

Last Week in the Texas Legislature 5/8/2009

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Not Quite the Wee Hours

Thursday the House debated the TxDot sunset legislation until 11:57 PM and started again on the subject Friday morning. HB 300 is the bill and as I write this (Friday) they are working on the 176th amendment of the almost 400 pages of amendments that have been offered. One amendment approved would have the Transportation Commission elected rather than appointed. Another, given the green light, gives TxDot the authority to set rules for red light cameras.

Voter ID Stalled

Rep. Todd Smith (R-Eules) says he is trying to find the right voter ID bill that will get the necessary five votes to get a bill out of the House Elections committee, which he chairs. Evidently some committee members want a strong bill and some want a watered down version. According to The Lone Star Report, failure to get a voter ID bill on the House floor could lead to a special session. In that same article Smith opined that House Republicans better be willing to compromise "if they want to pass a bill."

Margin Tax Bills Pass House

What many believe will be the primary margin tax relief bill of the session has passed the House. It was obviously on the fast track, having passed out of committee last week and out of the House this week. HB 4765 by Rep. Oliveira (D-Brownsville) raises the total revenue exemption from \$300,000 to \$1 million for two years. The exemption reverts to the \$300,000 if it is not renewed during the 2011 legislative session. The bill is expected to cost the state \$172 million dollars. During the House debate, it was noted that this bill will remove so many businesses (39,000 per *Texas Weekly*) from the tax rolls that there will be fewer entities paying the franchise tax for those two years than were paying the old franchise tax with its sieve-like loopholes. Of course, it will be the smaller businesses out of the tax loop instead of the big ones.

The bill was offered under a rule that required any amendments to the bill to be revenue neutral. Although there were a number of amendments filed, Rep. Oliveira claimed that none were germane and encouraged members to withdraw their amendments. Rep. Keffer (R-Eastland) offered one amendment that would have changed the revenue exemption to \$600,000 and lowered the EZ taxable revenue rate to .48% from .575%. Keffer's rationale was to provide more tax relief for a larger number of taxpayers without allowing so many to fall off the tax roll entirely. After a brief discussion, Keffer withdrew the amendment.

The debate and vote on this bill (it passed unanimously 143-0) is an indication of how the House is operating differently this session. Members are not using amendments to make their points. Once it's clear a bill has the votes, they are quickly voting and moving on to the next issues. In this case, everyone understood it was the Speaker that had helped determine that the \$172 million was available in the budget and it looked like they wanted to get the margin tax vote behind them. They can now all say they voted for a small business tax cut.

The margin tax reduction passage was covered in the press, but in case you missed it here is a good article by the *Dallas Morning News*.

<http://www.dallasnews.com/sharedcontent/dws/dn/latestnews/stories/050509dntexbiztax.3cbc6d8.html>

Despite Marathon Hearings Many Bills Don't Get One

Chairman Oliveira said there were almost 500 bills assigned to his Ways and Means committee and even with many hearings running late into the night only about 40% have had hearings. There is no way they can get to the almost 300 bills in waiting, so Rep. Oliveira asked members to let him know which ones were critical. It's all a part of the mad rush to get bills passed during the waning days of the session. May 11 is the last day for House bills to get out of a House committee and May 15 is the last day they can pass the House.

http://www.amarillo.com/stories/050409/new_13309324.shtml

Criminal Pass About to Pass

Now that Sen. Whitmire's SB 809 has passed the Senate and been approved by the Licensing and Administrative Procedures committee in the House, the press has finally noticed that this could be a dangerous bill. This is the bill that prohibits a licensing agency from denying a license to a criminal if the offense occurred more than five years ago. A *Houston Chronicle* article points out that under the bill Bernie Madoff would be able to get a license to sell securities in Texas in about five years. The way I read the bill, he could get the license even if he is still in jail. One interesting quote from the article: "white-collar criminals aren't plumbers. They're more like child molesters. Most can't be rehabilitated." <http://www.chron.com/disp/story.mpl/front/6413521.html>

Bill Eases PAC Administration Rules

In the last couple of years, a new general counsel for the Texas Ethics Commission (TEC) has been interpreting ethics laws and rules in a new strict manner with regard to the definition of political action committee (PAC) administrative costs. Corporations that establish a PAC may pay the administrative costs of the PAC but may not pay for political expenditures. Historically, administrative costs have included costs related to meetings of the PAC steering committee when considering political contributions, but in recent years the TEC general counsel has stated that those expenses and any others related to political contribution decisions were political expenditures and not administrative expenditures. This creates a new and burdensome requirement that meeting costs, staff salaries to do minutes of such meetings and emails, letters, etc. related to such discussions must be paid from PAC funds rather than the establishing entity's funds.

HB 2525 by Rep. Todd Smith (R-Euless) would put the previous interpretations into law. The bill outlines specifically what can be considered as administrative expenses and the list clearly includes "meetings of the committee's governing body to interview candidates and make endorsements relating to the committee's support; the recording of committee decisions; or expenses incurred in preparing and delivering committee contributions." The bill was voted from the House Elections committee.

Texas Guns

In this newsletter you've read about bills that would allow concealed handguns on college campuses and okay leaving your gun in your parked car at work. Another bill would give some legal protection for gun toters in bars unless the bar has a sign that says it's a no-no. But this week I learned about HB 1863 by Rep. Berman (R-Tyler) that would exempt Texas-made guns from federal gun laws. Are we are getting ready for secession?

Tuition Hikes Limited

The Senate passed Sen. Zaffirini's (D-Laredo) college tuition limitation bill this week. Rather than a simple limit the bill establishes a complicated system that could limit tuition in large universities to a 5% increase and might even prevent some schools from raising tuition at all. The *Houston Chronicle* has the details.

<http://www.chron.com/disp/story.mpl/front/6407209.html>

From One Big Brother to Another

Last session, the legislature passed a bill limiting the use of eminent domain to force property owners to sell their property at a price determined by the local or state government. Gov. Perry vetoed that bill to everyone's surprise. This session Gov. Perry suggested a constitutional amendment strengthening property owner's rights and praised the passage of Sen. Estes (R-Wichita Falls) SB 18. The bill is big brother state telling big brother local governments what they have to do if they want to confiscate your property. The Senate passed the bill 31-0 and here are the details.

<http://www.chron.com/disp/story.mpl/metropolitan/6407349.html>

Medicaid Shortfall Complicates Budget Conference

It's never easy for the House and Senate budget conferees to craft a final budget that will be accepted. Lt. Gov. Dewhurst announced that an additional \$1 billion will be needed to cover Medicaid costs for the coming biennium. A billion is a big enough number to upset the delicately balanced budgets passed by the Senate or House. Senate Finance Chair Ogden (R-Bryan) said they would be able to balance the budget though he admitted it will be difficult. It would have been even harder without the \$16 billion in federal stimulus funds. According to *The*

Quorum Report, Lt. Gov. Dewhurst said it will be difficult to balance the budget without dipping into the rainy day fund.

The Other Side of the Story

The House passed a bill this week to levy a \$500 fine for those caught attending a cock fight. Such fights are already illegal, but if the Senate agrees, it will not be illegal to watch the illegal fight. Not everyone agrees. Rep. Dutton (D-Houston) as quoted in Texas Weekly: "Why do we make such a big deal about chicken fighting? When I go to Popeye's, how do I know how it died?" Rather than outlaw all of this, one chicken farmer suggests "a cockfight playoff to determine the top chicken." Hear the other side of the story from Mabry Greenshaw.

<http://www.statesman.com/news/content/news/stories/local/05/08/0508kelso.html>

Thanks to Bill Owen (TSCPA) and Representative Charlie Howard (District 26, Sugar Land) for the above information.