Session 12

The 85th Legislature: Eternal Sunshine of the Spotless Mind

Presented by:
Steve Collins
Of Counsel
Andrews Kurth Kenyon, LLP

September 29, 2017 | 2:00-3:00 pm
Recap of the 85th Texas Legislature (so far!)

Steve Collins

Former Assoc. Vice Chancellor and Special Counsel
The University of Texas System
What Did the Legislature Face?

• Factors that Influenced the State Budget Process
  – Less Available Revenue for General Purpose Spending
  – Prop 7 – Highway Funding
    • Diverts up to $5 billion in sales taxes in FY18-19
  – Slower Growth in Sales Tax Revenue
  – Oil & Gas Price Uncertainty

• New Leadership
  – New Chairs of House Appropriations and Higher Education Committees

• House and Senate – Different Composition and Approaches

• Legislative Caucuses
What Did the Legislature Fund?

- $216.75 billion for FY 2018-19 biennium in all funds, up $352 million (0.16%) increase over FY 2016-17 biennium
- **Method of Finance**
  - Delays $1.8 billion of the Prop 7 transportation transfer
  - Appropriates $990 million from the Rainy Day Fund for one-time expenses
  - $830 million in Medicaid cost containment measures
  - Includes $46 million from tax amnesty program, $500 million from accelerating sale of unclaimed securities, and $34 million in savings in state contracting
What Did the Legislature Fund?

• Rainy Day Fund
  – Estimated $10.9 billion balance by end of FY19
  – Growth comes from higher oil and gas production and prices

• Bottom Line
  – The next legislature will start with a deficit of approximately $3 billion
  – This amount can and will go up or down depending on the economy and state tax collections
What Did the Legislature Fund?

• Higher Education Funding
  – $20.5 billion in all funds, a $235 million increase over FY 2016-17 biennium
    • Primarily due to increases to pay for two years of:
      – TRB debt service
      – Higher Education Assistance Fund (HEAF)
    – No changes to higher education budget structure
      • Special items renamed "non-formula support funding"
        – Special items received significant reductions
        – Hold harmless provided to some institutions
      • Joint interim legislative study on special items and formula funding
What Did the Legislature Fund?

• Higher Education Funding
  – Increase of $71.6 million to TEXAS Grants to fund 92% of all eligible students
  – Increase of $44 million for Graduate Medical Education Expansion Program, a funding level that will maintain existing commitment
  – $300 million for new state mental health hospitals
  – Texas Research Incentive Program (TRIP) funded at $35 million, a decrease of $103.1 million from FY 2016-17 biennium
  – $15.6 million for Governor’s University Research Initiative
  – $80 million in Supplemental Funding for Correctional Health Care
  – ERS Cost Containment Rider
How Did U.T. System Institutions Fare?

• General Academic Institutions
  – $1.5 billion total appropriation, a $47.1 million (-3.03%) decrease over FY 2016-17 biennium

• Health-related Institutions
  – $1.8 billion total appropriation, a $6.7 million (-0.38%) decrease over FY 2016-17 biennium
  – HRI formula funding was provided for the new medical schools at UT Austin and UTRGV

• Does not include TRB Debt Service or Appropriations for Higher Education Group Insurance
How Did U.T. System Institutions Fare?

General Academic Institutions

The University of Texas System
2018-19 General Revenue Appropriations (Excluding Tuition Revenue Bond GR)
Conference Committee for Senate Bill 1
(Does Not Include Higher Education Group Insurance Contributions)

<table>
<thead>
<tr>
<th>Institution</th>
<th>2016-17 Biennium</th>
<th>2018-19 Biennium</th>
<th>Biennial Change</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>GR Appropriations</td>
<td>TRB</td>
<td>GR Appropriations</td>
</tr>
<tr>
<td></td>
<td>(All Bills)</td>
<td>Debt Service</td>
<td>(All Bills)</td>
</tr>
<tr>
<td>The University of Texas at Arlington</td>
<td>215,885,289</td>
<td>(20,248,475)</td>
<td>195,636,814</td>
</tr>
<tr>
<td>The University of Texas at Austin</td>
<td>588,695,287</td>
<td>(33,553,067)</td>
<td>555,142,220</td>
</tr>
<tr>
<td>The University of Texas at Dallas</td>
<td>177,694,540</td>
<td>(12,095,237)</td>
<td>165,599,303</td>
</tr>
<tr>
<td>The University of Texas at El Paso</td>
<td>166,601,226</td>
<td>(20,002,599)</td>
<td>146,678,827</td>
</tr>
<tr>
<td>The University of Texas Rio Grande Valley</td>
<td>257,391,915</td>
<td>(30,858,213)</td>
<td>226,533,702</td>
</tr>
<tr>
<td>The University of Texas of the Permian Basin</td>
<td>63,781,827</td>
<td>(20,662,257)</td>
<td>43,119,570</td>
</tr>
<tr>
<td>The University of Texas at San Antonio</td>
<td>194,338,112</td>
<td>(27,864,712)</td>
<td>166,473,400</td>
</tr>
<tr>
<td>The University of Texas at Tyler</td>
<td>69,330,444</td>
<td>(15,099,993)</td>
<td>54,230,451</td>
</tr>
<tr>
<td><strong>Total Academic</strong></td>
<td>1,733,798,640</td>
<td>(180,384,553)</td>
<td>1,553,414,087</td>
</tr>
</tbody>
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## How Did U.T. System Institutions Fare?

### Health-Related Institutions

<table>
<thead>
<tr>
<th>Institution</th>
<th>2016-17 Biennium (GR Appropriations, All Bills)</th>
<th>2018-19 Biennium (GR Appropriations, All Bills)</th>
<th>Biennial Change</th>
</tr>
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<tr>
<td></td>
<td>GR Appropriations (All Bills)</td>
<td>TRB (Debt Service)</td>
<td>GR Appropriations (All Bills)</td>
</tr>
<tr>
<td>UT Southwestern Medical Center</td>
<td>312,412,061</td>
<td>(30,833,694)</td>
<td>318,590,633</td>
</tr>
<tr>
<td>UT Medical Branch at Galveston</td>
<td>530,386,694</td>
<td>(39,610,620)</td>
<td>525,799,220</td>
</tr>
<tr>
<td>UT Health Science Center at Houston</td>
<td>339,793,209</td>
<td>(31,307,229)</td>
<td>348,607,147</td>
</tr>
<tr>
<td>UT Health Science Center at San Antonio</td>
<td>269,119,967</td>
<td>(25,600,696)</td>
<td>271,530,638</td>
</tr>
<tr>
<td>UT M.D. Anderson Cancer Center</td>
<td>375,730,804</td>
<td>(17,237,949)</td>
<td>385,785,977</td>
</tr>
<tr>
<td>UT Health Science Center at Tyler</td>
<td>85,327,596</td>
<td>(6,302,566)</td>
<td>86,183,300</td>
</tr>
<tr>
<td><strong>Total Health</strong></td>
<td>1,912,778,331</td>
<td>(150,912,754)</td>
<td>1,936,504,915</td>
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</tbody>
</table>
What Did the Legislature Accomplish?

For State and Higher Ed Employees:

• Reduced the effective state contribution for UT Group Insurance from 87% to 76% of the ERS rate

• HB 4035 - Ch. 1601, Insurance Code
  – Compliance with state and federal law/consistency for eligibility
  – Bounce back provision
  – Deductions from annuity for insurance premiums
  – Optional graduate student plan
  – Payment of back-owed premiums before reinstatement
What Did the Legislature Accomplish?
Benefits & Human Resources (cont'd)

• SB 1954 - ORP
  – Clarifies the process if an employee in TRS previously selected ORP
  – Tightens ORP enrollment deadlines

• SB 73 - Use of Emergency Leave restricted

• SB 1663 - Omnibus TRS Legislation
  – Interest and late fees assessed against employers for TRS contributions not made by the TRS deadline

• SB 1664 - Omnibus TRS Legislation
  – Time limit on purchase of TRS service credit

• HB 490 - Requires Health benefit plan coverage for hearing aids and cochlear implants for children

• HB 1296 – Health benefit coverage for prescription drug synchronization for chronic disease management
What Did the Legislature Accomplish?

Higher Education Issues

• Campus Sexual Misconduct
• Community Colleges May Grant Baccalaureate Degrees
• Greater Information on Open Source Textbooks
• Transparency on Student Loan Debt
• Extension of Sunset Date for CPRIT
• Expansion of Telemedicine and Telehealth
• State Contracting
• Information Technology Security
What Else Did the Legislature Accomplish?

- Sanctuary Cities
- Child Welfare Protections
- Mental Health Initiatives
- Continued Funding for Border Security
- More Stringent Abortion Regulations
- Statewide Texting Ban
- Cyberbullying
- Inappropriate Teacher-Student Relationships
- Eliminated Straight Ticket Voting
- Buy American Provisions for State Projects
What Else Did the Legislature Accomplish?

- Another Try at Voter ID
- State Preemption of Ride-Sharing Services
- Convention of States to Rewrite U.S. Constitution
- Municipal Pension Reform for Dallas and Houston
- Prohibition on Contracts with Companies Boycotting Israel
- “Sandra Bland” Act
- Continued A – F Grades for Public Schools
- Alternate Pathways for High School Graduation
- Cheaper Licenses for Concealed Carry
- No “Debtor’s Prison” for Unpaid Traffic Fines
- Limits on Unpaid Tolls and Charges
What Did the Legislature Attempt and **Not** Do?  

Higher Education Issues  
- Reform Hazlewood  
- Re-regulate Tuition  
- Repeal In-state Tuition for Undocumented Students  
- Increase Texas Higher Education Coordinating Board Authority  
- Eliminate Tuition Set-asides  
- Change Campus Carry  
- Alter Top 10% Law
What Else Did the Legislature Attempt and **Not** Do?

- Constitutional Carry
- Medical Marijuana
- Eliminate Vehicle Inspections and Red Light Cameras
- Raise Smoking Age
- Raise Criminal Age from 17 to 18
- Ethics Reform
- Bathroom Bill
- Local Property Tax Reform
- School Choice/Vouchers
What Else Did the Legislature Senate Not Do?

- Continue Texas Medical Board (et al.) under the Texas Sunset Law
- Necessitated First Called Session
Special Session

• 1st Called Session July 18 - August 15
• 20-item agenda beginning with Sunset legislation ☑ SB 20
  – Teacher pay increase of $1,000 ☒
  – Administrative flexibility in teacher hiring and retention practices ☑ HBs 21, 30
  – School finance reform ☑ HB 30
  – School choice for special needs children ☒
  – Property tax reform ☒
  – Caps on state and local spending ☒
  – Preventing cities from regulating what property owners do with trees on private land ☑ HB 7
  – Preventing local governments from changing rules midway through construction projects ☒
Special Session (cont'd)

- Speeding up local government permitting process ✗
- Municipal annexation reform ✔ SB 6
- Texting while driving preemption ✗
- Restrictions on bathroom use by transgendered students ✗
- Prohibition of taxpayer dollars to collect union dues ✗
- Prohibition of taxpayer funding for abortion providers ✗
- Pro-life insurance reform ✔ HB 214
- Strengthening abortion reporting requirements when health complications arise ✔ HBs 13, 215
- Strengthening patient protections relating to do-not-resuscitate orders ✔ SB 11
- Mail-in ballot fraud ✔ SB 5
- Extending maternal mortality task force ✔ SB 17
What Can We Expect During The Interim?

• Bill Implementation and Agency Rulemaking
• Non-Formula Support Funding and Formula Funding Study (starts Sept. 2017 and concludes April 2018)
• Interim Charges
  – Continued discussions on Hazlewood and tuition
  – Possible study of public retirement systems
    • Defined benefit
    • Defined contribution
• House issued Harvey-related charges 9/14
• Positioning for 2018 Elections and House Speaker’s Race
Constitutional Amendment Propositions for November 2017 Ballot

- SJR 1 – Property tax exemption for first responders
- SJR 6 – Requiring a court to provide notice to the attorney general of a challenge to the constitutionality of a state statute
- HJR 21 – Property tax exemption for partially disabled veteran or surviving spouse if residence was donated
- HJR 31 – Permitting credit unions to award prizes by lot to promote savings
- SJR 34 – Limiting the service of certain gubernatorial appointees after the person’s term ends
- SJR 60 – Changes to home equity loans
- HJR 100 – Professional sports team charitable foundations conducting charitable raffles
Key Dates

• New laws generally effective on September 1, 2017
• November 7, 2017: Constitutional amendments and municipal office election
• November 11 – December 11, 2017: Candidate filing for 2018 elections
• March 6, 2018: Primary Election
• May 22, 2018: Runoff Primary Election
• November 6, 2018: General Election
• November 12, 2018: Pre-filing for 86th Legislative Session begins
• January 8, 2019: 86th Legislature convenes
• May 27, 2019: 86th Regular Legislative Session adjourns Sine Die