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Legislators face tough decisions in 2011 session

Reeve Hamilton Texas Tribune

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SAN ANGELO, Texas — Every candidate vying for a legislative seat knows what lies ahead in the 2011 session: a budget shortfall of at least $11 billion, probably higher.

When it comes to raising revenue, lawmakers are old hands at the old sleight of hand, employing creative accounting to avoid stepping on that political third rail, the tax hike.

“In the past, I’ve said at various times, ‘Oh, they can’t get out of this session without raising taxes,’ and then they do,” said Billy Hamilton, a former deputy comptroller of public accounts and formerly the state’s chief revenue estimator. “I wouldn’t count them out.”

The 2003 session most closely mirrors the current scenario — a national recession, a previous budget balanced with the use of one-time funds — and remains fresh in political minds. Then, the Legislature turned to deep budget cuts.

Talmadge Heflin, the House appropriations chair in 2003 and the current director of the Texas Public Policy Foundation’s Center for Fiscal Policy, said when projected revenues and expenditures are out of sync, “The task is not to get revenue up. It is to get expenditures down.” Social services like education, public safety, and health and human services took the brunt of the blow. Money from the Rainy Day Fund and relief from the feds (both chipped in more than $1 billion) helped. But that’s not all.

“They certainly didn’t do it on budget cuts alone,” said Dick Lavine, a senior fiscal analyst at the nonpartisan Center for Public Policy Priorities, which released a review of the 2003 budgeting process this week. Balancing the budget, he said, also required “new revenue, creating the appearance of new revenue, and cost-shifting.”

The “appearance” of new revenue comes from so-called smoke-and-mirrors provisions that, for example, shifted an $800 million payment to the Foundation School Program into the next biennium and deferred payments to the Employees Retirement System and Teacher Retirement System.

Cost-shifting refers to transferring the burden of paying for a service from the state government to its beneficiaries. The best-known example from 2003 was the deregulation of tuition at public universities. Those with state-subsidized health insurance also had to shoulder higher costs — including $790 million in new co-pays, premiums and other costs.

Measures that actually raised new revenue included entering a multistate lottery (projected to bring in $102 million), establishing a quality-assurance fee for facilities for the developmentally disabled ($54 million) and hiring more auditors to get the most out of the existing taxes ($122 million). Other additional fees included a $1,000-a-year charge for three years for motorists’ first driving-while-intoxicated conviction.

“The bottom line,” said Dale Craymer, president of Texas Taxpayers and Research Association, “is that there’s lots of ways to raise revenues without raising taxes.”

Craymer acknowledges that a tax increase — generally a political loser — might be the best way to raise revenue but says it’s untenable in this economy.

“I’m sure there’s probably not an endless list of things you could put fees on, but if there’s a finite list, I haven’t seen it,” Craymer said, noting an increased fee is politically more palatable than any tax hike.

“With a fee,” he said, “there’s typically something you can identify as a benefit of paying it — the privilege to drive a car in the state, to practice law, a college education. With a tax, it’s much more ephemeral.”

Past budget shortfalls have featured similar approaches to those taken six years ago. In 1991, facing the biggest shortfall in history, then-Comptroller John Sharp instituted a top-to-bottom audit of state government known at the Texas Performance Review. And the Texas Lottery Commission was established and, shortly thereafter, opened for business.

In 1987, after oil prices cratered, the Legislature did actually raise taxes: The sales tax rose by more than 1 percent, and the gasoline tax went up 5 cents. Betting on horse and greyhound races was allowed for the first time. The state also created the Rainy Day Fund that year, automatically tucking away money from oil and gas production taxes to cushion future blows to revenue.

Texas Senate Finance Chairman Steve Ogden, R-Bryan, doesn’t foresee a need to raise revenue.

“There is no public support for raising fees or taxes at the present time, so I expect it to be a nonissue next session,” he said. “We’ll figure out how to balance the budget without raising taxes or raising fees. Our best hope is that the economy will begin to grow again. If it doesn’t, we’ve got the Rainy Day Fund and budget cuts.

“It won’t be like 2003 ... but exactly how I don’t know.”

The House Ways & Means Committee, where revenue-raising measures originate, has been tasked with the interim charge of examining major tax exemptions, which, if eliminated, could raise more tax money without technically raising tax rates. The committee is also looking into the possibility of putting new taxes on some services.

At present, few if any legislators are discussing fee increases. Even if they were, Lavine said, there’s another much-maligned option — the income tax — that’s better suited to solving what he sees as a structural deficit in the state budget.

“The state revenue system does not grow fast enough to keep up with the growth of needs,” he says. “That’s because we rely on the sales tax and property tax, and neither one really keeps up with economic growth. An income tax would,” he said.