

## **The Last Last Week in the Legislature 6/5/2009**

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### **What didn't happen the last four days of the session.**

The mainstream news has been full of it and I didn't want to get too far behind. Below you will get my take as well as some links to some of the good news articles that have more details than I can include in the brief newsletter. So we will start where we began...s l o o w l y.....

### **A New Definition of Slow**

"The Texas Legislature crept toward the end of its Seinfeld session," according to Wayne Slater in the Dallas Morning News. You've heard me talk about the slow session and I've been looking for a better word and Slater provided it. Slater further complains, "When lawmakers arrived in January, the state had high property taxes, the highest insurance rates in the nation and more children without health insurance than any other state. None of that will change."

<http://www.dallasnews.com/sharedcontent/dws/news/texasouthwest/legislature/stories/053109-dntexbetweenlines.320be2d7.html>

Whether or not you like the results, there's no question about the pace – it was so slow it was creepy.

Despite the snail's pace, more than 1,400 bills were passed, out of the over 7,700 that were filed, which was about the same number that passed in the 2007 session. Despite that startling stat, it was still like watching slow motion.

Speaker Straus gets a lot of the credit/blame for the legislative pace in the House and it may be more of the same for the 82nd Texas Legislature. Speaker Straus had filed the papers to run for Speaker for the next legislative session. According to The Quorum Report "sources close to Straus" say he already has enough pledge cards to be re-elected. Of course, that is premised on the re-election of those signing the pledge cards.

### **It Ended as it Began**

The 81st Legislature started with a Senate party line vote on Voter ID. It ended with a Senate party line vote on whether to adjourn sine die. That's right; it was a partisan vote to adjourn. When has that happened before? Usually by the last day everyone is giddy with relief. But the House adjourned without telling the Senate (a serious breach of etiquette) as Senator Deuell (R-Greenville) said "...all of a sudden they were gone."

[http://www.dallasnews.com/sharedcontent/dws/news/texasouthwest/stories/DN-meltdown\\_03tex.ART.State.Edition1.50f75f2.html](http://www.dallasnews.com/sharedcontent/dws/news/texasouthwest/stories/DN-meltdown_03tex.ART.State.Edition1.50f75f2.html)

If you want to get a good perspective on the last day of the legislature, check out this excellent recounting by Jason Embry: "Chaos in the last day of session."

<http://www.statesman.com/news/content/region/legislature/stories/06/02/0602sinedie.html>

"What's a little chaos before we go home?" Straus said, as quoted in the Austin American Statesman.

The press has widely reported the fact that adjournment came without passing sunset legislation to continue some pretty significant agencies including the Texas Department of Transportation, the Texas Department of Insurance, the Texas Racing Commission, the Texas State Affordable Housing Corp. and the Office of Public Insurance Counsel. Sen. Ogden (R-Bryan) immediately called on Governor Perry to call a special session to deal with these agencies. If he does, will he include voter ID on the agenda?

Gov. Perry responded Tuesday that it was too early to determine if a special session is needed but by Wednesday it was sounding more like a reality. While the press reported that Gov. Perry could extend the terminated agencies by executive order, Gov. Perry evidently checked with the lawyers and found that was not an option. We will have to wait and see; probably at least until the 20 day veto period has passed.

Gov. Perry declared the session a victory

<http://www.chron.com/disp/story.mpl/ap/tx/6454861.html> and said there was

no hurry to call a special session; the agencies stay in existence at least until Sept. 1, 2010. In what some might consider the understatement of the day, Gov. Perry said, "I grant you, there was some business that was unfinished."

<http://www.dallasnews.com/sharedcontent/dws/news/texasouthwest/columnists/wslater/stories/060209dnmetslatertexlege.410b0a23.html> But there is some urgency because under Sunset the agencies have to start the wind-down process Sept. 1, 2009. Not renewing TxDot is pretty significant. Just think about all the road construction in place today and imagine the barriers staying in place for two years because there is no one to finish the projects. That sounds like enough urgency to get started before Sept. 1.

The finger pointing started immediately (maybe even before adjournment). The Senate blamed the House for adjourning too soon, not passing highway bond authorization and for mismanaging their agenda, the Republicans blamed the Democrats for chubbing the session to death (they also claimed the Democrats were "obstructionists" throughout the session), the Democrats blamed the Republicans for raising the voter ID issue and for totally mismanaging the legislative session, the Governor blamed the Senate for adjourning before passing the TxDot resolution <http://www.star-telegram.com/804/story/1410919.html> and Sen. Kay Bailey Hutchison blamed Governor Perry for his "lack of leadership." If given a multiple choice test, the public would probably choose "all of the above."

### **Small Business Gets Margin Tax Break**

For franchise tax returns filed in 2010 and 2011 the total revenue exemption is increased from \$300,000 to \$1 million and for subsequent years the exemption will level off at \$600,000. This is the only significant margin tax bill passed this session and Gov. Perry has indicated he will sign the bill.

There was one other bill passed that will give major franchise tax credits to just a few taxpayers. HB 469 by Rep. Phil King provides franchise tax incentives to new, fully operational, large-scale clean coal power plants that capture at least 70 percent of the carbon dioxide (CO<sub>2</sub>) they produce. A taxpayer that builds such a plant can get a tax credit equal to 10% of the project cost up to a maximum of \$100 million in credits. The plant must be completed and meet stringent licensing

requirements by several state agencies and no credits may be issued before 2013 (hence no negative fiscal note for the biennium).

### **Red Light Cameras Survive the Session**

CPA Rep. Isett (R-Lubbock) tried for the third session to eliminate the white line tax commonly known as red light cameras. He almost got it done this session, but he said the “price was too high.”

### **Even Non-binding Resolutions Fail**

HCR 50 telling the federal Big Brother to quit passing unfunded mandates and generally quit messing in states’ matters and SCR 54 asking the feds to scrap their federal fire arms licensing legislation did not pass. Each passed the house of origin but was never taken up by the other body.

Roanoke will not be the official Unique Dining Capital of Texas (HCR 188 was never taken up by the Senate) and Lago Vista will not be the Entrepreneurial capital of Texas. The Texas legislature also did not pass the resolution suggesting that the federal government pass a constitutional amendment requiring a balanced federal budget – talk about an exercise in futility! Speaking of futility, HCR 35 urging a national football playoff system did not pass – it never even got a hearing.

I guess Governor Perry will get to decide whether Mills County or Brady will be the official Texas State Goat Barbeque Championship Cook-off, since separate resolutions naming each to that official post have been sent to him for consideration. Legislators just couldn’t decide. Don’t you think he should at least taste the barbeque first?

### **Eminent Domain Resolution Passes**

HJR 14 did pass. It is a constitutional amendment that prohibits the use of eminent domain for the taking of property for transfer to a private entity for the primary purpose of economic development or enhancement of tax revenue. Texans will get to vote on the issue in November.

## What Died and What Didn't?

While it may take several days for everyone to figure out all the bills that passed and those that didn't, and we won't know for sure until Gov. Perry's veto window is over, this article does a pretty good job for the first blush look: "What passed and what didn't this legislative session"

<http://www.statesman.com/news/content/region/legislature/stories/06/01/0601legeissues.html> A few bills they missed in the article that DID NOT PASS:

- SB 2018 requiring the registration of golf carts.
- HB 2752 applying SOX-like audit standards to insurance company audits.
- HB 623 limiting the hours of massage parlors in Harris County.
- SB 2105 limiting the liability of space flight entities.
- HB 128 requiring trade, business and professional licensees to prove work eligibility.
- HB 1500 allowing hunting of reptiles, amphibians and insects from a public roadway.
- HB 164 authorizing the medical use of marihuana.
- SB 341 renaming the Railroad Commission the Energy Commission.

And a couple that did pass:

- SB 1742 prohibits hunting within 1,000 feet of occupied buildings or 1,500 feet of residential or park areas.
- HB 693 exempting falconers from pest control licenses (look out grackles).

## Special Session Avoidance – Nice Try

Fixing the depleted Texas Windstorm Insurance program was an emergency priority of Governor Perry. As the session chubbed to an end the TWIA legislation was in serious danger of remaining an emergency after the session until Gov.

Perry made it clear there would be a special session if this legislation was not passed. Passed it was, so no special session in the wings. At least that's what legislators thought until the final day meltdown left all those agencies without sunset renewal.

### **Loco and Dissent Calendar**

At the end of each session an anonymous author known as the Friendly Capital Cockroach has published a tongue-in-cheek Loco and Dissent Calendar of bills that should have been. This year the irreverent calendar is published by Adrian Wapcaplet, Chair of the Loco and Dissent Committee. Adrian claims the Cockroach has stepped down (or maybe got stepped on?) and he has taken up this important responsibility. But he apologizes for the limited number of bills; I guess even Loco and Dissent was chubbed. My favorite bill on the calendar is HB 5 by Crownover/Ells:

“relating to the imposition of the nanny state in all workplaces and public places. Providing for tucking you in at night all nice and snug. Remember, we're from the government and we're here to help.”

I guess I'm going to start referring to the Nanny instead of Big Brother. You have to be very familiar with the legislation and legislators to get some of the Loco calendar jibes, but if you want, you can read the whole calendar click

[http://alt.coxnewsweb.com/shared-blogs/austin/firstreading/upload/2009/06/im\\_a\\_politician\\_get\\_me\\_outta\\_h/LOC\\_O.pdf](http://alt.coxnewsweb.com/shared-blogs/austin/firstreading/upload/2009/06/im_a_politician_get_me_outta_h/LOC_O.pdf)

### **Thanks**

Thanks for reading and thanks for letting me know you enjoy the reports. Thanks to Bill Owen of the Texas Society of CPA's (TSCPA PAC) for supplying much of the information in my reports.