



Legislative Newsletter

A “capitol” idea for keeping up with the latest news from Austin.

July 31, 2011 **Wrap-Up of 82nd Texas Legislature—Regular & Special Sessions Volume 21, No. 12**
Anita Privett, Advocacy Vice President Scherel Carver, Editor

Another Session Ends: What Texas Needs Now and for the Future

Thanks to the Advocacy Team for tireless work throughout the legislative session and the special session too. Both regular and special sessions have been tough for LWV-TX priorities.

I think the best we can say of this session is “good riddance.” Our wins were primarily in legislation we opposed that did not pass, including most provisions of the “Sanctuary Cities” bill. Unfortunately, the bad driver’s license provisions that had been part of the “Sanctuary Cities” bill were included in other bills. Our most positive successes were in advocating for children. Apparently good legislation in juvenile justice and in human trafficking saw passage even though we weren’t involved.

During the later days of the sessions, we heard more and more about Texas having a spending problem not a revenue problem. We need to reframe that discussion and not buy into it. Before declaring spending to be the problem, Texans must consider the quality of programs and services we want now and for the future. Only when we have agreed on the quality of public education, transportation, health care, environmental protection, and other programs Texas needs can we have a useful discussion of the funding required and how it should be obtained.

In advance of the 2012 elections and 2013 legislative session, the LWV-TX board is considering ways to encourage local community discussions of what Texas needs now and for the future. We will also be working with coalitions like Texas Forward to be prepared for the funding discussions in 2013.

Anita Privett, Advocacy Vice President

LWV-Texas Expert Background and Analyses and Bills Filed in the Texas House and Senate Government

EDUCATION/PUBLIC SCHOOL FINANCE Nan Clayton (Austin) nanclayton@yahoo.com

School Finance Issues Finalized in Special Session

Before the 2011 Texas Legislature adjourned on May 30, Gov. Perry had called a special session to begin at 8:00 a.m. on May 31 “to consider legislation relating to fiscal matters necessary for the implementation of House Bill No. 1 as passed by the 82nd Legislature, Regular Session,” including “measures that will allow school districts to operate more efficiently.” The original agenda also included consideration of measures to reduce state health care outlays. Other issues were added later.

SB 1 On June 28, the Legislature passed SB 1, the “fiscal matters” bill that rewrites state law on school finance to implement \$4 billion in cuts in per-pupil state aid to school districts for 2012-2013. The final version of **SB 1** was approved in the Senate by a vote of 21-9, and in the House, by a vote of 80 to 57. This is the first budget bill in more than 60 years that does not fund new enrollment for Texas public schools, estimated at 80,000 to 90,000 more students each year.

Also approved as part of the 2012-2013 budget were some \$1.4 billion in additional cuts.

Here is a recap of significant programs that took the biggest hits, according to the Texas American Federation of Teachers:

- Full-day pre-K: 100% cut for 2012-2013 biennium (\$223 million).
- Science-lab grants: 100% cut (\$35 million).
- Instructional facilities allotments: 100% cut (\$100 million).
- Student Success Initiative funding for extra help for students at risk of failing state high-stakes tests: 92 % cut (\$270 million).
- Educator bonuses—District Awards for Teacher Excellence: 90% cut (\$345 million).
- Communities in Schools (dropout programs): 37.5% cut (\$12 million).
- Advanced Placement Incentives: 29.9% cut (\$6 million)

SB 8 On the positive side, an effort to change class-size caps in grades K-4 was not included in **SB 8**, the bill that is designed to give flexibility to school boards. Also stopped were efforts to change the number of open-enrollment charter schools that may be granted by the State Board of Education, which is capped at a total of 215. As of July 18, 2011, there will be 12 charter vacancies and 15 applicants the SBOE must select from.

HB 33 Also averted were several voucher schemes that would have drained tax dollars from public schools. One was a last-minute amendment to a budget bill in the regular session, and the other, a stand-alone bill, **HB 33**, in the special session. Both would have used tax dollars to give “taxpayer savings grants” to pay tuition for students to instead attend private or religious schools. The only other voucher bill filed early in the session, **SB 157**, went nowhere.

Unfortunately, an amendment to SB 2 by Rep. Donna Howard did not pass. It would have appropriated any Rainy Day funds in excess of the \$6.5 billion projected in the fund by Aug. 31, 2013, to cover the cost of enrollment growth in public schools--which is expected to exceed 170,000 for the coming two years--up to \$2.2 billion.

Key Education Bills Approved in Special Session

Among the education bills that were passed during the First Called Session of the 82nd Texas Legislature were the following:

SB 1 (Duncan, Pitts) The fiscal matters bill (was **SB 181 I** during the regular session.)

Following are some education details of the bill, which were provided by the Texas Association of School Boards.

In the 2011-12 School Year

- Reduces district entitlement across the board in the amount of \$2 billion by reducing funding for students in the regular program by 7.61%.
- Leaves funding for students in other instructional arrangements, such as special education and compensatory education, untouched.
- SBOE instructed to adjust the indirect cost allotments for these other education arrangements.
- School district cuts are offset by federal Education Jobs funds; most cuts in the range of 2.5-4.5% when compared to current law maintenance and operations (M&O) revenue entitlements.

In the 2012-13 School Year

- Funding for students in the regular program is reduced by 2%, saving the state \$500 million.
- School districts that have a revenue target as a result of receiving additional state aid for tax reduction will be entitled to 92.35% of that target, saving the state \$1.5 billion, compared to current law M&O revenue entitlements.
- Most formula-funded districts lose between 1.2-3% of M&O revenue, while target-revenue districts lose between 6.7 and 8.8%.
- Formula-funded districts may average the losses in 2011-12 and 2012-13 to take the same percentage loss in both years.

In 2013-14 and Subsequent School Years

- Regular program funding cut by 2% unless cuts are reduced by appropriation. Regular program adjustment is repealed for 2015-16 and subsequent school years.
- Legislative intent is to continue reducing target revenues while increasing the basic allotment.
- Target revenues are eliminated on Sept. 1, 2017; all districts to be formula-funded for the 2017-2018 school year.
- All concepts beyond the 2012-2013 school year are subject to change.

Charter School Facilities

- Charter schools will be able to access the Permanent School Fund (PSF) to guarantee bonds for facilities.
- The portion of the PSF to be set aside for charter school facilities is in proportion to the number of students in charter school compared to the number of children in public schools.
- Charter schools seeking PSF backing must have investment-grade credit.
- Charter schools that receive PSF backing must pay a portion of the resulting savings into a reserve account intended to protect the PSF in the case where a charter holder defaults.

State Virtual School Network (TxVSN)

- Eligibility to participate is extended to those under 26 years of age who have not graduated but are otherwise eligible to enroll in a public school.
- The Virtual School allotment that provided \$400 to a provider district and \$80 to the district enrolling the student is repealed.
- School districts will now receive funding for the student in the same manner as a student in a traditional classroom setting; the provider district will receive funding through a standard agreement with the enrolling district.
- Boards must adopt a policy that provides students with the opportunity to enroll in a TxVSN course.

Some Other Provisions

- Delays the August Foundation School Program payment to a date within the range of September 5-10.
- State subsidies for advanced placement and international baccalaureate exams will be provided only for students demonstrating financial need.
- Districts that taxed at the maximum M&O rate in the year 2010 will see a one-year increase in the copper penny yield from \$31.95 to \$33.95.
- Districts that don't receive the transportation allotment or county help may charge a reasonable fee for transportation.

SB 2 (Ogden, Pitts) This bill appropriates money for the support of state government for the period from September 1, 2011, to August 31, 2013. It is essentially a technical bill that avoids having deficits in both public education spending and Medicaid at the same time. Following are some of the many details of the bill, which were provided by the Texas Association of School Boards.

- Appropriations for the Foundation School Program made during the regular session were contingent on the passage of school finance legislation. SB 2 restores these appropriations and makes adjustments using revised enrollment and property values estimates.
- Contingent on the passage of a constitutional amendment—House Joint Resolution 109--\$300 million will be appropriated from the Available School Fund (ASF).
- Funds appropriated from the ASF will be offset by a reduction in state general revenue funding of \$300 million.

SB 6 (Shapiro, Eissler) On instructional materials (**HB 6** during the regular session). Then, \$608.1 million was established for instructional materials, limited to continuing contracts and Proclamation 2011 materials. Additionally, \$184 million was established for 2011-12 continuing contracts (\$85 million); supplemental science materials (\$60 million); and Proclamation 2011 pre-K

systems (\$39 million). Following are details of the bill, which were provided by the Texas Association of School Boards.

- Merges funds for textbooks, electronic textbooks, and technology into one new allotment called the Instructional Materials Allotment (IMA).
- Creates a new funding formula that requires the SBOE to set an annual distribution from the Permanent School Fund to the Available School Fund to be placed in the IMA.
- Provides districts flexibility over use of dollars.
- Allows districts to roll over balances.
- Gives districts the opportunity to sell discontinued instructional materials.
- Maintains SBOE authority over the Texas Essential Knowledge and Skills (TEKS).
- Ensures that school districts will have instructional materials for 2011-12 school year.
- Allows districts to place orders August 1, 2011.

SB 8 (Shapiro, Eissler) (SB 12 during the regular session.) It provides management and operational flexibilities to the board of trustees of a school district. Following are details of the bill, which were provided by the Texas Association of School Boards.

Furloughs

- Eliminates the law that prohibited districts from reducing the salaries of teachers, counselors, nurses, librarians, and speech pathologists below 2010-11 levels.
- Requires that when a district implements a widespread reduction in teacher salaries, administrator salaries must be reduced by the same percentage as teacher salaries.
- Allows districts to furlough employees for up to six noninstructional days and to reduce salaries proportionately during each year that the commissioner certifies that the district will receive less state and local funding per weighted average daily attendance (WADA) than it received during the 2010-11 school year. All contract employees must be furloughed for the same number of days. Salary reductions must be equally distributed over the course of an employee's contract.
- Furlough days do count as TRS service days.
- Specifies a process that districts must use to develop a salary reduction or furlough plan.
- The board's decision to implement a furlough is final, cannot be appealed, and does not create a cause of action or require collective bargaining.

Financial Exigency

- Requires the commissioner to adopt minimum standards defining the conditions that must exist for a declaration of financial exigency.

- Requires school boards to notify the commissioner whenever a financial exigency is declared.
- Defines the duration of a financial exigency and allows school boards to terminate it at any time.
- Allows the board to decide who conducts the hearing of a proposed mid-year termination based on financial exigency—the board or an independent hearing examiner.
- In cases of financial exigency, allows the board to amend terms of the superintendent’s contract.
- Eliminates the requirement that continuing contract employees be terminated “in reverse order of seniority” for a reduction of personnel.
- Allows the board to adopt, reject, or change a hearing examiner’s determination of “good cause” for a suspension without pay or termination.
- Allows the district to suspend contract employees without pay “pending discharge” for good cause.

Contract Non-Renewals

- Changes the deadline for notice of nonrenewal from 45 days to 10 days before the last day of instruction; provides delivery instructions.
- In districts of 5,000 or more, allows the board to appoint a designee to conduct nonrenewal hearings, create the record, and issue a recommendation. The board then conducts an expedited hearing on the record and issues a decision.
- Requires candidates for a teaching certificate to complete 15 hours of field experience before they can be hired by a district as a teacher of record.
- Requires districts to administer a FitnessGram only to students enrolled in a PE course.

Some Other Approved Education Bills

Following are a few of the many education bills that passed this session:

HB 2135 (Hochberg, Dan Patrick) Relating to end-of-course tests and other assessments to certain public school students enrolled below the high school level. This bill exempts certain students from certain assessments.

<p>CAMPAIGN FINANCE REFORM Stewart Snider (Austin Area) s2snider@gmail.com</p>

In the wake of the most expensive election in the state’s history, it should come as no surprise that campaign finance reform was a low priority in this session.

(HB 336) Only one League-supported campaign finance bill (HB 336) was passed. It requires school boards to post candidate financial information on their websites, beginning September 1, 2011. Strangely, a very similar bill (HB 1094) that focused on city and county elections failed to get out of committee.

Bills we supported:

SB 1484 (Shapiro, Strama) Authorizes open-enrollment charter schools to be awarded distinction designation.

SB 1557 (Carona, Strama) Creates the Texas High Performance Schools Consortium to report on ways to improve student learning.

HB 1555 (Thompson, Ellis) Relates to the first day of instruction in certain school districts that provide additional instruction financed with local funds.

SB 738 (Shapiro) Relates to parental role in determining sanctions applied to a public school campus under certain circumstances. Creates an opportunity for parents of a majority of the students to petition the commissioner to make changes in chronically low-performing schools.

HJR 109 (Orr, Ogden) Proposes a constitutional amendment to clarify references to the Permanent School Fund and to allow the General Land Office to distribute revenue derived from Permanent School Fund land or other properties to the Available School Fund, and to provide for an increase in the market value of the Permanent School Fund for the purpose of allowing increased distribution from the Available School Fund.

SB 1094 (Rodriguez, Strama) Relates to the availability of online testing for high school equivalency exams.

Cargill Named Chair of the State Board of Education

When the Senate adjourned without confirming Gail Lowe of Lampasas as chair of the State Board of Education, Gov. Rick Perry named Barbara Cargill of the Woodlands to the position. Since Cargill was appointed during the interim, she will not face Senate confirmation until 2013. Her term is set to expire in February of that year. She has served on the board since 2004, consistently voting with the most conservative bloc of members.

HB 226 (Strama) Died in Committee. This was a voluntary measure that would have limited contributions and total spending by candidates in an election cycle. Candidates choosing to comply could have declared on every piece of literature and in every ad that they were in compliance with this voluntary measure.

HB 156 (Raymond) Died in Committee. This measure required judges in the higher courts to recuse themselves from cases where they have received campaign contributions of \$2,500 or more from any parties that have an interest in said case.

HB 162 (Raymond) Died in Committee. This bill was to forbid campaign contributions to statewide office-holders and legislators during and around the time of the legislative session.

HB 306 (Jackson) Died in Committee. This bill required that all political advertisements from political action committees contain the identity of any person who has contributed more than \$10,000 to said PAC.

HB 336 (Marquez) Signed into law, this bill is effective September 1, 2011. It requires larger school districts to

post on the Internet reports of political contributions to and expenditures by members of the boards of trustees.

HB 1094 (Farias) Died in Committee. This bill would have required city and county governments to post campaign finance information on their respective web-sites.

SB 59 (Zaffirini) Died in Committee. This measure would have permitted the use of the resources of the Texas Ethics Commission to report political contributions and expenditures made in connection with local governmental entities.

ELECTION LAWS and VOTING RIGHTS Linda Krefting (Lubbock)

LWV-Texas and the election law coalition with which we work were active in holding off voter photo ID legislation in previous sessions.

SB 14 (Fraser et al.) OPPOSE Despite our testimony against **SB 14** at both Senate and House hearings, the bill was among the emergency items designated by Governor Perry, passed, and was signed into law on May 27. As of January 2012, voters will be required to show one of a limited set of photo IDs to vote a regular ballot. Beginning in September 2011, the Secretary of State is required to begin educating election workers and voters on the new requirements.

Acceptable photo IDs for voting as of 2012 are: Texas driver's license, Texas DPS-issued personal ID, Texas concealed weapons license, a US passport, a US military ID card, US citizenship papers if a photo is included, and a new DPS-issued election identification certificate. For voting, the photo ID Identification must be current or have expired no more than 60 days prior to presentation at the polls.

The election identification certificate is to be available at no charge to those who are registered to vote or submit a voter registration application and do not have any of the other photo IDs required to vote. As of July 2011, additional requirements to obtain the election identification certificate have not been announced.

SB 1 (Duncan), which passed during the special session, requires DPS to maintain records of the citizenship status of each driver's license or ID card holder.

There are exemptions to the photo ID requirement.

- Those with appropriate evidence of disability will be able to obtain a voter registration certificate exempting them from providing photo ID.
- Others who do not provide acceptable photo ID at the polls will be allowed to vote a provisional ballot and present acceptable ID within 6 days of the election.
- If ID is unavailable due to a religious objection to being photographed or recent natural disaster declared

by the president or governor, the provisional voter should sign affidavit with 6 days of the election.

The legislature did not include ballot by mail in the photo ID bill, so photo ID will not be required with a ballot by mail.

LWV-TX also testified against **HB 3160 (Van Taylor) OPPOSE** requiring documentary proof of citizenship to register to vote, and this bill was not considered by the full House. While Texans will still be able to register to vote without providing proof of citizenship, most voters will need to provide documentary proof to obtain the photo ID required by **SB 14** to cast a regular ballot as of 2012. Procedures for removing deceased or ineligible voters from the roles are modified by **HB 174 (Jim Jackson)** and **SB 1046 (Duncan)**.

HB 2814 (Hochberg) SUPPORT Would have allowed electronic voter registration for those with a valid DPS driver's license or ID; passed the House but was not considered by the full Senate.

HB 1226 (Dutton) Clarifies that deferred adjudication does not constitute a final felony conviction for purposes of registering to vote or voting in a Texas election.

Filing Deadlines and Election Dates Changed

SB 100 (Van de Putte) SUPPORT Brings Texas into compliance with the federal requirements for military and overseas voters. Email transmission of ballot materials to military/overseas voters is allowed, but not electronic return. A bill allowing both electronic transmission and return of overseas ballots, **HB 2173 (Torres) OPPOSE**, did not pass. To provide the time required for preparation, transmission, and return of ballot materials, candidate filing and runoff dates for spring primaries are changed by SB 100. The filing deadline is now the second Monday in December (not Jan. 2), and primary runoffs are now the fourth Tuesday in May (not the second Tuesday in April). In some jurisdictions, the county election officials may have insufficient resources to meet requirements for the May primary runoff and still handle local elections on the May uniform election date. The law permits moving local elec-

tions to the November uniform date. There is also a provision allowing a voter to check to see if a ballot by mail or a mailed ballot has been received.

On other issues of voter convenience, **HB 2477 (Harless) SUPPORT** provides that voting and ballot materials be available in each language certified for a county based on the 2010 census. **HB 2817 (Larry Taylor)** allows individuals who move between counties to vote a limited ballot if still registered in the former county or if registered in the former county of residence when making application to register in the new county. This bill also protects voters and others at a polling place from being videoed by poll watchers who must now sign an affidavit that they either do not have or have disabled any device capable of recording images or sound.

HB 2914 (Larry Taylor) Unfortunately, **HB 2914** requires that those who do not have their voter certificates and are not on the voter registration list must cast a provisional ballot.

Bills that did not pass include:

HB 304 (Pena) OPPOSE and **HR 2857 (Pena) OPPOSE** both limiting the number of voters an individual could assist, **HB 2588 (Pena) OPPOSE** allowing poll watchers to observe voter assistance, and **HB 1926 (Zedler) OPPOSE** and **HB 2050 (Pena) OPPOSE** both allowing poll watchers to record images and sound.

On issues of voter convenience, **HB 2477 (Harless) SUPPORT** provides that voting and ballot materials be available in each language certified for a county based on the 2010 census. **HB 2817 (Larry Taylor)** allows individuals who move between counties to vote a limited ballot if still registered in the former county or if registered in the former county of residence when making application to register in the new county. This bill also protects voters and others at a polling place from being videoed by poll watchers who must now sign an affidavit that they either do not have or have disabled any device capable of recording images or sound. On **HB 2194 (Larry Taylor) OPPOSE** original position was based on the bill originally filed that would have allowed election workers to observe assistance provided to a voter. This provision is not included in the final bill which did include a number of new provisions, including a requirement that those without a voter certificate and not on the voter registration list must cast a provisional ballot. Bills that did not pass include: **HB 304 (Pena) OPPOSE** and **HR 2857 (Pena) OPPOSE** both limiting the number of voters an individual could assist, **HB 2588 (Pena) OPPOSE** allowing poll watchers to observe voter assistance, and **HB 1926 (Zedler) OPPOSE** and **HB 2050 (Pena) OPPOSE** both allowing poll watchers to record images and sound.

HB 2194 allows the Secretary of State to increase the number of counties participating in trials of countywide polling locations and those counties which have been participating to continue if the Secretary of State believes previous efforts have been successful. A bill opening up countywide polling beyond trials, **HR 2055 (Pena) OPPOSE**, did not pass.

New requirements are placed on volunteer deputy voter registrars. To be appointed as a volunteer deputy registrar, the individual must meet the eligibility requirements for a voter under **HB 2194**. An individual is ineligible to serve if convicted of identity theft under **HB 2817**. Compensating someone based on the number of voters registered or receiving compensation based on the number of voters registered are prohibited and the appointment as a volunteer deputy registrar is terminated for anyone convicted of receiving such compensation under **HB 2194**.

HB 1570 (Murphy) requires the Secretary of State to establish training standards and materials for volunteer deputy registrars by January 1, 2012. Anyone appointed as a volunteer deputy registrar after training standards are established must complete training, which may include an exam, before accepting voter registrations. Fortunately other proposed bills affecting volunteer deputy voter registrars did not pass, including **HB 2589 (Pena) OPPOSE** increasing penalties for untimely volunteer deputy registrars and **HB 1925 (Zedler) OPPOSE** limiting appointment to registered voters with 6 months of continuous state residence.

HB 1498 (Raymond) SUPPORT Allows Texas to join the National Popular Voter Compact consistent with the position adopted by the 2010 LWVUS Convention, and **SB 216 (Ellis) SUPPORT** relating to procedures for placing voters on the suspense list.

Under the 1965 Voting Rights Act, Texas is among the states required to obtain preclearance from the US Department of Justice or courts before putting election law changes into effect. As of this writing (July 20, 2011), Texas has submitted some changes but not all for DOJ approval.

The Secretary of State website includes several helpful advisories on election law changes made during this legislative session:

Military and overseas voters:

<http://www.sos.state.tx.us/elections/laws/advisory2011-09.shtml>

SB 14: <http://www.sos.state.tx.us/elections/laws/advisory2011-10.shtml>

Other changes:

<http://www.sos.state.tx.us/elections/laws/advisory2011-11.shtml>

As this year's Legislature convened with a purported \$29 billion deficit, the greatest question was how lawmakers would close the constitutionally-mandated gap. The one solution that was never on the table was raising taxes that would have involved, among other things, fixing the structural \$9 billion biennial deficit created in 2006 when the one-third decrease in property taxes was not adequately met with a new business tax.

Legislators' answer to the budgetary crisis involved several tactics. They found hidden loopholes, several of which they filled. They used fiscal sleight-of-hand and bookkeeping tricks like postponing payments to the schools until the next fiscal year and underestimating Medicare and Medicaid costs, which they will have to make up later. They raised some fees.

Besides those relatively benign actions, however, legislators shortchanged Texas children's and indigent Texans'

health care and cut \$4 billion from the state's current obligations to public schools. Worse, they changed a fifty-year commitment to provide every Texas child an adequate education. Then they kicked the deficit can down the road for the 2013 legislature to face. If the average Texas teacher were to grade the legislature's failure to meet its social and moral obligations to its constituents, he would have to give it an F.

More than giving a grade, the voters of Texas must watch as public schools, county governments, local hospitals, and social institutions that serve the elderly and economically needy struggle to provide services with significantly less help from the state.

In November 2012 Texas voters will tell their elected representatives whether they think the sacrifices were worth the cost in more equitable, sustainable taxes.

The most significant open government legislation signed by the governor:

HB 2973 (Hunter, Raymond, Hochberg and Martinez Fischer) Known as the Citizen Participation Actor or Anti-SLAPP legislation—which is an acronym for Strategic Lawsuits Against Public Participation. The governor signed this bill into law shortly after the regular session ended. The new law places burdens on lawyers who want to file lawsuits on behalf of public figures or institutions in order to discourage people from investigating or complaining about the public figures. The purpose is to safeguard the constitutional rights of persons to petition, speak freely, and participate in government.

Other bills supported by the League that are to become laws include:

HB 336 (M. Marquez) Requires the posting on the Internet reports of political contributions and expendi-

tures of public school board trustees in larger school districts.

HB 2439 (M. Gallegos) Requires a state agency with more than 1,500 employees to post an electronic form or link on its website allowing employees to submit suggestions for cost efficiencies. The public will be able to view the suggestions.

HB 2460 (V. Truitt) Makes governing bodies of public retirement systems subject to Texas Public Information Act.

HB 2017 (R. McClendon) Requires advisory committee meetings of the Texas Department of Motor Vehicles to be publicly accessible in person or by electronic means.

SB 227 (J. Nelson) Requires the Texas Medical Board to make public any remedial plans created to resolve complaints about physicians.

The Texas Legislature passed redistricting bills for the State Board of Education, Texas House, Texas Senate and US Congressional Districts. The news maps are:

- [PlanCI85](#) — Texas Congressional Districts
- [PlanSI48](#) — Texas Senate Districts
- [PlanH283](#) — Texas House of Representatives Districts
- [PlanE120](#) — Texas State Board of Education Districts

While these bills have passed the Texas Legislature and have become Texas law, federal law still requires that they

be pre-cleared by either the Dept. of Justice or the DC Federal Court.

Additionally a number of lawsuits have been filed that will have to be resolved. These maps were drawn to maximize the number of seats held by the majority party while skirting the Voting Rights Act. Competitiveness has been significantly reduced in these maps, but of course there is no legal requirement for districts to be competitive. The opportunity for minorities to elect the candidate of their choice even in previously majority minority districts has been reduced.

Not Passed:

SB 196 (Wentworth) Relates to the reapportionment of congressional districts and the creation, function, and duties of the Texas Congressional Redistricting Commission and

SB 1556 (Rodriguez) relating to requirements for reapportionment of congressional districts were filed again in the special session but were once again not passed.

REPRODUCTIVE CHOICE/WOMEN'S HEALTH Julie Lowenberg (Dallas) jmlowenberg@sbcglobal.net

Despite vigorous advocacy by LWV-TX and other pro-choice groups and individuals, women's health and reproductive choice were big losers in the 2011 Legislature:

Family planning funds and the Women's Health Program

A budget cut of approximately \$62 million from the state family planning program will leave an estimated 200,000 women without access to basic health services. Though the Women's Health (Medicaid waiver) Program was re-authorized during the regular session without the threatened "poison pill" that would have excluded Planned Parenthood from participation, this was something of a "Pyrrhic victory":

- The loss of family planning funding means that providers will not be able to give preventive care to many of the neediest Texas women. And some small, independent providers might have to close their doors for lack of funds.
- And during the special session SB 7, an omnibus health care bill, passed with an amendment that effectively excludes Planned Parenthood from the Women's Health Program: It requires the Department of State Health Services to prioritize family planning funds to state or locally-run public health clinics, then to private full-service clinics - last to clinics that provide only family planning and women's health care (read: Planned Parenthood).

...Hopeful note: A federal district court in Indiana has recently granted an injunction striking down a similar prohibition on Planned Parenthood in that state. And the director of the Centers for Medicaid and Medicare Services has sent a memo to all 50 state reminding them that while Medicaid does not fund abortions, Medicaid programs can't exclude health care providers who offer them. States who don't comply could risk loss of Medicaid funds.

Adding insult to injury, the budget actually includes an increased amount for the "Alternatives to Abortion" program, which encourages women in crisis pregnancies to carry to term, often with Medicaid support. "Alternatives to Abortion," which will have an \$8.3 million budget in the next biennium, provides no medical services, though it does make referrals to other government programs.

Anti-Choice Legislation

Sonogram requirement

Texas now has perhaps the most extreme pre-abortion sonogram requirement law in the country - it mandates that the woman receive a verbal description of the fetal image even if she opts out of viewing it. (Only Oklahoma has a similar provision.) Another especially harmful provision in the law is increased penalties—including possible loss of license—that may be imposed on doctors who violate any part of the "informed consent" process of which the mandatory sonogram is a part.

Further, though a woman may certify that she doesn't wish to view the fetal image, the law actually says that her consent to the medical procedure of an abortion is not informed if she doesn't view the image. This provision could have a further chilling effect on doctors' willingness to perform abortions.

A bit of encouraging news: On June 13, the Center for Reproductive Rights, a national organization, filed a lawsuit in the U.S. District Court in Austin challenging the constitutionality of the sonogram law and alleging that it violates the First Amendment rights of doctors and patients.

The Center has described the law as an intrusive and patronizing hijacking of the doctor/patient relationship to promote an anti-choice agenda. According to the Center, doctors' compliance with the law requires a violation of medical ethics. The suit was filed on behalf of a plaintiff class of physicians and medical facilities that provide abortions. The class members are suing on behalf of themselves and their patients seeking abortion. For more information and updates, go to the website that has been set up: <http://trusttexaswomen.com>.

"Choose Life" license plates

This new law authorizes the issuance and purchase of "Choose Life" license plates. Proceeds from the purchases will go to "eligible organizations" that give assistance to pregnant women who are considering placing their children for adoption. BUT organizations that provide abortions or abortion-related services or make referrals to abortion providers or are affiliated with such referrers or providers are not "eligible" to receive these funds. "Eligible organizations" include Crisis Pregnancy Centers whose deceptive practices are depicted in a documentary film, *12th and Delaware*.

Funding restrictions

Another amendment to SB 7, the special session's omnibus health care bill, effectively bans hospital districts from using local tax revenue to fund abortions - or risk losing state funding. (A similar, stand-alone bill failed to pass in the regular session.) The amendment allows exceptions if the woman's life is in danger or if the fetus has a "severe fetal abnormality", meaning "a life-threatening physical condition...incompatible with life outside the womb." The measure is clearly aimed at Travis County, whose hospital district is the only one in the state that currently uses tax dollars to pay for elective abortions. But, according to the *Texas Tribune*, most of those funds come from local taxes and other non-state funds, so the law might not have much "bite."

Reporting requirements

SB 7 as passed in the special session also contains an amendment that imposes burdensome and intrusive reporting requirements on physicians who perform abortions. Again, a similar anti-choice measure did not pass in the regular session, and anti-choice proponents took advantage of the special session opportunity to "festoon" SB 7 with this amendment.

Visit www.ProChoiceTexas.org for more information about the campaign against this type of legislation and think about how you and your LWV can educate the public before the next legislative session.

Administration of Justice

DRUG LAWS AND POLICIES Elaine Talarski (San Antonio) etalarski@earthlink.net

The LWV-TX supported the following two bills related to drug laws and policy, but they were not a priority of the 82nd Legislature.

HB 117 (McClendon) SUPPORT This bill would have allowed outreach services, under a local certified health agency, to provide an anonymous exchange of needles and syringes, education, treatment for sub-

stance abuse, and blood-borne testing. Died in committee.

HB 1491 (Naishtat) SUPPORT A bill to amend the Health and Safety Code, with a provision for no prosecution for a person possessing marijuana when prescribed by a licensed physician for treatment of a medical condition died in committee.

IMMIGRATION Sally M. Bolster (San Antonio) sallybolster@aol.com

The 82nd Session of the Texas Legislature saw several proposed bills regarding Immigration. The main thrust behind each was to implement the governor's objective to enable all law enforcement agencies across the state to verify the legal status of anyone legally detained. This included increased use of the federal electronic verification system. LWV-Texas opposed all of the proposed immigration bills. basically because immigration is a federal issue. The LWV supports federal law providing an efficient, expeditious system for legal entry into the U.S.

None of the proposed bills were successful in the regular session of the legislature.

SB 9 (Tommy Williams) OPPOSE In the Special Session the proposals were consolidated into Senator Tommy Williams' bill SB 9, "An Act relating to the enforcement of state and federal laws governing immigration by certain governmental entities and the administration of certain documentation of citizenship status and other lawful admittance by the Department of public Safety." I testified to the Committee of Transportation and Homeland Security on behalf of LWV-Texas against this bill, reiterating the LWV's position.

SB 9 was unsuccessful in the session. However see Election Law for the onerous driver's license provisions that were moved to another piece of legislation and did pass.

Social Policy/Human Resources

CHILD ABUSE and NEGLECT Joyce Robinson (Sherman/Grayson County) jbrobinson@cablone.net

There was some success in this area, with the following legislation passed:

SB 218 (Nelson) SUPPORT Relates to procedure in certain suits affecting the parent-child relationship and the operation of the child protective services and foster care systems. This would lead to some strengthening of the perpetrator provision contained in the Family Code and to the redesign of foster care by Department of Family and Protective Services.

SB 219 (Nelson) SUPPORT Relates to health and mental health services for children in foster care and kinship care. This would mandate additional training for Child Protective Services caseworkers.

SB 1154 (Uresti) SUPPORT Continues the task force for the development of a strategy to reduce child abuse and neglect and improve child welfare

SB 434 (Nelson) SUPPORT Relates to the relationship between domestic violence and child abuse and

neglect, and forming a task force to address this relationship

SB 471 (West) SUPPORT Relates to public school and other child care facility policies on sex abuse and other maltreatment of children. School districts would expand their policies to include all abuse and require training of new staff.

SB 993 (Uresti) SUPPORT Relates to certain arrangements to provide care for a child during an investigation of abuse or neglect. It aims to be sure that children are placed in safe environments.

Did not pass:

HB 2324 Would have required uniform child abuse reporting policy in schools and day care centers.

CHILD HEALTH CARE Susan Majors (Richardson) majorssusan@gmail.com

By the end of the special session the majority of legislation that would have the greatest impact on the health of the children of Texas was housed in the bills to fund state government or in massive health efficiency bills. They were volumes long. They were changed and expanded multiple times during the regular and special sessions. They contained many favorable and many unfavorable provisions. LWV-Texas and its advocacy partners could neither support nor oppose any of these measures in its entirety

SB 7 (Nelson) SB 7 was one of the bills filed during the regular session that was intended to make delivery of health care more efficient. It included strategies for improvements in the quality of care provided through CHIP and Medicaid. It called for shifting from the traditional system of payment for health service to payment that rewards better health outcomes. During the regular session SB 7 was reported favorably from the full Senate and from the House Public Health Committee, but it failed to pass. Provisions of the bill were taken up for consideration in the special session and tied together with several other health-related issues. The resulting bill was again called SB 7. This composite bill passed the full House and Senate in the special session. It was signed by Governor Perry on July 18.

The signed version of SB 7 contains provisions from two bills filed during the regular session, **HB 5 (Kolkhorst) OPPOSED** and **HB 13 (Kolkhorst) OPPOSED**. Both were designed to give Texas more control over Medicaid and Medicare. HB 5 proposed a health care compact with a block grant of federal funds. If ultimately approved by the US Congress, it would turn all federal health funding coming to Texas for Medicaid and CHIP, as well as Medicare and other programs, into a single large grant to the state. In the event of approval, all federal rules governing who is served and how they are served would be removed, resulting in probable cuts in covered populations and services.

HB 13 sought a waiver of federal law in order to radically restructure Medicaid in the state. The measure lacked protections to guarantee coverage for Medicaid's vulnerable populations, the highest number of whom are children.

A significant portion of the health coverage discussion revolved around whether to make rate cuts of 10% to all providers delivering health care to Medicaid patients, even though Texas already has one of the worst reimbursement rates in the nation and providers' payments were cut 2% in 2011. Such a reduction would almost certainly cause providers to reduce or stop treating Medicaid patients, including children, the elderly, and the disabled. In the end, payments under Children's Medicaid and CHIP to primary care physicians and children's hospitals did not receive large cuts like those made to other providers and hospitals. For example, CHIP payment rates to optometrists were cut by 8%.

Measures That Failed

Much legislation having the goal of either improving or restricting Children's Medicaid and CHIP died in the regular session.

HB 503 (Walle) SUPPORT One example was **HB 503**, to extend Children's Medicaid eligibility continuously for 12 months. This important effort would have helped many qualified children retain access to their health insurance. Because there would be an increased cost to the state for fairer and more reliable access to coverage, the bill did not make it out of committee.

HB 1320 (Laubenberg) OPPOSE Conversely, **HB 1320**, which would have reduced CHIP eligibility from 12 months to 6 months, also expired before the session ended. Enacting that measure would have created unnecessary gaps in low-income children's health coverage and violated federal law under the Affordable Care Act.

EARLY CHILDHOOD Marlene Lobberecht (Houston Area) marlene@lobberecht.com

2011, 82nd Texas Legislature: Ten out of twenty-three LWV-TX supported bills were signed into law with eight taking effect September 1 2011. 2011 legislation focused on safety and staff training. Legislation specifically increased child care provider training hours, specified qualifications for those providing child care

training, and will allow the Texas Rising Star child care centers to use Comptroller purchasing discount programs. Licensed child care homes will also receive additional fire safety inspections annually by local government with other safety violations reported directly to child care licensing. Licensure improvements and gov-

ernment-sponsored databases will provide data indicating child care providers who meet minimum standards. Those centers meeting higher quality rating systems standards will also be identifiable for the first time from a state website.

2011 Legislative Final Review

Bills signed by the Governor:

SB 76 (Nelson) SUPPORT Requires FBI background checks for relatives who provide unregulated child care and receive federal subsidies. Effective on September 1 2011.

SB 260 (West) SUPPORT Relates to minimum training standards for employees of certain child care facilities. Effective on September 1 2011.

SB 264 (Zaffirini) SUPPORT Relates to the provision of information about quality of child care providers by local workforce development boards. Effective on September 1 2011.

SB 265 (Zaffirini) Relates to child care licensing. Requires an owner, operator, or employee of a day-care center, group day-care home, registered family home, child-care institution, foster group home, or agency foster group home who transports a child under the care of the facility whose chronological or developmental age is younger than nine years of age to complete at least two hours of annual training on transportation safety. Effective on January 1 2012.

SB 400 (Shapiro) SUPPORT Makes Texas Rising Star child-care providers that eligible to make purchases using the cooperative purchasing program administered by the comptroller. Effective September 1 2011.

SB 1178 (Nelson) SUPPORT Relates to the criminal history or violation regulation of certain shelter day-care facilities, child-care facilities, and individuals providing child-care services; providing an administrative penalty. Majority of provisions take effect September 1 2011; remainder take effect September 1 2012.

HB 434 (Parker) Relates to the minimum standards for licensed child-care facilities and registered family homes to follow medical directives. Effective immediately.

HB 3051 (Pickett) Relates to the provision of child care by certain facilities exempt from child-care licensing requirements so that a person may attend an educational class provided by a nonprofit adjacent to an international border. Effective on September 1 2011.

HB 3404 (Naishtat) Relates to establishing a child care advisory committee to advise the Texas Facilities Commission. Effective on September 1, 2011

HB 3547 (Alvarado) Relates to enforcement by a local government of fire safety standards at certain child-care facilities. Effective on September 1 2011.

HEALTH CARE for THOSE OF LESSER MEANS and for OLDER TEXANS Lynda Ender (Dallas)
LEnder@theseniorsource.org

The Budget

The Texas House was first to pass a budget. It was a devastating budget for many Texans.

Medicaid was cut by a third. Of course, Medicaid is very important to many frail older Texans and their families because it pays for nursing home care and care in the home at the end of life. These are people of lesser means, and they include those who have spent all their resources on their health care and now receive services with the assistance of Medicaid. Many have out lived family and friends.

Maintaining existing reimbursement rates was a priority for many groups. **Because of a huge outcry, the Senate and the Conference Committee prevailed and maintained existing Medicaid reimbursement rates for nursing homes and community based alternative care.** Hospice got a 2% cut. They added 100 CBA slots for diversion from going to a nursing home. Providers got cuts in administration costs.

Everyone on a Medicaid waiver got their funding cut 10%. Direct health care will not be cut as it is deemed non-negotiable. Negotiable expenses such as home modifications will make up the 10%.

Providers got cuts in administration costs.

BIG THANKS TO EVERYONE WHO ADVOCATED FOR MEDICAID FUNDING!!!

10% across the board cut to Meals on Wheels under Dept. of Agriculture

SB 7 (Nelson) MIXED THOUGHTS This bill aims to make Medicaid more cost-effective, allows doctors to partner with hospitals and other health care groups to reach better outcomes, and expand Medicaid managed care into the Rio Grande Valley. It morphed in the Special Session and monitoring how it is administered will be important. **Sent to the Governor**

Legislators used SB 7 as their last ditch effort to get health care measures that failed during the Regular Session passed in the Special Session.

Among the amendments that passed:

- **HB 5 & HB 13 (Kolkhorst) OPPOSE** Kolkhorst's bills seeking a health care compact, **HB 5** (a partnership with other states to take control of Medicaid & Medicare) and asking the Obama administration for a waiver to operate Medicaid as Texas sees fit **HB 13** (which the federal government is highly unlikely to ever grant.) Neither of these bills has enough details to provide any confidence that they would provide improved health care services.
- Lucio's measure that would ensure that hospitals, facing a major overhaul in how they are reimbursed under the state budget, won't lose more than 8 percent of their revenue from the change.

All Bills Signed by the Governor:

SB 41 (Zaffirini) SUPPORT Limits the use of restraints in state supported living centers to those who would do harm to themselves or to others.

SB 192 (Nelson) SUPPORT Protects patient advocacy activities by nurses and certain other persons; provides an administrative penalty for denying right to advocate.

SB 222 (Jane Nelson) PROBABLE SUPPORT Creates access to certain long-term care services and supports under the medical assistance program

SB 293 (Kirk Watson) and HB 70 (Armando Martinez) SUPPORT Companion bills that promote telemedicine medical services, telehealth services and home telemonitoring services provided to certain Medicaid recipients.

SB 544 (Kel Seliger) and HB 1034 (Mark Shelton) SUPPORT These are companion bills relating to unlawful acts against and criminal offenses involving the Medicaid program. It applies to those committing fraud and those who may assist in some way

SB 796 (Jane Nelson) SUPPORT Relates to reporting on the prevention and treatment of diabetes within the Medicaid population in the state.

HB 118 (McClendon) SUPPORT Requires the provision of notice by certain hospitals regarding the destroying of patients' medical records by a certain date.

HB 123 (Veasey/Alonzo) SUPPORT In counties with populations of more than 100,000, the department

may assist hospital districts and county hospital systems in providing an adult diabetes education program. The program must be based on a curriculum developed by the Texas Diabetes Council.

HB 1473 (Scott) SUPPORT A person commits an offense if, without authorization, the person manufactures, sells, or possesses a placard that is deceptively similar to a disabled parking placard; or alters a genuine disabled parking placard. A person commits an offense if the person knowingly parks a vehicle displaying a counterfeit or altered placard in a parking space or area designated specifically for persons with disabilities.

HB 1720 (Davis, John) WATCHING Relates to certain facilities and care providers, including providers under the state Medicaid program and to improving health care provider accountability and efficiency under the child health plan and Medicaid programs; providing penalties.

HB 2109 (Truitt) SUPPORT Relates to agency action concerning assisted living facilities, including regulation of inappropriate placement of residents at facilities; provides a penalty.

HB 2136 (Guillen) SUPPORT Relates to contracts and training of brokers and subcontractors of regional providers of nonemergency medical transportation services.

HB 2245 (Zerwas) SUPPORT Relates to physician incentive programs to reduce hospital emergency room use for non-emergent conditions by Medicaid patients. It would pay an enhanced reimbursement rate for routine after-hours appointments.

HB 2609 (Guillen) SUPPORT A person for whom a facility serving the elderly or persons with disabilities may not be employed if the person has been convicted of these additional crimes: obstruction or retaliation, cruelty to livestock animals or solicitation of a gift from a resident or consumer of a facility.

HB 2903 (Zerwas) SUPPORT This bill supports increasing PACE program sites and education about the PACE Program which is all-inclusive care for the elderly.

HB 3197 (Coleman) SUPPORT Creates a pilot program to implement the culture change model of care at certain state-supported living centers.

SERVICES FOR THE SERIOUSLY MENTALLY ILL Linda Camin (Dallas) ircamin@hotmail.com

Although the State Legislature generally maintained 2010-2011 levels of funding for mental health in the Department of State Health Services budget, this must be understood in the context that Texas is at the bottom of all 50 states in per capita spending for public mental health services. While Community-based Services for Children were increased by almost \$21 million, Com-

munity-based Services for Adults were decreased by over \$11 million, and Substance Abuse Treatment Services were decreased by over \$29 million.

Substance Abuse Treatment Services are critical because of the large number of people with mental illnesses who have co-occurring substance abuse disorders.

Natural Resources

AIR QUALITY Laura Blackburn (Houston Area) laura2blackburn@gmail.com

In the House:

Very few of the 31 bills we followed in the House passed. Fortunately, several we opposed failed! The primary bill we followed was the Sunset Bill by Representative Smith. While several terrible amendments were introduced, none passed and the bill was passed in a relatively “clean” form, which we supported.

HB 2694 (Smith) SUPPORT This was the Sunset bill for the Texas Commission on Environmental Quality (TCEQ). It made several significant changes to TCEQ as follows:

- TCEQ is to develop and implement a policy for negotiated rulemaking and alternative dispute resolution
- The Executive Director is charged with making sure that the agency is responsive to environmental and citizens’ concerns, including environmental quality and consumer protection. This was formerly under the purview of the Public Interest Council
- The Public Interest Council is to ensure that the TCEQ promotes the public interest; however, the primary duty of the office is to represent the public interest as a party to matters before the TCEQ.
- The TCEQ by rule shall develop standards for evaluating and using compliance history that ensure consistency. However, the compliance history shall not exceed one year from the date of issuance of each notice of violation. In addition, compliance history is to be classified as “satisfactory,” “unsatisfactory” or “above satisfactory.”
- Fees are changed in the Health and Safety Code from not to exceed \$2,500 per day to “not to exceed \$5,000 per day.
- All other violations are changed from not to “exceed \$10,000” per day to “not to exceed \$25,000 per day for each violation.”
- The commission shall develop a policy to prevent regulated entities from systematically avoiding compliance through the use of supplemental environmental projects.

These changes are very positive:

HB 1906 (Howard) SUPPORT Donna Howard’s bill simply states that a person commits an offense if that person violates a rule set by TCEQ relating to locally enforced motor vehicle idling limitations and that the offense shall be a Class C. misdemeanor.

HB 3272 (Burnam) SUPPORT A bill which adds electric vehicles and natural gas vehicles to vehicles covered by the low-income vehicle retirement program (LIRAP.)

HCR 66 (Hancock) OPPOSE It failed! YEA! Hancock’s Concurrent Resolution urged Congress to prevent the Environmental Protection Agency from regulating greenhouse gases for stationary sources.

Important bills that did not pass:

HB 820 (Farrar) SUPPORT Establishes fence-line monitoring requirements for air contaminants.

HB 822 (Farrar) SUPPORT Relating to reducing mercury emissions from electric generating facilities and providing penalties.

HB 830 (Dutton) SUPPORT Directed TCEQ to consider cumulative air contaminants emissions in the emissions permitting process.

HB 977 (Burnam) SUPPORT Required certain state buildings to develop a climate adaptation plan.

HB 2268 (Hancock) OPPOSE Would have allowed a polluter to have an “affirmative defense” against nuisance or trespass suits as long as they were in “general compliance” with the rule, permit, etc. This legislation would effectively have prevented nuisance suits by cities and towns, individuals, and even enforcement agencies. It, too, failed!

HB 2545 (Hancock) Oppose This bill would allow Texas to participate in a Regional Air Quality Compact with one or several states, thus avoiding EPA’s jurisdiction. It failed!!

HB 3110 (Craddick) Oppose Allowing certain oil and gas facilities to have reduced permit requirements. It failed!!

HB 3544 (Farrar) SUPPORT Gave the TCEQ the authority to grant or deny an air contaminant emissions permit.

In the Senate:

We followed 26 bills in the Senate. As in the House, some we supported were passed and some we opposed failed. However, once again, many bills we supported were not passed.

SB 657 (Huffman) and companion HB 2694 SUPPORT The primary Senate bill we supported was **SB 657**, the companion bill to **HB 2694** described above. Senator Huffman was very influential in keeping out Representative Craddick’s amendments, which were detrimental to clean air. Here’s to Senator Huffman!

Senate bills that passed relating to other uses of the Texas Emissions Reduction Plan (TERP) and which may

reduce the tonnage of emissions required under the Texas State Implementation Plan (SIP):

SB 385 (Williams) WATCH Allowed TERP funds to be used for the clean fleet program and the alternative fueling facilities program.

SB 527 (Fraser) OPPOSE Permitted TERP funds to be used for air monitors in North Texas.

Other Senate bills on which we were not successful:

SB 875 (Fraser) OPPOSE This bill was also a bill which strongly prohibits nuisance suits—however, it is

ENERGY Penny Miller pdmiller.lwv@gmail.com

We provided favorable testimony in this area on three bills, all of which died in committee.

- HB 1124 (safety requirements for gas pipelines),
- HB 1125 (a study on odorization of natural gas in gathering and transmission lines), and
- HB 1556 (prohibiting issuance of gas drilling permits within 1,500 feet from a public school).

Of the 55 energy-related bills initially followed in the Regular Session, the following 7 passed. You can draw your own conclusions about the relative merits of this legislation:

HB 51 (Lucio III) Establishes high-performance sustainable-design standards for the construction of new state buildings and renovations for which the cost exceeded 50 percent of the value of the existing facility. These standards would apply to institutions of higher education, public education instructional facilities, and certain state agencies.

HB 362 (Solomons) Prevents a property owners' association from including or enforcing a provision in a real estate dedicatory instrument that would prohibit a homeowner from installing a solar energy device as defined by the Tax Code. The bill would void any existing deed restriction against solar energy devices. However, certain restrictions would apply. The bill also would prohibit the property owners' association from prohibiting or restricting a homeowner from installing roof shingles that were designed to be wind and hail resistant and to provide greater heating and cooling efficiencies than customary composite shingles. The shingles would have to resemble the shingles installed or allowed in the subdivision.

LAND USE Karen Rankin (Austin Area) karenrankin@austin.rr.com

On June 17, 2011 Governor Perry signed into law four bills relating to the operation of property owners' associations:

for enforcing greenhouse gas emissions requirements, not any rule or permit under the Texas Health and Safety Code. It passed and was signed by the governor

SB 676 (Gallegos) SUPPORT Related to the regulation of toxic hotspots under the Texas Clean Air Act. We have supported this bill for several sessions, and it continues to fail.

SB 1134 (Hegar) OPPOSE This bill requires the TCEQ to prove that emissions limits are necessary. It passed the House on May 23 and was signed by the Governor on June 17.

HB 444 (Creighton) requires the Texas Commission on Environmental Quality (TCEQ) executive director to submit a copy of an application for an injection well permit to dispose of industrial and municipal waste to a groundwater conservation district board if the proposed injection well is located in the groundwater conservation district's territory. The committee deleted a provision in the bill that would have allowed groundwater conservation districts to make recommendations on these permits.

HB 451 (Lucio III) Requires the TCEQ to create a Don't Mess with Texas Water program to prevent illegal dumping that affects the surface waters of this state.

HB 2663 (Chisum) Adds a provision to the Natural Resources Code that the health, welfare, and safety rules and standards adopted by the Railroad Commission under Sec. 113.051 pre-empt and supersede any ordinance, order, or rule adopted by a political subdivision of Texas relating to any aspect or phase of the liquefied petroleum gas industry.

SB 312 (Seliger) Excludes an electric cooperative, as that term is defined by Section 11.003, or its subsidiary, from regulation as a gas utility.

SB 385 (Williams) Authorizes the Texas Alternative Fueling Facilities Program (TAFFP) under

The Texas Emissions Reduction Program (TERP) to provide grants to offset the cost of fueling facilities for alternative fuel in non-attainment areas. Alternative fuel are defined as a fuel other than gasoline or diesel, other than biodiesel, including electricity, compressed natural gas, liquefied natural gas, hydrogen, propane, or a mixture of fuels containing at least 85 percent methanol by volume. TAFFP would be administered by TCEQ.

HB 232 (White) SUPPORT HB 232, effective immediately, modifies the procedure for amending deed restrictions by property owners

HB 362 (Solomons) SUPPORT HB 362 (a replacement for **SB 238 (West) SUPPORT**) prevents property owners' associations from outlawing most solar devices, and it is effective immediately.

HB 1071 (Davis, Sarah) SUPPORT Also effective immediately, HB 1071 allows the effective period of deed restrictions to be changed by property owners

HB 1228 (Dutton) SUPPORT HB 1228, most of which is effective January 1, 2012, modifies the rules by which a property owners' association can foreclose due to unpaid association fees. All four of these bills should prove beneficial to individual property owners in an association.

SB 142 (West) NEUTRAL, a complex bill which would have modified many of the procedures governing the operation of property owners' associations, failed to pass in the House.

SB 1354 (Corona, Rodriguez) SUPPORT Another bill we followed, **SB 1354**, would have allowed counties

to prohibit new signs along roads in unincorporated areas, never made it out of the Senate committee that heard it.

SB 137 (Wentworth) SUPPORT, HB 662 (Rodriguez, Eddie/Dukes) SUPPORT, HB 3492 (Coleman) SUPPORT and SB 1392 (Lucio) SUPPORT, all of which would have given counties some authority to regulate growth in unincorporated areas, died in committee much earlier in the session without making it out of committee.

SB 18 (Estes, et al) SUPPORT The "emergency" legislation supported by the Governor, which passed and was signed into law earlier in the session, modified eminent domain procedures, making them more fair to individual property owners. Natural gas pipelines were specifically omitted from this legislation, but **SB 106 (Davis) SUPPORT**, written to fill that gap, never made it out of committee. SB 18 is effective Sept. 1.

TRANSPORTATION Edie Jones (Tarrant County) edithsjones@hotmail.com

No bills of substance were passed that would change any action options between now and next session.

Two bills of interest were passed and then vetoed by the governor:

HB243 (Craddick,Hegar) Would have banned texting while driving. Was passed late in the session by both bodies, and then vetoed.

HB2327 (McClendon,Wentworth) A pilot program for public transit motor bus only lane on a highway shoulder for congestion control was passed by both bodies and then vetoed. It applied to Bexar, Travis, Tarrant, and El Paso Counties.

WATER Mary Vogelson (Dallas) mmev@swbell.net

On balance, the bad bills that passed this session, outweighed the few good bills. The biggest disappointments were the passage of **SB 332 (Fraser)** and **SB 693 (Estes)**.

SB 332 proposes to clearly define that a landowner owns the water below the surface of the land as "real property" whether the water has been extracted (captured) or not.

SB 693 sets forth rules for hearings in contested Groundwater Conservation District (GCD) permit cases, but requires the complainant to pay all costs up front.

On a positive note, the following bills also passed:

Two reported in the Energy report above:

HB 444 (Creighton) SUPPORT Notification of an injection well disposal application to the applicable Groundwater Conservation District.)

HB 451 (Lucio III/ Creighton) SUPPORT (Don't Mess with Texas Waters)

Also passed:

HB 3328 (Keffer) SUPPORT Requires the Railroad Commission (RRC) to establish rules that require natural gas drillers to disclose through a web site the hazardous chemicals used in hydraulic fracturing fluids. There are still allowances in the requirements for "trade secret" contaminations to be protected from public sight.

SB 430 (Nichols) SUPPORT Requires the Texas Commission on Environmental Quality (TCEQ) to provide written notice to a groundwater conservation district of groundwater contamination.