

# Weekly Legislative Report

3.11.21



## GOVERNOR:

### **Governor Abbott Repeals Pandemic Orders**

On March 2, Governor Greg Abbott issued an Executive Order (GA-34) lifting the mask mandate in Texas and increasing capacity of all businesses and facilities in the state to 100 percent. The governor made the announcement at Montelongo's Mexican Restaurant in Lubbock in an address to the Lubbock Chamber of Commerce. Governor Abbott said, "With the medical advancements of vaccines and antibody therapeutic drugs, Texas now has the tools to protect Texans from the virus. We must now do more to restore livelihoods and normalcy for Texans by opening Texas 100 percent. Make no mistake, COVID-19 has not disappeared, but it is clear from the recoveries, vaccinations, reduced hospitalizations, and safe practices that Texans are using that state mandates are no longer needed. Today's announcement does not abandon safe practices that Texans have mastered over the past year. Instead, it is a reminder that each person has a role to play in their own personal safety and the safety of others. With this executive order, we are ensuring that all businesses and families in Texas have the freedom to determine their own destiny."

During his remarks, the governor discussed the incredible advancements that Texas has made that allow the state to open fully and lift the mask mandate—noting the rapid increase of vaccines. Nearly 5.7 million vaccine shots have been administered to Texans, and the state is now administering almost one million shots each week. By next Wednesday, about 7 million shots will have been administered in Texas and over half of seniors in Texas will have received a vaccine shot. By the end of March, every senior who wants a vaccine should be able to get one. The vaccine supply continues to increase so rapidly that more and more Texans will soon be eligible to receive a vaccine. The governor noted that Texas has a surplus of personal protective equipment and can perform over 100,000 COVID-19 tests a day. The state has invested in a variety of anti-body therapeutic drugs that have kept thousands of Texans out of hospitals. Texans have also adopted daily habits that reduce the risk of COVID-19 exposure and infection.

More than 2.5 million Texans who were lab-confirmed for COVID-19 have recovered since the beginning of the pandemic, and experts note the total number of Texans who have recovered from COVID-19 is likely 4-5 times that amount. The number of active COVID-19 cases is the lowest since November—meaning more Texans are recovering from COVID-19 than contracting it. The executive order rescinds most of the governor's earlier executive orders related to COVID-19. Effective Wednesday, all businesses of any type may open to 100 percent capacity. Additionally, the order ends the statewide mask mandate in Texas. Businesses may still limit capacity or implement additional safety protocols at their own discretion.

If COVID-19 hospitalizations in any of the 22 hospital regions in Texas get above 15 percent of the hospital bed capacity in that region for seven straight days, a county judge in that region may use COVID-19 mitigation strategies. However, county judges may not impose jail time for not following COVID-19 orders nor may any penalties be imposed for failing to wear a face mask. If restrictions are imposed at a county level, those restrictions may not include reducing capacity to less than 50 percent for any type of entity.

[Here](#) is a link to the governor's executive order.

#### **SENATE:**

The Texas Senate was in session on Tuesday of last week and recessed until Wednesday to refer bills to committees.

***This Week:*** The Senate reconvened on Tuesday, March 9, 2021 at 3:00 p.m.

#### **HOUSE:**

The House was in session on Tuesday and Wednesday last week.

***This Week:*** The House reconvened on Tuesday, March 9, 2021 at 2:00 p.m. The first House Congratulatory and Memorial Resolutions Calendar has been set for March 10.

#### **ENERGY**

The **Senate Business & Commerce Committee** met for 14 hours on February 25 and for 10 hours on February 26 to examine extreme weather condition preparedness and circumstances that led to the power outages as directed by Electric Reliability Council of Texas (ERCOT). The committee also reviewed generator preparedness and performance, utility outage practices, natural gas supply, and the reliability of renewable generation, as well as overall ERCOT system resilience.

Witnesses included representatives of the Public Utility Commission, Texas Commission on Environmental Quality, Office of Public Utility Council, ERCOT, Texas Association of Manufacturers, the Railroad Commission of Texas, NRG Energy, Calpine, Vistra Corp. Lower Colorado River Authority, Public Utility Commission, Comstock Resources, RWE Renewables, Garland Power & Light, South Texas Electric Cooperative, First Solar, CenterPoint Energy, Denton Municipal Electric, Oncor, Atmos Energy Mid-Tex Division, Energy Transfer Partners, Austin Energy, United Cooperative Services, Texas Oil and Gas Association, EDF Renewables, and Texas Energy Association of Marketers. Here are observations provided by Senator Brandon Creighton (R-Conroe):

- Weather predictions were clear that Texas would see historically low temperatures and unprecedented snow—but all stakeholders share responsibility

for not taking these forecasts seriously and not communicating the intensity of the weather.

- There should have been statewide warnings and coordinated efforts to alert Texans to prepare for the worst-case scenario.
- Generators saw price spikes from under \$100/megawatt hour to \$9,000/megawatt hour during the crisis.
- The full price tag, and the uncertainty of what customers will be charged, is still being analyzed, but there is work underway to prevent price gouging and skyrocketing bills if your provider did not have set rates.
- Bill Magness, CEO of ERCOT, could not defend the current structure of his own council, and the many failures make it clear that ERCOT needs a full restructure and additional oversight to restore the public's trust.
- DeAnn Walker, the chair of the Public Utility Commission, did not exercise the oversight designated to her commission, and did not have any solutions. The Public Utility Commission needs a full overhaul to ensure oversight and capable leadership.

The **House Energy Resources Committee** and the **House State Affairs Committee** held a joint meeting for 15 hours on February 25 and for over 10 hours on February 26 to consider the factors that led to statewide electrical blackouts during the recent unprecedented weather event, and the response by industry, suppliers, and grid operators, and changes necessary to avoid future power interruptions. The committee heard invited testimony on statewide electrical blackouts—contributing factors and response. Witnesses included representatives of the Public Utility Commission of Texas, ERCOT, Vistra, Texas Energy Council, Texas Association of Manufacturers, NRG Energy, Garland Power & Light, Texas Solar Power Association, Calpine, South Texas Electric Cooperative, AT&T, CenterPoint Energy, Oncor Electric Delivery Company, Atmos Energy Corporation Energy Transfer, Austin Energy, United Cooperative Services, Texas Oil & Gas Association, and LCRA Transmission Service Company.

### **House Energy Resources Committee**

On Wednesday, the House Energy Resources Committee held an organizational meeting and took invited testimony.

### **Proposals Prohibiting Tax Incentives for Solar Facilities**

On February 26, Senator Bob Hall (R-Edgewood) and Representative Bryan Slaton (Royce City) announced the filing of **SB 829/HB 2372**, which would provide for the decommissioning of solar facilities at the end of their useful life, would prohibit tax incentives on the land on which solar facilities are located.

### **Public Utility Commission Chair Resigns**

On March 1, the Public Utility Commission of Texas (PUC) announced that DeAnn Walker resigned as chair of the Public Utility Commission of Texas, effective immediately.

### **ERCOT CEO Terminated**

In an emergency meeting on March 3, the ERCOT board terminated president and CEO Bill Magness by a vote of 6-1. The board issued Magness a 60-day notice of termination. A statement from ERCOT said, "During this transition period, Bill will continue to serve as president and CEO and work with state leaders and regulators on potential reforms to ERCOT. The ERCOT board is expected to begin an immediate search for a new president and CEO, and will continue to discuss the transition plan at future meetings during this time period."

### **Public Utility Commission Chair Appointed**

On March 3, Governor Greg Abbott named Arthur D'Andrea as chair of the Public Utility Commission of Texas (PUC) for a term at the pleasure of the governor. The PUC regulates the state's electric, telecommunication, and water and sewer utilities, implements respective legislation, and offers customer assistance in resolving consumer complaints.

Arthur D'Andrea of Austin has served as a commissioner for the PUC since November 2017. Previously, he was an assistant general counsel for the Office of Governor Greg Abbott, and served as an assistant solicitor general for the Office of the Attorney General of Texas. He is a member of the State Bar of Texas. D'Andrea received a Bachelor of Science in Chemical Engineering from The University of Texas at Austin and a Juris Doctor degree from The University of Texas School of Law.

### **PUC Votes to Claw Back ERCOT Payments to Generators**

At its March 3 meeting to discuss the ongoing financial implications of the ERCOT grid event in February, the Public Utility Commission of Texas (PUC) voted to claw back ERCOT payments made to generators for a special category of power reserves they failed to deliver. Known as "ancillary services," the electricity reserves are contracted in advance to help ERCOT support the transmission of energy to users while maintaining reliable operation.

The situation was brought to the PUC's attention by the Independent Market Monitor who identified a number of instances between February 14 and 19, in which ancillary services were not provided in real time because of forced outages or decreases in the available capacity of electric generating units. While ERCOT operators would traditionally note the ancillary services' "failure to provide" so that payments would not be made, the pace of activity surrounding the grid event caused this function to be overlooked. As a result, the ERCOT payments must be returned.

The commissioners also discussed repricing all day-ahead clearing prices of ancillary services from the February 15-20 timeframe which were elevated well above the system-wide offer cap due to the prevailing scarcity of offers, generator constraints, and opportunity costs. They agreed to continue the discussion with the potential of taking action as early as the next regularly scheduled open meeting on Friday, March 5.

## TAX

### Sales Tax Revenue in February

On March 3, Comptroller Glenn Hegar said that the majority of February sales tax revenue is based on sales made in January and remitted to the agency in February. For this period, however, the February 22 due date for state taxes and fees to be reported and paid was extended by one week to March 1, due to effects of the winter storm. He reported that state sales tax revenue totaled \$2.51 billion in February, 13.3 percent less than in February 2020; however, after adjusting the February totals to account for March 1 activity, February sales tax revenue totaled \$2.68 billion, down 7.5 percent from February 2020. That compares to:

- January collections were \$3.07 billion, 0.3 percent less than in January 2020;
- December collections were \$2.86 billion, 5 percent less than December 2019;
- November collections were \$2.98 billion, 6.3 percent less than in November 2019;
- October collections were \$2.72 billion, 3.5 percent less than in October 2019;
- September collections were \$2.57 billion, 6.1 percent less than in September 2019;
- August collections were \$2.82 billion, 5.6 percent less than in August 2019;
- July collections were \$2.98 billion; 4.3 percent more than July 2019;
- June collections were \$2.67 billion, down 6.5 percent from June 2019; and
- May collections were \$2.16 billion, 13.2 percent less than May 2019.

Comptroller Hegar said, “The pattern in sales tax collections we’ve seen for the past several months continued, with receipts from the retail trade sector showing gains over the prior year while receipts from oil- and gas-related sectors show deep declines. Receipts from the service sector, as well as from restaurants and bars, also remain down significantly as many of these businesses had occupancy restrictions or were required to be shuttered during the COVID-19 pandemic. Sales tax collections from the mining, construction, manufacturing, wholesale trade, and equipment leasing sectors continue to be depressed. Much of the sales in these sectors are tied to oil and gas drilling activity, which has picked up some since the downturn last spring but remains well below what it was a year ago. Receipts from online, sporting goods, furniture, and home improvement retailers continue to be elevated, a trend apparent since the start of the pandemic as Texans spend more time at home.”

Total sales tax revenue for the three months ending in February 2021, after adjusting for March 1 activity, was down 4.2 percent compared to the same period a year ago. Sales tax is the largest source of state funding for the state budget, accounting for 59 percent of all tax collections. The effects of the COVID-19 pandemic continued to be evident in some sources of revenue in February 2021.

Texas collected the following revenue from other major taxes, some of which also were affected by the extension of the February 22 deadline:

- Motor vehicle sales and rental taxes - \$370 million, down 13.8 percent from February 2020, but after accounting for March 1 activity, total collections were \$371 million, down 13.6 percent from February 2020;
- Motor fuel taxes - \$286 million, down 5.2 percent from February 2020;
- Oil production tax - \$291 million, down 21.8 percent from February 2020;
- Natural gas production tax - \$113 million, down 17.1 percent from February 2020, but after accounting for March 1 activity, total collections were \$114 million, down 15.7 percent from February 2020;
- Hotel occupancy tax - \$25 million, down 51.4 percent from February 2020, but after accounting for March 1 activity, total collections were \$27 million, down 46.3 percent from February 2020; and
- Alcoholic beverage taxes - \$70 million, down 36.5 percent from February 2020, but after accounting for March 1 activity, total collections were \$84 million, down 24.2 percent from February 2020.