

Legislatively Speaking

These are the times that try men's souls—Thomas Paine: American Crisis

Lieutenant Governor Dan Patrick made his position very clear last Wednesday when he threatened to force the legislature into a special session if the House doesn't pass legislation addressing local property taxes and bathroom privacy.¹

Speaker of the House Joe Straus didn't appreciate this demand and quickly replied, "Governor Patrick's threat to force a special session unless he gets everything his way is regrettable, and I hope that he reconsiders."² Straus went on to say that, in his experience, the House "doesn't take threats terribly well."³

Governor Abbott weighed in by publicly backing the Lieutenant Governor on 2 hot-button issues balked at by the House—the "bathroom bill" and local property tax caps. He also stated that both items can be accomplished before the end of the regular session.³

Although tensions remain between the House, Senate, and Governor, and special session brinkmanship continues to increase, we may not necessarily be looking at a special session. The key thing to remember is that only a Governor can call a special session. So no matter how much letter-leaking and press-conferencing Patrick and Straus do, there's only one vote that matters.

Will the Governor really be motivated to call for a special session? After all, Abbott already has his victory now that legislation was passed on all 4 of his announced emergency items: sanctuary cities, ethics reform, child protective services reform, and a constitutional convention of the states.

Saturday afternoon the House formally answered Patrick's ultimatum by passing a key change on property taxes, as well as a measure to extend the life of state agencies—after a bill that would have prevented their closing failed last week. The House's property tax proposal is far less aggressive than the version supported by Patrick.⁴ On Sunday, the House approved bathroom restrictions for transgender students. This is a narrower version than the Senate approved. The House proposal is limited to schools and requires them to provide single-stall restrooms, locker rooms and changing facilities to students who don't want to use facilities designated by "biological sex."⁵

TDA is still on the fence about a special session, but open to the possibility, especially now that the House's actions on Saturday amounted to telling the Lieutenant Governor, "We don't need you."⁴

Some capitol insiders also think that Patrick's ultimatum on bathrooms and local taxes indicates his possible intent to contest Abbott in the primary. However, Patrick has insisted that he has no plans to challenge Governor Abbott at the polls in 2018.⁶

Breaking News

TSBDE Sunset Bill Passes House

The Texas State Board of Dental Examiners' (TSBDE) Sunset bill, Senate Bill 313, passed the House on Thursday and is on its way to the Senate for concurrence in one floor amendment added by Representative Cindy Burkett (R-Sunnyvale). Representative Burkett's floor amendment makes a change to the Dental Review Committee. Instead of serving 6-year terms, members will serve staggered 6-year terms with the terms of 3 members expiring on February 1 of every odd numbered year. It's expected that the Senate will agree with the amendment and the bill will then be sent to the Governor.

1. Patrick threatens to force special session over tax, bathroom bills. *The Texas Tribune*. May 17, 2017.
2. Straus calls Patrick ultimatum regrettable. Quorum Report. May 17, 2017.
3. Thursday shaping up as a key showdown day in Texas Legislature. *The Houston Chronicle*. May 17, 2017.
4. What ultimatum? House tries to squash Lt. Gov. Dan Patrick's leverage. *The Austin American-Statesman*. May 20, 2017.
5. Texas House approves bathroom restrictions for transgender students. *The Texas Tribune*. May 21, 2017.
6. Patrick could be laying framework for race for governor with bathroom and tax demands. *Capitol Inside*. May 17, 2017.

On The Horizon

Tick Tock, Tick Tock

During this session, we tracked a total of 400 bills impacting dentistry. With only about 7 days left, our total bill list has dwindled significantly with only 46 bills still in play. With committee work completed, all that's left is for legislators to debate bills on the floor.

May 20

Deadline for the House committees to report Senate bills and Senate joint resolutions.

May 21 (10 PM)

Last House Daily Calendar with Senate bills and Senate Joint resolutions attached.

May 23

Last day for the House to approve Senate bills and Senate joint resolutions on second reading.

May 24

A very important date! Last day for the House to approve local and consent Senate bills on 2nd and 3rd reading. Last day for the Senate to approve ALL bills and joint resolutions on 2nd and 3rd reading.

May 27 (Midnight)

Conference committee reports must be distributed with the deadline for final action the next day.

May 28

Last day for House and Senate to either adopt conference committee reports or discharge conferees and concur with amendments.

May 29

sine die.

By this Friday, the only legislation still alive will be bills on their way to the governor's desk or those that passed each chamber in different forms, with the latter group of bills having until Sunday, May 28th to reach a consensus. Everything else will be dead.



Capitol Chatter

Prescription Monitoring Legislation

Although the House Public Health Committee reported Senate Bill 316 as substituted on May 20, 2017, the bill did not make it onto the House calendar by the deadline on Sunday. It's our understanding, that prescription monitoring efforts will likely be attached as amendment to a different bill.

To view the hearing, visit capitol.state.tx.us and select Legislative Activity > Video Broadcasts > House > Archived Broadcasts > Committee Broadcasts > 05/16/17 > Public Health 8:00am Hearing. The bill begins at marker 18:43 and continues as the first item when the committee reconvenes after the House adjourns.

The Budget

Conferees announced their budget agreement on Saturday. Although a printable version of the budget is not yet available, we can tell you that the Senate did agree to some small one-time uses of the Rainy Day Fund and the House agreed to make use of an accounting maneuver expending funds set aside last session for highway projects. However, certain big issues remain such as how much to spend on public school funding and border security.

As for Medicaid, lawmakers didn't fully fund the program which means that the legislature will have to address the underfunding with a supplemental budget in 2019. In good news, lawmakers didn't cut \$1 billion from state funds as suggested in the House budget proposal earlier this session.⁷

Questions

If you have questions regarding legislative or regulatory issues, please contact TDA Senior Policy Manager Diane Rhodes at 512-443-3675 or diane@tda.org. If you have questions regarding political action or dental advocacy, please contact DENPAC Manager Leigh Ann Montague at 512-443-3675 or lmontague@tda.org.

7. Budget compromise taps Rainy Day Fund, transportation funding. *The Texas Tribune*. May 21, 2017.

Bill Watch

TDA monitors all bills related to the dental profession. This issue of *The Root* contains a list of priority bills that are still viable. To access all priority bills and track their movement, visit tda.org and select “Bill Track” in the Advocacy section.

Stay On Track

HB 630 – Internet Broadcasts of Open Meetings

Caption: Relating to the Internet broadcast and archiving of open meetings of the Health and Human Services Commission, health and human services agencies, and related advisory entities.

Synopsis: The bill requires the Health and Human Service Commission, Department of Family and Protective Services, Department of State Health Services, and advisory committees to broadcast open meetings live over the internet and archive broadcasts online for two years. The bill would take effect September 1, 2017, but apply only to open meetings that take place on or after September 1, 2023.

Current Status: 05-15-17 Sent to Governor

Comments: Support; TDA staff recommendation; TDA put in a card supporting the bill

HB 832 – Allowing Certain Junior Colleges to Offer Baccalaureate Hygiene Degrees

Caption: Relating to authorization by the Texas Higher Education Coordinating Board for certain public junior colleges to offer baccalaureate degree programs.

Synopsis: The bill authorizes the Texas Higher Education Coordinating Board to allow certain public junior colleges to offer baccalaureate degree hygiene programs.

Current Status: 05-04-17 Referred to Senate Higher Education Committee

Comments: Monitor; under TDA staff review

HB 1178 – Punishment for Burglary or Theft of Controlled Substances

Caption: Relating to the punishment for burglary and theft of controlled substances.

Synopsis: The bill amends the Texas Penal Code to include the Health and Safety Code definition for a controlled substance, and makes the intentional theft of controlled substances from a health care provider, hospital, pharmacy, or nursing facility a third degree felony.

Current Status: 05-21-17 House concurred in Senate Amendments

Comments: Support; approved by TDA Board of Directors (BOD) February 2017

HB 1463 – Failure to Comply with State Disability Laws

Caption: Relating to procedures for actions alleging failure to comply with certain standards to accommodate persons with disabilities.

Synopsis: This bill seeks to eliminate frivolous lawsuits under state law prohibiting discrimination against persons with disabilities. HB 1463 amends Human Resources Code §121.004 to require a notification process prior to a claim being filed for alleged failure to comply with applicable design, construction, technical, or similar standards, including website accessibility guidelines, required by law and designed to accommodate persons with disabilities. A claimant must give notice to an entity of intent to file a claim and provide the entity with an opportunity to correct the violation before judicial intervention.

Current Status: 05-19-17 Passed on House Local Calendar

Comments: Support; TDA staff recommendation; TDA signed on to a support memo with the Texas Civil Justice League

HB 2007 – Military Volunteer License

Caption: Relating to the licensing and regulation of certain military dentists and dental hygienists who provide voluntary charity dental or dental hygiene care.

Synopsis: The bill creates limited chartable dental and dental hygiene licenses for military personnel. Applicants have to be in good standing and authorized to treat enlisted personnel in the armed forces or veterans. Licensees under this section may only practice at clinics treating indigent patients and may not receive compensation for their services.

Current Status: 05-19-17 Passed on Senate Local Calendar

Comments: Support; TDA staff recommendation

HB 2379 – Legal Services Office of Inspector General

Caption: Relating to the provision of legal services to the office of inspector general of the Health and Human Services Commission.

Synopsis: The bill clarifies which legal services are performed by Texas' Health and Human Services (HHS) and the Office of Inspector General (OIG), respectively. Further, HHS' chief counsel is the final authority on all legal interpretations related to statutes, rules, and commission programs and policies. The OIG shall prepare final reports on every audit, inspection, or investigation. The bill clarifies that other technology in addition to neural networks may be used to identify and deter fraud in Medicaid throughout Texas. Managed care organizations discovering fraud or abuse in Medicaid or CHIP must immediately submit written notice to the OIG using a form created by the agencies. The notice must include a detailed description of the fraud or abuse and each payment made to the provider as a result of the fraud or abuse. If the amount to be recovered exceeds \$100,000, the managed care organization can't begin recovery efforts until approved to do so by the OIG. The managed care organization may keep one-half of the recovered funds with the remainder being remitted to the OIG for distribution into the state's general revenue fund.

Current Status: 05-19-17 Sent to Governor

Comments: Support; CAMC reviewed SB 1787

SB 894 – Health and Human Services Audit Resources

Caption: Relating to the Health and Human Services Commission's strategy for managing audit resources, including procedures for auditing and collecting payments from Medicaid managed care organizations.

Synopsis: The bill addresses deficiencies that exist with HHS' audit coverage of MCOs and DMOs. CSSB 894 requires HHS to implement a strategy for improving overall management of audit resources used to verify the accuracy of program and financial information reported by MCOs/DMOs. The committee substitute makes clear that the provisions of the bill do not apply to the OIG.

Current Status: 05-22-17 Set Senate Items Eligible Calendar

Comments: Monitor; under TDA staff review

SB 1565 – Consent for Dental Treatment in State Facilities

Caption: Relating to the procedure for ordering medical or dental services for certain persons admitted to or committed to care at certain state facilities.

Synopsis: The bill changes the number of physicians and dentists required for consent to medical and dental treatment of facility patients needing immediate care or patients not having guardians or responsible relatives able to consent to treatment. For dental treatment, it changes the consent requirement from 1 Texas-licensed dentist and 2 Texas-licensed physicians to 2 Texas-licensed dentists and 1 Texas-licensed physician.

Current Status: 05-19-17 Passed on House Local Calendar

Comments: Support; CAMC reviewed the bill