



Texas Public Policy Foundation

A Review of the *84th* Texas Legislature

The recently adjourned regular session of the 84th Texas Legislature had its ups and downs, but in the end it resulted in progress toward securing a Texas that is strong and free. As discussed below, conservative gains this session included a \$3.8 billion tax cut, a budget that increased less than population growth plus inflation, an aggressive challenge to excessive local governance, and standing up to the federal government in the areas of health care and the environment.

Based on the Foundation's key issue areas, we can assess the 84th's accomplishments—and tasks undone—in the following areas:

Fiscal Policy

The area of Fiscal Policy saw some of the biggest wins for Texas. The list of achievements is impressive:

- A conservative state budget that grew just 3.6 percent, below the 6.5 percent maximum requested by the Conservative Texas Budget Coalition;
- A \$3.8 billion tax cut, one of the largest in Texas history;
- The safeguarding of \$11 billion in ESF monies;
- An end to highway-fund diversions;
- A decrease in budget gimmicks.

The passage of \$3.8 billion in tax relief for Texas was another historic act by the Legislature.

That tax cut was truly remarkable; the House and Senate got into a bidding war over how much to cut taxes! This was in part driven by the Foundation's Sales Tax Reduction (STaR) Fund proposal, which highlighted the benefits of a reduction in sales taxes. The business franchise, or margin, tax was cut by 25 percent, returning \$2.6 billion to Texans. The \$1.2 billion balance of the relief package was property-tax relief in the form of an additional \$10,000 homestead exemption.

These outcomes reflect in part work begun by the Texas Public Policy Foundation in the summer of 2013, immediately after the close of the 83rd Texas Legislature, to leverage the outcomes from that biennial budget into crafting this one.

After seeing little recent progress toward strengthening Texas' weak spending limit, the Legislature made another attempt toward broadening the base and calculating it using population growth and inflation. The Senate's stronger version of reform came back substantially weakened and ultimately failed to pass. However, an effort to weaken the existing spending limit was defeated.

Local Governance

The 84th Legislature saw conservatives aggressively challenge many long-held liberal notions of local governance—and win.

Some of conservatives' most notable victories came in the area of local debt. To help stem the rising tide of red ink, Texas lawmakers passed a series of reforms, including: restricting the use of capital appreciation bonds (CABs), which had allowed local governments to borrow now and defer principal and interest payments for decades; putting tighter restrictions on the issuance of certificates of obligation, or non-voter approved debt; and limiting "rolling polling," an illicit practice that some local entities used to target certain voters by moving polling locations during the early voting process. On the flip side, conservatives also defeated an effort to allow some school districts—which are the most heavily indebted of any local government type—to get even further into debt by relaxing the 50-cent debt limit.

Conservatives were also successful in challenging the liberal interpretation of local control. A big illustration of this came with the Legislature's overwhelming approval of legislation to preempt municipal fracking bans, such as the one passed in Denton, which pose an obvious threat to the Texas economy and private property rights.

Impressively, those of the limited government mindset also scored a victory on both property tax *relief* and property tax *reform*. In addition to the permanent increase in the homestead exemption, pending voter approval, the Legislature also passed a reform that requires local taxing entities to achieve a supermajority before raising property taxes. This reform will bring more accountability to the system and, hopefully, slow the growth of Texas' punishing property tax burden.

Effective Justice

Texas continued making strides toward conservative Criminal Justice reform in the 84th. Many recommendations from the Foundation's *Legislator's Guide to the Issues* were translated into conservative criminal justice policy championed by members from across the ideological spectrum.

The 84th Legislature also made it easier for Texans to make a living, softening the licensing burden on professions like barbers and cosmetologists, while keeping over a dozen licensing increases from becoming law.

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The Legislature also codified the common law rule of lenity and established a commission to review criminal laws located outside of the penal code and recommend redundant or unnecessary laws for removal.

Texas took the monumental step in expanding nondisclosure for adjudicated, first-time, low-level misdemeanants, better facilitating ex-offenders' reintegration into the economy. Further, the Legislature approved civil indemnity of landlords who safely lease to rehabilitated ex-offenders.



The Legislature also passed several criminal justice reforms that promise to save the state money over the course of the next two years. By allowing

judges to award diligent participation credits to state jail inmates, offenders are able to take ownership of their own rehabilitation process and may earn small amounts of time off of their sentence by successfully completing programs or training. Further, the Legislature raised property offense thresholds to parity with the dollar value when they were originally passed, allowing victims to be made whole more easily.

Last but not at all least, Texas children also benefited, seeing the decriminalization of truancy and requirement that schools do more to keep kids in class without resorting to the criminal justice system.

Energy & Environment

Texans concerned with Energy and the Environment racked up real victories this session. The battle over the EPA's Clean Power Plan (CPP) is still being waged in the press, in the federal arena, and within the Texas executive branch. Legislators declined to pass legislation related to the CPP, including some that would have directed state agencies to comply with the EPA's unconstitutional overreach to take over Texas' electric grid. Despite this victory, the fight is far from over, as Texans will likely see the CPP's effects reaching into 2017 with problems for the 85th Legislature to address.

This session did provide good news for improving environmental regulation and economic growth in Texas, as long-awaited reform for contested case hearings became law. This reform will streamline the contested case hearing process and reduce the amount of time and money spent on the hearing process and will enhance economic competitiveness in Texas. Similarly, the Legislature made it tougher for local governments to sue businesses under the state's environmental laws. These actions often amounted to duplicative regulation by the state and local governments, and seemed more about increasing local government revenue rather than about the environment.

Another high note for this session was Texas' expressly preempting governance of oil and gas regulations, leaving municipalities the ability to regulate surface activity in a commercially reasonable manner, so long as it does not amount to a de facto ban on oil and gas operations.

Lastly, much needed moves were made to study the use and development of brackish groundwater in Texas. Legislation calling for a delineation of zones, where

brackish water exists and could be used to free up fresh water in order to meet Texans’ projected needs by 2060, also passed this session.

Economic Freedom

The cause of Economic Freedom was meaningfully advanced. Texas has built its economic success on a foundation of the Texas Model: lower taxes, less regulation, fewer frivolous lawsuits, and reduced reliance on the federal government.

Lawmakers resisted an attempt by the banking industry to interfere with Texas property owners’ ability to secure market-based tax relief.

To this end, lawmakers in the 84th Texas Legislature placed a renewed emphasis on reforms that would make the civil courts system more equitable as well as more resistant to legal gamesmanship. Plaintiff’s attorneys, for instance, will no longer have free rein to investigate and disclose a defendant’s net worth. The Legislature also opened up asbestos litigation to greater transparency, ensuring that information about a claimant’s asbestos exposure remains discoverable throughout the proceedings.

Other reforms took umbrage with government overreach. As an example, the comptroller’s office will now maintain a database to better keep track of the thousands of entities authorized to condemn private property. Unfortunately, several measures to further improve property rights failed to pass, including one that would have ensured the right of property owners to seek compensation for city actions that reduce the value of their property.

Another good result was the defeat of efforts to reduce consumer access to capital. Lawmakers resisted an attempt to interfere with ability of Texas property owners to secure market-based tax relief, such as a property tax loan. And several bills that would have restricted consumers’ ability to receive short-term loans were defeated.

There were some setbacks, including the Legislature’s failure to implement a remedy for the fraudulent practices currently plaguing the casualty insurance market, and its decision to increase the amount of the Texas Windstorm Insurance Association’s subsidies along the

coast. Also, widely supported legislation designed to rein in abuses by labor unions failed to pass. Among other things, the bill would have prohibited governments from deducting union dues from government employees’ paychecks.

Education Freedom

In the arena of Education Freedom, we met with success—but there remains much to do. Around the nation, more and more states are supporting school choice. Twenty years ago, there was only one school choice program in the nation. Now there are 45 programs in 23 states and Washington, D.C. These programs provide educational options so that all children—regardless of their ZIP code or ability to pay—have the opportunity to enroll in an excellent school. In fact, in the same time that the 84th Texas Legislature met, four new school choice programs were created in Nevada, Montana, Mississippi, and Tennessee.



So why not in the Lone Star State? It wasn’t for lack of effort from the liberty movement. Education freedom got further in this legislative session than it ever has before: for the first time in 20 years, school choice was passed by the Texas Senate. However, school-choice legislation died in the House without ever receiving public a hearing.

SB 955 lifts the county-level restriction, thereby allowing universities to provide charter school options to more Texas students, especially since there is no cap on the number of university charters which can be created.

Nevertheless, there was a victory for increased flexibility through the charter-school system. Under current law, colleges and universities are allowed to establish and operate charter schools only in their county. This session, the county-level restriction was lifted, thereby allowing universities to provide charter school options to more Texas students, especially since there is no cap on the number of university charters that may be created.

Finally, there was an improvement on public-school ratings. Under current law, public schools are given one of three accountability ratings by the Texas Education Agency: Met Standard, Improvement Required, or Not Rated. This provides parents little information about how their schools are actually doing. The Legislature improved that this session by passing legislation that requires the TEA to rate schools based on an A-to-F scale that will provide clarity for parents and communities.

Health Care

In Health Care, Texas achieved its major must-win goal this session. Though Medicaid reform as such was never taken up, the 84th Legislature nevertheless declined to contemplate the expansion of Medicaid under Obamacare—a major win for Texas. State lawmakers in both chambers were content to ignore Medicaid expansion bills, and call for the federal government to issue a Medicaid block grant.

The Legislature also passed bills that will allow state employees to select a consumer-driven health plan with an HSA, prevent the state from regulating direct primary care as health insurance, and expand the use of telemedicine in Texas.

Higher Education

Last but not least, the arena of Higher Education saw a continued push for real reform in the 84th. The Legislature adopted a handful of innovative policies designed to reduce the cost of higher education, both for students and for the state of Texas. The Texas College Work-Study Program was reformed to enable work-study students to do their work in the private sector. This will enable the program to serve more students, as well as make the program more useful to participants.

Of course, there remains a great deal to do. The American Founders warned us that the fight for liberty would never be over: it remains a constant struggle due to the nature of man and the corruption of power. In that light, we knew there would be more work to be done after the 84th Texas Legislature, and so it is. The Foundation, our allies, and the cause of freedom did not get everything done that we would have wished. Some of the measures that failed and work that remains unfinished are as follows:



- As previously noted, freedom for parents to choose their children's schools remains a top

priority, after school-choice legislation died in the House without ever receiving a public hearing.

- Texas still needs a comprehensive spending limit that prohibits the entire budget from increasing more than population growth plus inflation. We need to keep a close eye on the budget in 2017 to ensure that the victory won this session leads to continued fiscal restraint.
- Texas should to rein in growing abuses by labor unions. Among other things, we should prohibit governments from deducting union dues from government employees' paychecks and stop unions from strong-arming employees and employers.
- Medicaid reform is badly needed by Texas and the other states, particularly in the form of block grants to states.
- The Sales Tax Relief (STaR) Fund would allow legislators to reduce the size of the appropriations bill while returning taxpayer dollars through a temporary reduction of the state sales tax rate.
- Property rights still need strengthening, including ensuring the right of property owners to seek compensation for city actions that reduce the value of their property.
- Texas should establish a Professional Charter program to provide experienced and qualified public school teachers with an expedited process by which they could establish and operate professional charter schools in Texas.

Nevertheless, this remaining work does not diminish the real accomplishments in the 84th Texas Legislature.

In conclusion, the 84th Texas Legislature took a historic step forward in controlling the growth of government spending—and what didn't get done this time has a good chance of passage the next time, thanks to the groundwork laid now. Everyone in the liberty movement—from civil-society allies, to officeholders, to ordinary citizens—was successful in setting the terms of the public conversation early, and thereby shaping the policy outcomes to a remarkable degree. Both the achievement and the possibility are thanks to ordinary Texans, fired with a love of liberty, who stood up to demand liberty for themselves—and to give support to us, who give voice to their aspirations to be free. ★