

RESEARCH ORGANIZATION

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focus

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Topics for the 76th Legislature

The following list includes many, although by no means all, of the issues that may be considered by the 76th Texas Legislature during its 1999 regular session:

SPENDING AND REVENUE

Appropriations — Meeting current and projected state needs using the projected state surplus and additional funds from the tobacco lawsuit settlement will be the focus of this session's budget process. Teacher pay raises, school finance, and health benefits for uninsured children will be among the big-ticket spending items considered, along with increased funding for county indigent health care programs, state employee pay raises, higher education funding, covering the costs of TRS-Care (the retired teacher health plan), and increasing the multiplier used by the Teacher Retirement System to calculate retirement benefits. Part of the surplus may be channeled into the Rainy Day Fund or used to retire state debt. The use of riders to set state policy in the general appropriations bill may be curtailed.

Taxes — Gov. Bush and others have suggested eliminating the sales tax on over-the-counter medicines, health aids, diapers, and Internet access, plus a back-to-school sales tax holiday. Among the franchise tax revisions being considered are a research and development tax credit, an investment tax credit, an incentive credit for businesses to provide child care, and an increase in the earnings threshold to exempt more small businesses from the tax. Part of the projected budget surplus may be used to reduce local school property taxes. Requiring businesses to report the value of their personal property for tax purposes, currently a subject of litigation, also may be addressed.

Tobacco Settlement — The budget process and related legislation will determine spending priorities for the \$17.3 billion that Texas expects to receive from tobacco companies over the next 25 years. Efforts may be made to restrict use of tobacco lawsuit settlement funds to financing health-related programs, such as cancer research, children's health care, tobacco-use prevention programs, and medically related higher education. Part or all of the settlement money may be placed in endowment

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funds, with the income used for health-related programs. Also, counties and hospital districts secured a memorandum of understanding with the state that \$2.275 billion of the tobacco funds be placed in a permanent trust account and devoted to reimbursing them for indigent health care costs.

PUBLIC EDUCATION

Major initiatives may include requiring students to pass the TAAS test before being promoted between certain grades, expanding reading programs, developing additional after-school programs, notifying parents if teachers are uncertified, restricting class-size limit waivers, setting a uniform date for the first day of school, and revising the allowable number of charter schools. Transforming the elected State Board of Education into an appointed board also may be proposed.

School Finance — Changes to the school finance system may include increasing the property value per student at which recapture of local tax dollars begins, increasing the tax rate cap for maintenance and operations, and increasing the guaranteed yield level for tax effort. Teacher salaries may be raised by increasing the state share of public education funding. State assistance to school districts to finance school facilities construction may be increased.

Vouchers — Parents may be allowed to use public education dollars to pay for private school tuition for their children, possibly in a pilot program that would target students in low-performing public schools.

HIGHER EDUCATION

Grants and Scholarships — Grant and scholarship aid available to needy and high-achieving college students may be substantially increased. The current grant aid programs may be consolidated into one comprehensive program. State funding to the college work-study program may be increased.

Hopwood — Various strategies to ameliorate the impact of the *Hopwood* decision barring affirmative action in higher education may be examined, including

increasing financial aid and eliminating or reducing the weight placed on standardized admissions tests.

HEAF — State funding to the Higher Education Assistance Fund (HEAF), an endowment used to finance capital projects at 26 state universities, may be increased and made available to more schools.

Other Issues — Last session's law requiring public higher education institutions to accept college credits transferred from any other public institution in Texas may be revisited. The Legislature may be asked to review the proposed affiliation of the private South Texas School of Law in Houston with Texas A&M University.

HEALTH AND HUMAN SERVICES

Child Health Insurance Program (CHIP) — This new federal initiative could give Texas an average of \$423 million per year for the next 10 years if the state develops an approved program to make health benefits available to uninsured children. Money from the tobacco lawsuit settlement is a possible source for the state matching funds required to draw down federal funding. The cost will depend on legislative decisions regarding program eligibility, benefits, and outreach activities. Also under consideration will be how to coordinate health services to uninsured children under the CHIP program with benefits provided under Medicaid, the new Texas Healthy Kids Corporation, and other state-sponsored programs.

Indigent Health Care — The indigent health care laws may be reviewed to improve health service delivery, program accountability and links to other state programs, standardize eligibility, and help resolve conflicts over payment responsibilities between counties and hospitals.

Health Insurance — The managed care liability provisions enacted last session may be revisited in response to a recent federal court decision that invalidated the independent review process for claims against HMOs and other managed-care entities. The number and type of mandated benefits required to be covered in Texas health insurance policies may be reexamined. The TRS-Care health insurance program for retired teachers may be revised to establish and

maintain its future solvency. Additional funding, possibly from a trust fund endowed with tobacco lawsuit settlement funds, may be sought to maintain the current benefit structure of the state employees health insurance program.

Sunset — Sunset review of the major health and human services agencies may see efforts to re-organize or merge programs or agency responsibilities, such as consolidating the Department on Aging with the Department of Human Services.

Long-Term Care — Adjustments to nursing home legislation enacted last session and proposals for changes in nursing home payment methods may be raised. State regulation and funding of personal care and home health care services may be examined in response to recent Medicare funding cuts.

Abortion — Restrictions that may be considered include parental notification or consent for minors, waiting periods, and informed consent.

End-of-Life Decisions — Care and treatment of the dying and terminally ill may be examined.

Welfare — The state's welfare system, substantially overhauled in 1995, may be revised, including changes to meet federal requirements that will be imposed when the state's waiver from those requirements expires in 2002. A child's assistance payment may be docked when a parent refuses to comply with work requirements, while parents of younger children may be required to meet work requirements. State agencies may be required automatically to enroll eligible children in the Medicaid program if they are cut from the welfare rolls. Sanctions may be toughened against parents who fail to cooperate with child support enforcement efforts or who are convicted of drug offenses. A zero tolerance policy for welfare fraud may be implemented, cutting off benefits after the first offense. Earned income may be disregarded for a transition period after starting work to allow families to retain more of their earnings without losing their grants. Non-cash transitional assistance, such as transportation or clothing purchases, may be expanded. Faith-based programs for mentoring welfare recipients may be encouraged. Support for "second chance" programs may be encouraged for teenage mothers on welfare to help discourage illegitimacy and redirect their lives.

CHILDREN AND FAMILY

Child Support — The Child Support Division of the Attorney General's Office has undergone Sunset review and will be examined to determine ways of improving child support enforcement and collection and compliance with federal mandates.

Child Care — Additional funding for child care for parents making the transition from welfare to work, tighter regulation of child care providers, and franchise tax credits for businesses that offer day care or facilitate child care for their employees are among the changes that may be considered. The effectiveness of child protective services may be reviewed.

Marriage and Divorce — Restrictions on no-fault divorce may be examined, along with allowing the option of "covenant marriage" that requires a longer waiting period and counseling prior to both marriage and divorce.

CRIMINAL JUSTICE

Capital Punishment — A life without parole sentence may be established as a punishment for capital murder or other serious, violent crimes. The age at which a person is eligible to receive the death penalty may be lowered from the current 17 years old. Murder committed as part of a hate crime may be made a capital offense. Small counties may receive state financial assistance to cover the high cost of capital murder trials. Minimum qualifications may be set for appointed attorneys handling *habeas corpus* death penalty appeals for indigent defendants, and their compensation may be increased.

Sex Offenders — Sexually violent predators or others who commit serious, violent crimes may be civilly committed to state institutions for treatment once their prison sentence is completed. Repeat sex offenders may face a sentence of life in prison.

Criminal Procedure — Defendants in criminal cases may be required to give advance notice of expert witness testimony. Defendants may be given the right to waive a trial by jury without the prosecutor's approval in misdemeanor cases. The circumstances under which oral confessions and warrantless arrests may be permitted in criminal cases

may be revised, along with rules governing the use in court of unlawfully obtained evidence. Convictions based solely on the testimony of an accomplice may be allowed.

Gambling — State gambling laws may be revised in light of a recent attorney general's opinion raising questions about the legality of eight-liners and other electronic amusement devices.

Alcohol, Drugs and Firearms — The legally permissible blood alcohol level may be lowered from .10 to .08 or less. Penalties for driving while intoxicated may be toughened, including mandatory jail time. Criminal penalties may be increased for manufacture or delivery of certain illegal drugs when serious bodily injury or death results from using the drugs. Carrying of concealed weapons by judges or near schools may be examined.

Gangs — Law enforcement authorities may be authorized to maintain a statewide database of intelligence information on criminal gangs. The period may be lengthened for allowing law enforcement authorities to keep information on persons in gangs and those suspected of being in gangs. Gang recruitment may be made a criminal offense, and the definition of a criminal street gang may be expanded.

Corrections — The state and counties may be permitted to require prison inmates and jail prisoners to pay — with money or community service — for the cost of their confinement, including food, housing, and rehabilitation programs. The prison system's managed health care system may be revised, and the requirement that inmates make a co-payment when they use the health care system may be examined. An independent committee to review prison inmate grievances may be considered. Issues involving private sector employment of state prisoners may be revisited.

Parole — Parole may be abolished entirely, or prison inmates may be required to serve a higher portion of their sentences. The special needs parole system that allows release of some elderly, handicapped, retarded, and mentally or terminally ill inmates may be reviewed. The new Texas Spotlight Program, teaming probation and parole officers with peace officers to promote coordinated enforcement efforts, may be encouraged.

Juvenile Justice — The Texas Youth Commission has proposed expanding its capacity by almost 400, including about 320 single-cell beds at its McLennan County facility. Warrantless searches of certain juveniles for firearms may be authorized. Temporary detention in adult jail may be allowed for 17-year-olds who escape from juvenile facilities or violate their probation or parole. Juveniles who use firearms to commit crimes may be automatically detained until a judge reviews their case. The laws covering mentally ill and mentally retarded juvenile offenders may be examined.

BUSINESS AND ECONOMIC DEVELOPMENT

Electric Utility Restructuring — Utility customers may be allowed to choose their source of electric power at the retail level. Possible issues include reliability of service, recovery of utility company "stranded costs," rate restrictions, universal service, consumer and environmental safeguards, and the impact on co-ops and publicly owned utilities.

Telecommunications — The Public Utility Commission may be authorized to impose penalties or revoke operating licenses of Texas telecommunications companies that engage in "cramming" — charging phone customers for unauthorized products or services. Last session's law to stop "slamming" — the unauthorized switching of long-distance carriers — may be strengthened. Access charges paid by long-distance companies to local telephone companies for completing a call may be lowered. Rate caps on basic local telephone service may be reconsidered. Franchise agreements and fee structures for telecommunication companies' use of city rights-of-way may be standardized. New restrictions and tougher penalties may be added for telemarketing fraud, including a state-maintained "no call" list.

Economic Development — Local economic development corporations may be allowed to spend money on job training programs. The Smart Jobs training program may be modified to encourage job creation in areas of high unemployment. New programs geared toward promoting development in counties on the Mexican border and in South Texas may include a border advocacy office, an area economic development commission, targeted investment

incentives and job training, and infrastructure improvements and other assistance to deal with the impact of increased border trade and traffic caused by NAFTA.

Unemployment Insurance — Potential funding problems in the unemployment insurance fund may be addressed, possibly with an increase in the employer tax, while taxes may be lowered for new small businesses. Eligibility for unemployment insurance may be broadened to include part-time and other workers not currently covered.

Financial Institutions — State banking laws may be revised to accommodate interstate branch banking through acquisition of Texas banks and to permit the creation of new branches in Texas. As a result of interstate branch banking, bank franchise tax laws may be modified to ensure that banks domiciled out-of-state continue to pay the tax. Caps may be placed on fees charged for use of ATM machines. The home equity lending issue may be revisited, including clarifying provisions to allow reverse annuity mortgages.

Insurance Regulation — State regulation of homeowners and automobile insurance may be reexamined, as market trends find an increasing number of Texans insured through unregulated markets. No-fault auto insurance, which would restrict contested court proceedings over auto accident liability, also may be proposed.

Other Issues — Blue law restrictions on weekend sales of motor vehicles may be repealed. Tighter regulation may be applied to amusement park rides.

CIVIL JUSTICE

Tort Law Revisions — Restrictions on civil lawsuits under consideration include limiting class action lawsuits, immunizing from liability good faith charitable activities, limiting liability of landowners for criminal acts committed on their property, limiting pre-judgment interest on damage claims, limiting contingency fees when lawsuits are settled quickly, abolishing the "collateral source rule" that bars evidence of other compensation received for injuries, and limiting liability for employers who offer truthful

employee references. Liability limitations may be considered to stem a possible flood of litigation involving the Year 2000 (Y2K) computer problem. Liability limitations also may be established for shooting range operators.

State Lawsuits — Sovereign immunity may be modified to allow resolution of contract disputes without requiring specific legislative approval to sue the state. Using private attorneys to represent the state on a contingency fee basis may be curtailed in the wake of the recent tobacco lawsuit settlement.

False Claims — A *qui tam* statute may allow citizens to pursue false claims made to governmental entities.

ENVIRONMENT

Waste Disposal — The Legislature may reconsider whether Texas should build a low-level radioactive waste-disposal facility in light of the Texas Natural Resource Conservation Commission's (TNRCC) recent denial of a permit for a proposed facility near Sierra Blanca. Current statutory siting criteria may be changed to allow a disposal facility to be sited elsewhere. Restrictions on the siting of municipal landfills and other disposal facilities may be considered.

Air Emissions — Issues involving grandfathered facilities not subject to current air emissions standards may include removing the cap on emissions fees for facilities that remain grandfathered and requiring all such facilities to meet stricter environmental standards. The auto emissions program and TNRCC's recent push to apply air pollution regulations to broader regions, including some rural areas, may be examined.

Environmental Regulation — Proposals both to expand public participation in environmental hearings and to switch from contested case hearings to a system of public meetings called "notice and comment" may be considered. Various proposals concerning confined animal feeding operations (CAFOs) may be considered, including granting counties greater authority to respond to complaints. A study committee may be created to examine the impact of global warming. Cooperation between

Texas and Mexico on environmental issues may be promoted. Guidelines may be proposed for environmental education in the public schools. Funding of the Local Emergency Planning Committees that respond to chemical emergencies and regulation of pesticide use also may be addressed.

Water — The omnibus water bill (SB 1) enacted last session may be revisited. The Texas Water Development Board plans to ask for additional funding for the regional planning groups created by SB1. A funding shortfall in state water programs, including water quality inspection and permitting programs, may be addressed. To help generate revenue for water programs, TNRCC's wastewater discharge fee may be raised, funds may be transferred from petroleum storage tank reimbursement funds, or the sales tax exemption for water sales may be removed. State regulation of groundwater may become an issue pending a Texas Supreme Court decision in a lawsuit challenging the "rule of capture" that allows unrestricted pumping.

Agriculture — Responsibility for paying the cost of the cotton boll weevil eradication program may be shifted from cotton producers to the state. Increased state funding may be requested for the Texas Soil and Water Conservation Board to cover the cost of taking over programs formerly financed by the federal government. State assistance may be provided to farmers and ranchers who suffer drought-related losses.

State Recreational Resources — A Parks and Wildlife Department budget shortfall may be tackled in various ways, including removing the cap on revenues generated by the sales tax on sporting goods. Funding to operate and maintain historical sites may be boosted, a statewide aquatic vegetation management program may be implemented, a commercial fin-fish license limitation program may be created, a conservation license plate may be offered to fund non-game management and habitat restoration, and a state estuary program may be proposed.

TRANSPORTATION

Highway Funding — The Texas Department of Transportation may seek state funding to match an additional \$700 million to \$750 million in highway funds available over the next six years under the new federal highway law. The Department of Public Safety may be funded with general revenue rather than from the State Highway Fund (motor fuel taxes and vehicle registration fees) to free those highway fund dollars to match federal highway funds. State highway funds may be used to help supplement toll road construction. Fuel taxes may be collected at the refinery rather than the distributor level.

Safety — A graduated driver's license, with greater restrictions, may be instituted for younger drivers. Seat belt use may be required in pickup trucks. Standards for overweight trucks may be revised.

Other Issues — Compensation for previously non-compensable items in highway right-of-way acquisitions may be allowed. Border cities may be allowed to establish transportation authorities.

LOCAL GOVERNMENT

Annexation — Revisions to existing annexation laws may include requiring cities to adopt a three-year plan for areas to be annexed, strengthening requirements and reducing time limits for providing services to newly annexed areas, grandfathering certain land uses after annexation, and requiring voter approval for annexations.

Counties — Authorizing counties to enact ordinances, particularly land use or development regulations, may be considered. Border counties may be given greater authority to restrict colonia development. Gov. Bush has proposed state assistance to help restore historic county courthouses.

GOVERNMENT ORGANIZATION

Elections — The primary election dates may be moved from March to a later date. Statutory exceptions to the four uniform election dates may be further restricted, and the number of uniform election dates may be reduced. A pilot study may examine alternate types of voting, such as voting by mail or the Internet or at ATM machines, and determine if directly mailing election information to voters would have a positive effect on voter turnout. Tougher penalties may be considered for voter intimidation and mail ballot fraud.

Campaign Finance — Limits on campaign contributions, more extensive, immediate electronic disclosure of expenditures, and increased public access to campaign reporting information may be considered, along with regulation of soft money. Limits may be placed on the length of time campaign contributions may be kept and on the use of contributions to repay bank loans made to a candidate's campaign.

The Judiciary — Options for changing the way judges are selected may include non-partisan elections, merit selection, retention-only elections, and single member districts. Tighter restrictions on campaign contributions in judicial races may be considered. Restricting the use of visiting judges, especially those defeated in elections, may be considered, along with adding new district courts. Pay for jury service may be increased and the jury pool composition changed.

Open Meetings and Records — The Open Meetings Act may be revised to prevent closed staff briefings. The Public Information Act may be revised to enhance enforcement measures against governmental entities that attempt to evade disclosure or overcharge for public documents. Greater access to administrative records of the judiciary, accident reports, and court settlements made by government bodies may be examined.

Constitutional Revision — The Texas Constitution may be substantially revised and streamlined, including such proposed changes as increased executive authority for the governor.



Sunset Review

The 25 agencies reviewed by the Sunset Advisory Commission for this session are:

- Texas Department on Aging;
- Texas Commission for the Blind;
- Texas Cancer Council;
- Office of the Attorney General Child Support Enforcement;
- Interagency Council on Early Childhood Intervention;
- Children's Trust Fund of Texas Council;
- Correctional Managed Health Care Advisory Committee;
- Texas Department and Board of Criminal Justice;
- Texas Commission for the Deaf and Hard of Hearing;
- Office for the Prevention of Developmental Disabilities;
- Texas Planning Council for Developmental Disabilities;
- Advisory Commission on State Emergency Communications;
- Texas Health and Human Services Commission;
- Texas Board and Department of Health;
- Texas Hospital Equipment Financing Council;
- Commission on Human Rights;
- Texas Department of Human Services;
- Texas Incentive and Productivity Commission;
- Texas Department of Mental Health and Mental Retardation;
- Board of Pardons and Paroles;
- Governor's Committee on People with Disabilities;
- Texas Board of Private Investigators and Private Security Agencies;
- Texas Department of Public Safety;
- Texas Rehabilitation Commission;
- Center for Rural Health Initiatives.

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