

## MEMORANDUM

To: Glenn Rex, Calvin Jones – Texas Crane Owners Association  
From: Eric Woomer  
CC: Gertie Wilson, Courtney Williamson  
Date: September 26, 2023

### TCOA FALL 2023 CONFERENCE – LEGISLATIVE UPDATE

#### GENERAL LEGISLATIVE HIGHLIGHTS

After a five-month whirlwind, the 88<sup>th</sup> Texas Legislature adjourned Sine Die on May 29<sup>th</sup>. Members filed a remarkable total of more than 8,000 bills, passing 15%, including important legislation related to grid reliability, teacher retirement system funding, ending gender modification procedures for minors, extending Medicaid eligibility for new mothers to a full year, protecting consumer data, and reducing the risks to children from social media. However, tension and disagreements between the two chambers' leaders left big-ticket items undone at the close of session, including property tax relief, public school voucher, teacher pay raises, and border security.

As anticipated, Governor Greg Abbott called the Legislature back immediately for a First Called Special Session with two items on the call: property tax relief through tax compression and border security by addressing human trafficking. The House and Senate gavelled back in on May 30<sup>th</sup>, and within days, the House passed their versions of legislation aligned to the Governor's call, and then adjourned for the remainder of the special session. The Senate continued working for the full 30 days before adjourning on Tuesday, June 27<sup>th</sup>.

The timing of the special session coincided with the Governor's veto period, which ran through June 18<sup>th</sup>. Gov. Abbott extensively leveraged his veto power in a fruitless attempt to garner a compromise between the chambers on the property tax issue. In the end, Gov. Abbott vetoed 76 bills, a personal record, second only to Governor Rick Perry at 83 in 2001.

Given the failure to pass any legislation in the first called session, Gov. Abbott wasted no time calling lawmakers into a Second Called Special Session, which began immediately on June 30<sup>th</sup>, and focused solely on property taxes. The House and Senate was able to find compromise passing a \$18.6 billion property tax relief package that includes a combination of tools to help homeowners and businesses in Texas. Governor Abbott signed SB 2 and SB 3 on July 22<sup>nd</sup>. These bills include school tax compression at \$7.1B, \$100,000 homestead exemption, temporary 20% appraisal cap, and franchise tax exemptions.

Two other inauspicious issues made the 88<sup>th</sup> Legislature particularly noteworthy. First, the House voted to expel Rep. Bryan Slayton (HD-2) due to his inappropriate behavior and misconduct with one of his female staff members. Second, the House voted 121-23 to adopt twenty articles of impeachment against Attorney General Ken Paxton for misuse of his office, in the first such impeachment since 1975. More details below.

Now that the Senate trial has concluded, all indications are that Gov. Abbott will call a Third Called Special Session, likely to begin in October, to consider public school vouchers, and perhaps certain vetoed bills or other legislation.

## PRIORITY LEGISLATION

**HB 679 by Bell** prohibits using workers' compensation insurance experience modifiers in construction contracts. Experience modifiers are an actuarial tool to help determine insurance rates, but have been used to determine a contractor's commitment to safety. However, experience modifiers are not necessarily an accurate representation of safety and may give certain contractors an advantage. Effective September 1, 2023. (Note: A priority bill for the Texas Construction Association.)

**HB 1963 by Leach** safeguards subcontractors and suppliers by classifying retained funds as trust funds, ensuring availability even if the property owner defaults. Voted favorably in the House Committee but not discussed by the full House. (Note: A priority bill for the Texas Construction Association.)

**HB 2127 by Burrows** restores regulatory authority to the state, eliminating local ordinances, and retains certain consumer protections. Effective September 1, 2023 but recently declared unconstitutional by a judge. (Note: A priority bill for the Texas Construction Association.)

**HB 2518 by Bell** mandates terms that any construction on leased public property must be bonded and that the lessee must notify the governmental entity before construction begins so that the governmental entity may have an opportunity to verify the bonds. Similar legislation was vetoed by the Governor in 2021. Effective September 1, 2023. (Note: A priority bill for the Texas Construction Association.)

**HB 2657 by Leach** voids contractual provisions incorporating undisclosed documents, safeguarding downstream contractors. Passed committee but not placed on the House Calendar. (Note: A priority bill for the Texas Construction Association.)

**HB 2879 by Oliverson** voids venue provisions requiring Texas contractors to litigate outside the state. Vetoed by the Governor on June 15, 2023. (Note: A priority bill for the Texas Construction Association.)

**HB 2928 by Turner** clarifies "good faith disputes" in construction contracts and addresses misapplication of trust funds. Passed committee but not heard on the House floor. (Note: A priority bill for the Texas Construction Association.)

**HB 3418 by Canales** creates a vehicle mileage user fee pilot program and a task force to assess the potential for mileage-based revenue as an alternative to the current system of taxing highway use through motor fuels taxes. Passed the House but was left pending in Senate Committee.

**HB 3485 by Bell** protects contractors and subcontractors when owners fail to issue formal change orders, effective September 1, 2023. (Note: A priority bill for the Texas Construction Association.)

**SB 505 by Nichols** imposes a \$400 fee on electric vehicles, to offset the avoidance of gasoline taxes. Effective September 1, 2023.

**SB 1021 by Nichols** raises the allowance cap for TxDOT district directors to let local highway projects from \$700,000 to \$1 million, addressing inflationary pressures. Effective immediately upon Governor's signature on May 24, 2023.

## OTHER LEGISLATION

**HB 19 by Murr** establishes a specialized business trial court to streamline dispute resolution for businesses, effective September 1, 2023.

**HB 433 by Van Deaver** redefines "commercial fleet" for vehicle registration, lowering the minimum requirement from 25 to 12 vehicles, making registration renewals more efficient. Effective September 1, 2023.

**HB 1755 by Button** creates the Lone Star Workforce of the Future Fund, managed by the Texas Workforce Commission, offering grants to educational institutions and nonprofits with strong job training programs. These grants help individuals transition to self-sufficient jobs, boosting the state's economy. Effective September 1, 2023.

**HB 1846 by Ashby** simplifies the process for out-of-state students to obtain a commercial driver's license in Texas, potentially increasing the number of CDL holders in the state. Effective September 1, 2023.

**HB 2265 by Leach** prevents government entities from shifting financial burdens caused by project delays onto private sector contractors, ensuring fair compensation for contractors. Passed in the House but not in the Senate.

**HB 2965 by Vasut** broadens contractors' legal rights in government construction projects, allowing inspections and issue correction before lawsuits, with an exemption for river authority projects. Prohibits waiving these rights. Effective September 1, 2023.

**HB 3646 by Guillen** aligns Texas CDL regulations with federal definitions, adjusting domicile and vision standards for compliance. Offers flexibility for CDL applicants while maintaining safety. Effective September 1, 2023.

**HB 4123 by Guillen** revamps DPS procedures for criminal history record dissemination and sets criteria for background checks on construction contractors. Effective immediately upon Governor's signature on June 13, 2023. (Note: A "clean up" bill to address several CDL-related issues in Texas.)

**SB 833 by King** prohibits insurance companies from using ESG scores in underwriting and ratemaking decisions, effective September 1, 2023. (Note: It was the sole successful bill among several related to environmental, social, and governance (ESG) issues.)

## RULEMAKING

### Proposed Rules for Oversized/Overweight Vehicles and Loads

On August 17<sup>th</sup>, the TxDMV Board approved rule changes for public comment, impacting code sections related to oversize and overweight vehicles and loads. These proposed changes were published in the Texas Register on September 1<sup>st</sup>. The proposed changes:

- Implement HB 2620 (2019), which allows the agency to deny OS/OW permit applications if the Federal Motor Carrier Safety Administration or the Texas Department of Public Safety issues an out-of-service order to the applicant.
- Implement SB 1814 (2021), removing references to Chapter 645 of the Transportation Code and the state highway system, aligning with legislative changes.
- Amend application requirements to provide more information for better administration and enforcement of OS/OW vehicles and loads on public roads, facilitating enforcement by law enforcement agencies.
- Ensure consistency within statutes and code, modify language to reflect current practices, and remove language beyond the agency's rulemaking authority.

Specific changes include:

- Requiring applicants to provide contact information for permit restriction updates.
- Eliminating the need to provide motor carrier registration as it can be accessed through the permitting system.
- Making conforming amendments related to USDOT numbers.
- Removing references to hazardous conditions under the jurisdiction of other agencies.
- Allowing electronic submission of surety bonds.
- Clarifying that city curfew movement restrictions apply only when published by the department, contingent on TxDOT approval.

For more details, visit the proposed rules link [here](#). The earliest adoption date for these rules is October, 2023.

## PAXTON TRIAL

Ken Paxton, the impeached Texas Attorney General, has been acquitted of 16 impeachment articles, reinstating him to his office amidst allegations of corruption. Two Republican senators, Sen. Robert Nichols and Sen. Kelly Hancock, broke ranks to vote for conviction on some articles, while the majority of Republicans supported acquittal. The articles against Paxton primarily accused him of accepting bribes and abusing his office. His acquittal followed months of political pressure, with Lt. Gov. Dan Patrick ultimately advocating for changes to the impeachment process and calling for an audit of impeachment expenditures. Texas Governor Greg Abbott and U.S. Senator Ted Cruz expressed support for the verdict. During the trial, seven former senior Paxton aides testified about their concerns regarding Paxton's relationship with Austin real estate developer Nate Paul and their decision to report him to the FBI.

## IMPORTANT DATES

September 1<sup>st</sup>, 2023:

- Start of the new fiscal year for the state
- Implementation of 773 new laws ([SUMMARY](#))

October 8<sup>th</sup>, 2023:

- Rumors of a Special Session being called, potentially addressing public school vouchers and other issues

October 23<sup>rd</sup>, 2023 – November 3, 2023:

- Early voting period for the November Election begins

November 7<sup>th</sup>, 2023:

- General Election
- Constitutional Amendment Election (A list of these constitutional amendments and the ballot order can be found on the Secretary of State's website [here](#).)
- Special Election for House District 2

December 11<sup>th</sup>, 2023:

- Filing Deadline for the 2024 ballot

March 5<sup>th</sup>, 2024:

- Primary Election

## ELECTIONS OUTLOOK

March Primary Race to Watch: Democrats U.S. Rep. Colin Allred of Dallas, State Sen. Roland Gutierrez of San Antonio, and State Rep. Carl Sherman of DeSoto will challenge U.S. Sen. Ted Cruz, the conservative incumbent seeking reelection next year.

## INCUMBENTS NOT RUNNING FOR RE-ELECTION

- Rep. Four Price (R-Amarillo)
  - Rep. Abel Herrero (D-Robstown)
  - Rep. Lina Ortego (D-El Paso)
  - Rep. John Raney (R-Bryan)
  - Rep. Tracy King (D-Uvalde)
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- Rep. Ed Thompson (R-Pearland)
  - Rep. Doc Anderson (R-Waco)
  - Rep. Rhetta Andrews Bowers (D-Rowlett) running for U.S. Congress
  - Rep. Julie Johnson (D-Farmers Branch) running for U.S. Congress
  - Rep. Carl Sherman (D-DeSoto) running for U.S. Senate