

Weekly Legislative Report

87th Session of the Texas Legislature

The 87th session of the Texas Legislature was kicked off at noon on Tuesday, January 12, 2021. As prescribed by the Constitution, the regular session of the legislature will last for 140 days. The last day of the session will be May 31, 2021.

GOVERNOR:

Welcoming Senate and House Members

Governor Greg Abbott made welcoming speeches in both the Senate and House chambers on Tuesday. He said, “I am looking forward to seeing the innovative solutions that you are able to provide to the challenges that the people of this state are facing. I look forward to working with you this session just as effectively as we did last session. Let’s be clear, last session was a tremendous success. Among other things that we accomplished, we passed sweeping reforms to our school finance system. And, we made major investments in our students and in our teachers. But now, new challenges await us this session. Over the past year, Texans have been challenged like never before. But, Texans are resilient and our state will emerge from this episode stronger than ever before and in our typical superior fashion. To do that, however, we all need to come together and work together over the next 140 days exactly like we did last session. Over the next 140 days, we have the opportunity to put Texas on a trajectory to make our state even more extraordinary.” He discussed his priorities, including:

- Tackling COVID challenges;
- Ensure better access to health care for all Texans;
- Support law enforcement officers and keeping communities safe;
- Safeguarding freedoms for all Texans; and
- Getting Texans back to work.

SENATE:

Lt. Governor Dan Patrick gaveled in the Texas Senate.

Election of President Pro Tempore

The Senate unanimously elected Senator Brian Birdwell (R-Granbury) as the President Pro Tempore for the Senate. Senator Birdwell said, “My commitment is to my duty, my fellow senators that have chosen me, and to the citizens of Texas that I will serve. What a great place Texas is—for an old soldier who now resides in Granbury of Hood County to be able to serve in such a capacity.” Senator Birdwell will officially serve as Governor on occasions when both the Governor and Lt. Governor are out of the state.

Senate Resolutions

On Wednesday, the Senate adopted **SR 1** by John Whitmire (D-Houston) the **caucus resolution**, which addressed several housekeeping items including:

- naming Senate officers;

- setting the total staff salaries and staff travel expenses for each senator at \$41,000 per month;
- setting senator per diem at \$221;
- limiting seating in the gallery to ensure social distancing and requiring a wristband demonstrating a negative COVID-19 test for entry to the gallery;
- requiring members and staff to take COVID-19 tests each day they attend a Senate session or a committee hearing;
- requiring staff to be tested the first day of the week and daily before accessing the Senate chamber or attending a committee hearing;
- allowing each senator to have one staff member on the floor at a time while the Senate is in session;
- allowing senators to determine whether to require a wristband demonstrating a negative COVID-19 test for entry into the member's office;
- requiring Senate members to wear masks while on the Senate floor except when alone at their desks; and
- requiring the public to have a wristband demonstrating a negative COVID-19 test to enter a committee hearing.

Note: *The resolution has a provision stating, "The Senate leadership will confer with leadership of the House of Representatives to determine procedures for members of each house visiting the other house's chamber. Should the House of Representatives approve a less secure standard of COVID-19 procedures than the Senate, the Senate may take appropriate measures to address that issue." On Thursday, the House took a position that COVID-19 testing is available but not required. Therefore, it appears additional negotiating will be necessary.*

Lt. Governor Dan Patrick told members that although the COVID-19 protocols in the Senate rules only apply to spaces under the jurisdiction of the Senate, he believes similar standards should be applied to the whole capitol. Lt. Governor Patrick said, "Testing was mandatory to enter the building on opening day, and it proceeded smoothly. We had over 800 people tested and only one objected. The people know, if we want to have session, if we want to protect lives and life, if we want to conduct the peoples' business with the least restrictions, then testing is the answer."

Also on Wednesday, the Senate adopted **SR 2** by Bryan Hughes (R-Mineola) the Senate Rules. The major change was the number of votes required to suspend the regular order of business to bring up a bill for consideration by the Senate from three-fifths (19) to five-ninths (18). That provision was voted on separately, and it was adopted on a party line vote of 18 "ayes" (Republicans) and 13 "nays" (Democrats). The rest of the rules were unanimously approved. The changes included:

- requiring committee reports on local bills to be printed (unless the Senate orders it not to be printed) and requiring committee reports on recodification bills to be printed (unless the committee making the report recommends it not to be printed);
- deleting the requirement that committee reports must be "furnished" to each senator, instead requiring them to be "made available" and deleting the requirement that they be delivered to each senator's desk; and
- deleting the provision allowing members of the press access to the Senate floor.

Changes in Senate Committees included:

- The Committee on Agriculture was eliminated;
- A new Committee on Jurisprudence was created with five members;
- The Committee on Intergovernmental Relations was changed to the Committee on Local Government and expanded from seven to nine members;
- The Committee on Natural Resources and Economic Development was decreased from eleven to nine members;
- The Committee on Nominations was increased from seven to nine members;
- The Committee on Property Tax was eliminated; and
- The Committee on Water and Rural Affairs was renamed the Committee on Water, Agriculture and Rural Affairs and increased from seven to nine members.

New Senate Members

The Texas Senate has four new members:

S-14 – Sarah Eckhardt (D-Austin) (previously sworn in)

S-19 – Roland Gutierrez (D-San Antonio)

S-29 – Cesar Blanco (D-El Paso)

S-30 – Drew Springer (R-Muenster) (previously sworn in)

Partisan Numbers

In 2019, the Texas Senate had 19 Republicans and 12 Democrats. This session, the Texas Senate has 18 Republicans and 13 Democrats. Republican Senator Pete Flores of Pleasanton was defeated by Democrat Roland Gutierrez in Senate District 19.

This Week: The Senate was not in session this week. The Senate will reconvene at 2:00 p.m. on Tuesday, January 26, 2021.

HOUSE:

The House was convened by Secretary of State Ruth Hughs. She presided over the House until the Speaker was elected. Robert Haney, Chief Clerk of the House, administered the oath of office to 145 House members. (*The House has a vacancy in House District 68 due to the resignation of Drew Springer, who won the December 19, 2020, Special Election Run-off in Senate District 30. Special election information on House District 68 is below.*) Four House members were sworn in separately. Representatives Drew Darby (R-San Angelo) and Tracy O. King (D-Batesville) remained at home due to a COVID-19 diagnosis. Representatives Michelle Beckley (D-Carrollton) and Ana-Maria Ramos (D-Richardson) did not attend due to the risk of COVID-19 exposure. Representative Beckley said, "I believe it is irresponsible to have all the members and guests in the House chamber for an extended period of time, especially as no new allowances have been made to address the fact that the more contagious variant of COVID-19 has been found in Texas. We members are supposed to only be seated three feet apart, and we are currently aware that some colleagues and staff have received recent positive COVID-19 tests. Not only can this event potentially expose my colleagues and me, along with friends and family, to the virus, but it could potentially put a further burden on the hospital region of not only Austin but all of our constituencies. Representative Ramos and I will not participate

in an unnecessary event that could lead to our staff and us being infected and our healthcare heroes being put under further strain.”

Election of Speaker

The first order of business after the swearing in was election of the Speaker of the House. Representative Dade Phelan (R-Beaumont) was elected by a record vote of 143 to 2. The two “no” votes were freshman members Jeff Cason (R-Bedford) and Bryan Slaton (R-Royce City). Representative Slaton said, “I can’t vote in favor of a speaker who has refused to articulate to Republicans whether or not he believes we should have a true conservative session.” Speaker Phelan was sworn in by Supreme Court Justice Eva Guzman.

Speaker Acceptance Speech

In accepting the gavel, Speaker Phelan thanked the spouses and families who support the legislators while they do the work of the people. He said, “Each member of this illustrative body brings something unique to this chamber. Where I stand today, the place where 75 speakers have come before me, I am deeply humbled by the enormous challenges ahead of this body. Today, our state begins a session at a crossroads. Exactly one year and one day ago, health officials overseas reported the first fatality from COVID-19. Since then, the pandemic has consumed nearly every aspect of our lives. Families across Texas have spent the past year discussing around their kitchen tables the very issues we will wrestle with this session—our children, our loved ones, our health, our economy, and our way of life. Today, we are on the brink of defeating COVID-19. Treatments have improved the chances of recovery for thousands of Texans. And, our first responders and front-line workers and most vulnerable Texans now have access to life-saving vaccines developed in part by medical advancements made right here in the great state of Texas. Now, the difficult recovery begins. . . There are many tough decisions before us. We will approach them with the profound recognition of the hardships that Texas families face. Our challenges lie, not just with our economy, but who we are as a people and a nation. Who could have possibly envisioned the scenarios we would soon be discussing with our families when the Texas House last adjourned? Our children asked why their school was closed. Why they could not visit their grandparents. We endured one of the most bitter elections in recent memory. As both sides challenge the motives and tactics of the other, many of our citizens question the electoral process itself. This past summer, and as recently as last week, we witnessed the dark side of political and social division. As senseless, unacceptable violence swept through our streets, even through our nation’s capitol.”

In his speech, Speaker Phelan outlined his priorities:

Public Education

“In order to unleash our state’s full potential and emerge from this challenge, Texas children and educators must continue to be at the forefront of our legislative agenda this session. When the House last adjourned, we celebrated landmark property tax and school finance reform. But now, Texas children are at risk of falling behind because of disruptions caused to this state as a result of the pandemic. We cannot fail them when they need us the most.”

Health Care

“To get Texans back to work, we must protect our citizens’ health and safety. Telemedicine has made health care accessible in every corner of the state.”

Economic Recovery

“Texans are resilient, flexible, and capable of incredible feats when they are allowed to do their jobs, operate their businesses, and live their lives as they see fit. We must revitalize our economy. We must reduce burdensome regulation that impedes our business climate. We can do all this, while balancing the budget without shifting the financial burden or the recovery onto our hardworking families.”

Regulatory Reform

“The pandemic has magnified the antiquated ways that we conduct business and deliver services in Texas. It has soon transformed every facet of our lives, including our government, to respond under overwhelming adversity. In a matter of days, businesses across the state stepped up to help where it was needed the most. Members, the red tape cut by Governor Abbott was a lifeline to Texas small businesses. And, 51 years after putting a man on the moon, we finally figured out how to sell a margarita to go. We now enjoy more freedom and economic opportunity. The Texas Legislature should embrace the regulatory changes. Learn from them, and eliminate unnecessary burdensome regulations from our statutes once and for all.”

The Speaker concluded by saying, “During this, our 87th session, we have the opportunity to lead by example and work on real issues of real significance for the people of Texas. To do this, I encourage each of you to get to know one another and to share your insights. Seek one another’s point of view when you disagree. And, work together for the betterment of Texas. I take great comfort that we are not alone when we deal with these challenging issues. We have a vital part to play, but the future of Texas lies in the hands of our creator. And, as His people, He has entrusted us to represent them in this chamber. The goodwill that fills this chamber today will be tested by external parties seeking to divide us for their own selfish purposes. But, if we ignore the division and instead embody the grit and resolve of our constituents, we will prevail. Members, history is born out of adversity and legacies are made by doing what is right. The Lone Star State has overcome tough challenges before and by the grace of God and the pioneer spirit that make Texas the beacon of our nation, we can and we will do it again. We must all do our part, not as Republicans, not as Democrats, but as Texans and as Americans. Let us unite in one common purpose to do what is right for the people of Texas. May God bless you all, and may God bless the great state of Texas.”

Lt. Governor Dan Patrick congratulated Representative Dade Phelan on his election as Speaker of the Texas House of Representatives, saying, “I want to congratulate Speaker Dade Phelan on his election as Speaker of the Texas House of Representatives. Dade is an accomplished leader who will be ready on day one to take on the tough challenges we are facing this legislative session. I know our collaboration will lead to bold, positive public policy for the people of Texas and the future of our state. I look forward to working with him.”

Housekeeping Resolution

On Wednesday, the House debated and adopted **HR 3** by Charlie Geren (R-Fort Worth) the **Housekeeping Resolution** governing the administration and operation of the House by a vote of 145 to 1. The “no” vote was Matt Schaefer (R-Tyler). The changes were minimal, changing dates to reflect the current session. An amendment was added to require the speaker to recognize as “deans” both the male member and the female member having the greatest

seniority based on cumulative years of service in the House. They rejected two amendments by Matt Schaefer which would have required them to re-evaluate the monthly budgets again in April to see if they could increase staff salaries; and to restrict the publications that can be paid for out of House member's budgets. The office allotment of \$15,250 per month during the session and \$13,500 per month during the interim will remain the same.

House Rules

On Thursday, the House was in session for four hours debating and ultimately unanimously passing **HR 4** by Todd Hunter (R-Corpus Christi) the permanent **House rules**. 23 amendments were debated and all failed except the author's perfecting amendment.

Changes to House Committees included:

- removing the San Jacinto Historical Advisory Board from the jurisdiction of the Committee on Culture, Recreation and Tourism;
- removing the Texas Private Security Board from the jurisdiction of the Committee on Homeland Security and Public Safety;
- adding the Texas Behavioral Health Executive Council to the jurisdiction of the Committee on House Administration and the Committee on Public Health;
- adding the new name of the Texas Board of Professional Engineers and Land Surveyors and deleting Texas Board of Professional Surveying to the jurisdiction of the Committee of Licensing and Administrative Procedures;
- reducing the Committee on Pensions, Investments and Financial Services from eleven to nine members;
- changing the name of the Office of Southern Regional Education Compact Commissioner to the Southern Regional Education Board in the jurisdiction of the Committee on Public Education;
- deleting the Interagency Obesity Council and adding the Texas State Board of Examiners of Marriage and Family Therapists and the Texas Child Mental Health Care Consortium to the jurisdiction of the Committee on Public Health; and
- changing the name of the Office of Multistate Tax Compact Commissioner for Texas to the Multistate Tax Commission in the jurisdiction of the Committee on Ways and Means.

Other changes included:

- prohibiting the chair of Ways and Means from serving on any other substantive committee and prohibiting a permanent speaker pro tempore from serving on more than one substantive committee or as a chair of a committee;
- requiring committees to file a copy of the rules and procedures adopted by a committee to be filed with the chief clerk and delivered to the journal clerk to be printed in the journal;
- giving committees the authority to determine whether to permit television, radio, or internet broadcasts, other than official house broadcasts, of any of its proceedings;
- requiring the Committee on Redistricting to file minutes with the committee coordinator within three days;
- requiring the Committee on Appropriations or a subcommittee to hold one or more public hearing(s) in the interim to examine the legislative appropriations requests submitted by each major state agency and institution of higher education (with an appropriation of \$40 million or more) to the Legislative Budget Board;
- requiring the Committee on House Administration to promulgate rules governing recording from the House chamber and establishing procedures to determine who can

receive a press credential and how to file and process complaints regarding press credentials;

- requiring three members (instead of one) to request a record vote;
- requiring the chief clerk to make filed amendments available as soon as possible on the floor amendment system for members to view in electronic format.

Special rules during a declared disaster were added, including:

- providing that if the speaker and permanent speaker pro tempore are both unavailable for any reason, the chair of the Committee on State Affairs is authorized to convene the House and preside over its deliberations and authorizing the speaker to provide the chief clerk with a list of members in priority order authorized to preside;
- requiring face masks at committee meetings, although a member of the House or a witness can temporarily remove the mask only while speaking from a microphone; however, if clear barriers are installed on the dais in a meeting room, a member, officer, or employee may remove the face mask when the person is protected by the barriers if other persons who are not protected by the barriers are at least six feet away;
- requiring committee meeting notices to include instructions related to public access to the meeting location and health and safety protocols for attending the meeting and instructions for individuals who wish to testify in person at the hearing or electronically submit public comments without testifying;
- allowing two members of a committee to constitute a quorum for the sole purpose of taking testimony during a public hearing, and allowing other committee members to participate through an Internet or other videoconferencing system if two-way communication has been enabled to allow all committee members to be clearly visible and audible to each other and to the testifying witness;
- requiring committee chairs, when inviting witnesses to testify at a public hearing, to make a reasonable effort to invite witnesses representing different viewpoints on the measures and other matters;
- allowing member of the committee to submit a request to the chair to extend an invitation to not more than two witnesses to testify on a particular measure;
- requiring the committee to allow persons domiciled in the state to electronically submit comments to the committee on matters included on the notice for the public hearing;
- designating an area in the gallery for media access during House proceedings;
- requiring persons admitted to the House floor or gallery to wear a face mask, but a member of the House can temporarily remove the member's face mask only while speaking from the front or back microphone or from the speaker's desk; and
- allowing legislators to cast a vote from the gallery.

Note: *The initial proposal to allow for a “consensus calendar” and provisions requiring pre-filing of amendments to bills on the Emergency or Major State Calendars were removed in the author’s perfecting amendment.*

House Republican Caucus Chair Representative Jim Murphy commented on the newly-adopted House rules, saying, “In the wake of the coronavirus pandemic, members of the Texas House had to consider new protocols for us to conduct legislative business on behalf of the citizens who elected us to serve them. While there were many strategic challenges to get through, I want to thank all of my colleagues for collaborating on these critical matters. With these measures in place, our legislators can get the work of the people accomplished in a safe and healthy manner. By adopting the House Rules, Texas House Republicans increased

transparency in the legislative process, protected autonomy for committees, and ensured continuous, robust public input. With legislative committees now established for the session, a fully-developed procedure for debating and amending bills on the House Floor, and other essential functions addressed, the Texas House is able to turn its attention to the important issues that Texans want lawmakers to focus on this session, including adopting a balanced budget, health care, property tax reform, border security, enhancing infrastructure, redistricting, and more.”

New House Members

This session, the Texas House has 16 new members:

H-2 Bryan Slaton (R-Royce City)
H-10 Jake Ellzey (R-Midlothian)
H-25 Cody Thane Vasut (R-Angleton)
H-26 Jacey Jetton (R-Richmond)
H-28 Gary Gates (R-Rosenberg) (previously sworn in)
H-59 Shelby Slawson (R-Stephenville)
H-60 Glenn Rogers (R-Graford)
H-74 Eddie Morales (D-Eagle Pass)
H-76 Claudia Ordaz Perez (D-El Paso)
H-92 Jeff Cason (R-Bedford)
H-96 David Cook (R-Mansfield)
H-100 Jasmine Felicia Crockett (D-Dallas)
H-119 Elizabeth “Liz” Campos (D-San Antonio)
H-138 Lacey Hull (R-Houston)
H-134 Ann Johnson (D-Houston)
H-148 Penny Morales Shaw (D-Houston)

One former member returned to the House:

H-132 Mike Schofield (R-Katy)

Partisan Numbers

In 2019, the Texas House had 83 Republicans and 67 Democrats. The House currently has 82 Republicans and 67 Democrats. In the 2020 election, the Republicans picked up one seat in Houston (House District 132 where former Representative Mike Schofield defeated Representative Gina Calanni), and the Democrats picked up one seat in Houston (House District 134 where Ann Johnson defeated Representative Sarah Davis). Since there are currently 149 members, the count is 82 Republicans and 67 Democrats.

House District 68 Special Election

January 4 was the filing deadline for the January 23, 2021, Special Election in House District 68 to replace Drew Springer who vacated the seat because he won the Special Election Run-off in Senate District 30. Four Republicans and one Democrat filed, including:

- **John Berry** (R-Jacksboro) certified financial planner; owns Corner Post Financial Planning; former Jack County Commissioner (2017-2018)
- **Jason Brinkley** (R-Gainsville) attorney; Cooke County Judge (2014-2021 – resigned to run for Senate); former Justice of the Peace; former president of Texoma Council of

Governments; Vice President of the North and East County Judges and Commissioners Association

- **Craig Carter** (R-Nocona) owner of Old Boot Company in Nocona; founder of Hope 29:11 Nocona TX Outreach assisting hungry, needy, and underprivileged members of the community; ran for Senate in District 30 against Pat Fallon in the 2018 Republican Primary and in the September 29, 2020, Special Election
- **David Spiller** (R-Jacksboro) attorney with Spiller & Spiller law firm; Jacksboro ISD board member
- **Charles D. Gregory** (D-Childress) retired postal worker

Dade Phelan Staff Announcements

House Speaker Dade Phelan (R-Beaumont) has made several staff announcements since November, including:

- **Julia Rathgeber**, Chief of Staff
- **Mark Bell**, Deputy Chief of Staff
- **Kelly Mitchell**, Executive Director of Speaker Operations
- **Jay Dyer**, Director of Policy
- **Zach Johnson**, Special Advisor and Chief Director of District Operations
- **Enrique Marquez**, Director of Communications
- **Cait Meisenheimer**, Senior Advisor for Communications
- **Andrew Blifford**, Director of Budget
- **Sydney Watts**, Director of Administration
- **Margo Cardwell**, General Counsel (She will advise on issues related to Judiciary & Civil Jurisprudence)
- **Andrea Chavez**, Policy Advisor for Transportation, Local Government, County Affairs, and Urban Affairs
- **Kory Curtis**, Policy Advisor for Energy Resources, Environmental Regulation, International Relations & Economic Development, and Licensing & Administrative Procedures
- **Molly Czepiel**, Policy Advisor for Human Services, Public Health, and County Affairs
- **Ross Giesinger**, Policy Advisor for State Affairs and Elections
- **Danny Mitnacht**, Policy Advisor for Insurance, Pensions, Investments & Financial Services, and Business & Industry
- **Marissa Patton**, Policy Advisor for Natural Resources, Agriculture & Livestock, Land & Resource Management, and Culture, Recreation & Tourism
- **Shakira J. Pumphrey**, Policy Advisor for Criminal Jurisprudence, Corrections, Juvenile Justice & Family Issues, Homeland Security & Public Safety, and Defense & Veterans' Affairs
- **Jimmy Skipton**, Policy Advisor for Ways & Means
- **Daniel Warner**, Policy Advisor for Higher Education and Public Education

This Week: The House was not in session this week. Committee preference cards are due to the Speaker's office by 3:00 p.m. on Friday, January 22, 2021. The House will reconvene at 1:00 p.m. on Tuesday, January 26, 2021.