge on their selected approach.