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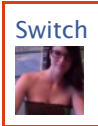
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May 2013

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Sine Die is Nigh: One very long week to go.

By Jonathan Tilove | Monday, May 20, 2013, 08:08 AM

“There’s probably an issue or two that the governor wanted addressed that hasn’t been addressed. If he wants them addressed, we’ll be back.”

Lt. Gov. David Dewhurst

“Some weary legislators will feel compelled to sing the praises of this “deal” merely so they can justify the 140 days they spent in Austin as being un-wasted, and hope no one notices how few actual conservative reforms were accomplished.”

Michael Quinn Sullivan

“He is a senator and a special-interest group rolled into one.”

From “For John Carona, Conflicts and Interests,” by the Texas Tribune’s Jay Root.

Good morning Austin.

The 140 days of 83rd session of the Texas Legislature ends a week from today. We have, as of end of the day Friday, a budget deal, but one that does not appear to fully meet Gov. Rick Perry’s demand for \$1.8 billion in tax relief. The prospect of a special session remains.

And, as Mike Ward reports in this crisp and thorough review of where things stand and what’s left to be done, there are miles to go before we sleep.

The roundup is so useful, I am repeating its “status check of top issues,” in its entirety.

Here goes:

- **Water bonds** - “Legislative leaders agreed early on that they wanted to spend \$2 billion to create a revolving loan fund for local governments to finance water development projects. The sticking point was how to pay for it. A budget deal worked out Friday would ask voters to approve spending money from the rainy day fund. The budget deal and the ballot measure still need votes in the House and Senate.”
- **Tax relief** - “Perry wants \$1.8 billion in tax relief for Texans, but the budget deal worked out Friday includes only \$1 billion: \$631 million in utility fee rebates from a fund that was intended to help low-income Texans pay their electric bills plus a few hundred million dollars in business tax cuts. It remains to be seen whether Perry will use his veto authority since lawmakers came up short.”
- **School choice** - “Sen. Dan Patrick’s proposal to create tax incentives to help public school students pay for private

school failed to launch. Plans to expand the number of charter schools passed the House and Senate, but a conference committee will have to work out differences in the number of charters allowed under each proposal. The House version also requires a majority of charter school governing board members be U.S. citizens.”

- **Testing and accountability** - “Reducing the number of high-stakes tests needed for graduation has been a top priority for legislators, and both chambers overwhelmingly approved a bill that drops the required end-of-course exams from 15 to five. House Bill 5 also radically changes graduation plans with the aim of giving students more flexibility. Some people — including Perry — worry Texas would be weakening its academic standards.”
- **Teacher pensions** - “To shore up the Teacher Retirement System of Texas, school and university employees will gradually increase their contributions, as will the state and school districts. The Senate established a minimum retirement age of 62 for employees with fewer than five years of service, while the House exempted all current employees from the change to retirement eligibility. The changes are expected to improve the financial footing of the fund enough to allow for a 3 percent pension boost for some retirees.”
- **State workers** - “Similar pension changes have been proposed for the Employees Retirement System of Texas. All current employees will be grandfathered from the new minimum retirement age in the legislation that has passed the Senate and is awaiting action in the House. State employees will receive an across-the-board raise for the first time since 2008: 1 percent in the first year and another 2 percent the next years.”
- **Guns** - “The session generally has been good for Second Amendment advocates. Concealed-handgun licensing courses have been expedited, more judges and prosecutors have been authorized to carry concealed weapons, including off-duty — several high-profile gun bills are stuck in the Senate after passing the House by a wide margin: campus-carry legislation, and bills that would limit state and local police enforcement of new federal firearms laws.”
- **School safety** - “In response to last December’s Connecticut school massacre, bills to ramp up school security with special marshals and to provide state training for school security personnel appear headed to the governor. Proposals to put more armed people in schools in case a gunman opened fire did not pass, nor did a proposal to allow school districts to raise taxes to bolster security.”
- **Public Integrity Unit** - “A push by some House GOP conservatives to strip the Public Integrity Unit — the state’s chief ethics enforcement office — from the Travis County district attorney’s office has failed to move several times. But in the final week, look for attempts to move the office or cut off its funding in the wake of DA Rosemary Lehmborg’s drunken driving conviction.”
- **Redistricting** - ‘Attorney General Greg Abbott wants the Legislature to approve the court-drawn maps for legislative boundaries, to forestall additional litigation. Democrats who challenged the original GOP maps in court, but benefited from the court maps, are resisting.’
- **Gambling** - “Proposals for destination resort casinos, slot machines and increased gambling failed to gain traction. Despite a short-lived move by the House to abolish the Texas Lottery, it will survive in good shape.”
- **Abortion** - “The two most controversial measures haven’t received a vote in either house. The Preborn Pain Act, seeking to ban abortions after the 20th week, when supporters say a fetus can begin feeling pain, passed a House committee but has not been scheduled for a floor vote. And Senate Democrats bottled up a bill requiring abortion facilities to be certified as ambulatory surgical centers.”
- **Tobacco regulation** - “Bills to ban smoking in most public places in Texas, as well as a measure to raise the legal age to buy tobacco products to 21, went up in smoke this session. None received a vote in committee, the first step in the legislative process.”
- **Drug-testing welfare recipients** - “The House has until Tuesday to vote on a Senate-passed bill requiring drug tests for welfare recipients who fail a drug screen or have a felony drug conviction. Three failed tests would result in a lifetime ban on welfare, though benefits for children would continue through a “protective payee,” typically a relative.”
- **Shopping bags** “The bill, by Rep. Drew Springer, R-Muenster, would prohibit cities from enacting ordinances banning single-use plastic and paper bags. He said the bill was inspired by the City of Austin, which enacted a bag ban this spring. Springer’s bill died in the House on May 10 when it hit a key deadline without a floor vote. Springer could try to attach his proposal to another bill, *but chances of that are thinner than a single-ply plastic sack.*”
- **University construction bonds** - “Lawmakers seem poised to approve the first major round of construction bonds for public universities since 2006. The Senate has approved \$2.4 billion in bonds for dozens of projects. The House Appropriations Committee approved a similar package Friday, with the full House scheduled to take up the matter Monday. The list includes \$95 million for an engineering education and research center at the University of Texas.”

- **Top 10 percent law** “The University of Texas wants continued wiggle room under the state’s automatic-admission law and will likely get it. Under current law, the university doesn’t have to accept all applicants who rank in the top 10 percent of their Texas high school class — discretion that will evaporate after the 2015-16 academic year. House Bill 1843 by Rep. Dan Branch, R-Dallas, would extend UT’s power through 2017-18.”
- **Higher-education board** “The state’s higher education agency has had a tough session. Both chambers, responding to complaints from universities, voted to strip the coordinating board of its authority to shut down low-producing degree and certificate programs at public universities and community colleges. The provision is part of so-called sunset legislation that would keep the agency operating for 12 more years.”
- **University regents** “Lawmakers don’t like the way the University of Texas System Board of Regents has been treating UT-Austin and its president, Bill Powers. A measure passed by both chambers and sent to the governor would scale back the power of all boards of regents. For example, regents could not fire a campus president without a recommendation to do so by the system’s chancellor. No word yet from Perry’s camp on whether he’ll veto the effort to trim the authority of his appointees.”
- **Fixed-rate tuition** “Perry wants students at public universities to have the option of paying the same tuition rate all four years. A measure working its way through the Legislature would require schools to offer the option, but it’s not clear Perry would sign it. The reason: The Senate version includes language limiting the power of regents, including their ability to dismiss campus presidents.”

Over at **Must Read Texas** , Matt Mackowiak posted his “five big questions as we head into the final full week of the 2013 legislative session.”

- 1) Is a special session going to be needed for anything other than education funding (post ruling) or redistricting (post ruling)?
- 2) Does Gov. Rick Perry (R-TX) sign or veto the budget?
- 3) Does Gov. Perry sign or veto the regent bill?
- 4) Does Gov. Perry sign or veto the disclosure bill?
- 5) What happens to Gov. Perry’s nominees to the UT Board of Regents (hearing is Monday)?”

NAYSAYERS

It does seem as if the budget has failed to meet the governor’s most specific instruction — that it provide \$1.8 billion in tax relief.

Here is what officials at the Texas Public Policy Foundation had to say about the budget deal.

- “Lawmakers are spending too much, using the Economic Stabilization Fund for new programs, and are not making provisions for a broad-based tax cut that will boost the Texas economy during increasing signs of a national slowdown,” said Arlene Wohlgemuth, executive director of the Texas Public Policy Foundation.
- “Absent fundamental pension and education reform, spending almost \$4 billion more on top of inflation and enrollment growth for public education won’t yield \$4 billion of value to taxpayers,” said Talmadge Heflin, director of the Center for Fiscal Policy.
- “Should the Legislature adopt a budget without significant tax relief, we look to the Legislature coming back into a special session to reduce the tax burden on Texans,” said Chuck DeVore, vice president for policy. “We recommend reducing the state sales tax by 0.25 percent. If made effective at the beginning of 2014, it would meet the Governor’s marker of \$1.8 billion in tax cuts.”

ET: Conservatives Phone Home

And here is Empower Texans’ Michael Quinn Sullivan’s more acerbic assessment of the budget deal, as it’s been reported. (*italics my own*)

“*According to media reports* , the Texas Legislature’s House and Senate budget conferees have apparently reached a “deal” that adds \$3.9 Billion in education spending while drawing at least \$2 Billion from the state’s Economic Stabilization Fund.

“*A very big caveat: The details of the budget deal are currently only available through media reports, which makes them suspect.*”

“Meanwhile, it looks like the deal has about a half-billion in business tax relief and another half-billion in fee reductions.

“This, coming in a legislative session that started with billions and billions in new revenues! Lots of new spending — including spending from the ESF, the so-called “rainy day” fund — and just a paltry smidgeon of tax relief...

“Looking at the broad outlines of the deal — *recognizing that these are all media reports, making them rather suspect* — it appears to wildly exceed the population+inflation limitation demanded by 94% of GOP primary voters on May '12 ballot.

“In fact, given the way it also draws money from the Economic Stabilization Fund, it is hard to see how it doesn't end up busting even the current squishy cap. I wonder if anyone has checked with the state's lawyer, Attorney General Greg Abbott, on all of this?

“A May 8, 2013, letter from Mr. Abbott to the legislative leadership a couple weeks ago described spending from the ESF as counting against the spending limit.

“Some weary legislators will feel compelled to sing the praises of this “deal” merely so they can justify the 140 days they spent in Austin as being un-wasted, and hope no one notices how few actual conservative reforms were accomplished.

“No constitutionally strengthened spending limits. No provisions for zero-based budgeting. No significant tax relief. No reforms to property taxes... The list goes on of this Legislature left not only undone, but unattempted.”

“BECAUSE I SAID SO”

Before we move on from discussion of the budget, let it be recorded for posterity that the deal was not sealed with a kiss.

“A FRACTIOUS MOMENT BEFORE BUDGET CONFEREES PUT THEIR STAMP ON A BUDGET DEAL”

From Quorum Report's John Reynolds

“After a week full of brinkmanship across the Capitol, budget conferees were moving toward adopting a report that will now go to each chamber for its approval. The conference report contains \$3.93 billion for public education, resolving the final large sticking point in finalizing the spending priorities for the state over the next two years.

“But the meeting wasn't without one moment of friction. Rep. Sylvester Turner (D-Houston) asked LBB representatives how much extra money is in the budget document for the Foundation School Program.

“The LBB representative said \$3.2 billion. Turner followed up by asking about any intent to do more for FSP funding. The question was an allusion to the recently struck budget deal that calls for \$3.4 billion in additional money for the school funding formulas accompanied by \$530 million in additional state contributions to the teacher retirement system.

“Senate Finance Chairman Tommy Williams (R-The Woodlands) said that \$200 million for the FSP was being assigned to HB 1025, the supplemental spending bill that will be considered next week in the Senate.

“Turner asked why the money wasn't put directly in SB 1. Williams said that the decision packet had already been put together and he had no intention to ask LBB to add the \$200 million into the conference report.

“But when Turner pressed, Williams replied curtly, “Because I said so” and added that he told people last night about how the \$200 million would be handled.

“Turner said he wasn't one of those people in the conversation last night. He said he wasn't talking to others' motivations but was simply asking questions. “If you are saying you are putting \$200 million into the FSP, I take you at your word,” Turner said.”

LESSONS FROM WEST

Gov. Rick Perry has, with a great flourish, made job-poaching forays to California and Illinois, advertising Texas as a place with a far friendlier business climate — including lower taxes and a less onerous regulatory environment. After the terrible explosion at the fertilizer plant in West, Texas, a political cartoon in the Sacramento Bee, implicating the more lax regulatory regime in the disaster, stirred an outraged response (in part because of its timing even as West was burying its dead) from Gov. Perry and other state officials.

On Sunday, in the Austin American-Statesman, Jeremy Schwartz, in a piece headlined, “Texas behind the curve on regulating fertilizer plants,” looked at how inspection of the fertilizer plant might have been different if West were, say, located in California or Illinois.

“If the West Fertilizer Co. plant had been in Illinois, state regulators there likely would have inspected it annually, making sure

that its bins storing tons of ammonium nitrate were still in good shape and that the potentially explosive chemical wasn't spilling out. Though not charged with fire prevention, had they spotted a fire hazard, officials say, there is a good chance they would have alerted local authorities.

"Had the plant been in California, a team of local officials may have inspected the plant, looking at everything from building codes to worker safety.

"Many states simply have more eyes looking at such facilities than Texas, where no state agency regulates any aspect of ammonium nitrate safety, either to protect workers or the general public. Texas is also one of only four states that lacks a statewide fire code and associated rules on storage of the chemical. Those rules are perhaps the strongest protection against unsafe handling of ammonium nitrate, which authorities have long known can blow up catastrophically under certain conditions.

"About 30 tons of the material exploded during a fire at the West plant last month, killing 14. Though officials have given only limited details on how the chemical was stored, it appears that the facility, which lacked a sprinkler system, might have been in violation of at least some of the ammonium storage guidelines found in most fire codes.

"But would officials in any other state have caught those deficiencies? Even in states that are the most aggressive when it comes to regulating both workplace safety and fire hazards, officials don't regularly target the safe storage of ammonium nitrate at fertilizer plants.

"As in Texas, many states dispatch inspectors to fertilizer plants to make sure products are properly blended and labeled. Unlike Texas, many states — including Oklahoma, Iowa, Missouri, Kansas and Nebraska — enhance those consumer protections with annual environmental checks, as well as periodic safety inspections of tanks containing anhydrous ammonia, a gaseous fertilizer that can create a toxic cloud if released.

"But those inspections don't generally encompass the safe storage and handling of ammonium nitrate fertilizer, a blind spot that extends well past Texas to other states and the federal government."

"I don't know that anyone had these small fertilizer plants on their radar screen," said Celeste Monforton, a lecturer at the George Washington University School of Public Health and Health Services and a former official at the Occupational Health and Safety Administration. "(Regulators) tend to be reactive."

Meanwhile, Reese Dunklin in the Dallas Morning News, reports on the workings of the Chemical Safety Board, which, "out of the spotlight ... is trying to determine, no matter how the fire started, what more could have been done to save this Central Texas farm town."

The board, "began in 1998 with a congressional mandate to investigate industrial chemical accidents and identify the systemic breakdowns that caused them. It serves an ombudsman's role, recommending changes that governments, businesses and labor groups should make."

"We look for broader lessons and improvements in practices without proportioning responsibility," said Don Holmstrom, a CSB supervisor and its lead investigator in West. "We're looking for how we can prevent this from happening in the future."

"TO AFFORD PROPER CARE for their children, some Texas parents have been forced to turn them over to the state. Now, there may be a better answer."

A stunning story from The Statesman's Chuck Lindell .

"It is a dirty little secret for the state's child protection system.

"Last year, parents of 130 Texas children willingly claimed that they abused or neglected their offspring — even though they had not — because involving Child Protective Services was the only way to provide their children the intensive, and expensive, mental health treatment they needed.

"For most, this act of desperation and compassion was openly embraced by judges, CPS caseworkers and child advocates who knew the truth but played along, having no better alternative for treating deeply troubled children.

"But help comes at a steep personal price. In most cases, Texas cannot pay for treatment unless the state has custody of a child. And the state cannot take custody without a court finding of abuse, neglect or imminent risk of harm.

"A possible solution is coming. Tucked into a corner of the state budget making its way through the Legislature is a \$2 million pilot program designed to keep 40 children with their families over the next two years. The money will pay for extended stays in residential treatment centers, frequently the most expensive option for mental health care, without requiring the state to take custody of the children."

“We have been trying to figure out how to do this for a very long time,” said Audrey Deckinga, assistant CPS commissioner. “None of us likes to make parents fit into our system when they’re just trying to do the best with their child.”

MORE MONEY FOR MENTAL HEALTH

Matthew Mientka at Medical Daily reports: “Despite budgetary battles over issues from water to roads to education, Republicans and Democrats in Texas agree on at least one thing — the imperative to spend more money on mental health care.

“Following devastating budget cuts a decade ago, Texas ranked last in the nation for spending on mental health care from 2006 to 2009, spending in fiscal year 2010 just \$39 per capita. In contrast, top spending states such as Maine spent nearly 10 times as much, according to the Henry J. Kaiser Family Foundation.

“However, Texas is now allocating hundreds of millions of dollars more to fund services to prevent residents with mental illnesses from landing in state hospitals and county jails, the streets, or the morgue.”

Here’s the story from the Texas Tribune’s BRANDI GRISSOM and ALANA ROCHA .

“**TEXAS LAWMAKERS play key roles in immigration debate**” RICK DUNHAM Houston Chronicle

From political scientist Mark Jones, Rice University: “As the largest state delegation in the GOP House caucus and the state which also has the second-largest Hispanic population, Texas Republicans will have a Texas-sized influence on immigration reform in the House ... Unlike the case for most House Republicans, the future of the Texas party’s grip on power at the state level will be profoundly affected by the failure of this reform legislation,. If the legislation fails to pass, the Republican Party will be blamed and its image among a majority of Hispanics will deteriorate even more.”


SUNDAY NIGHT FEVER

Even before I was responsible for producing First Reading, I found Sunday’s nights a real downer. It is a common malady. Here for example is a Wall Street Journal Story by Jared Sandberg — “Dread of Sunday Night Even Afflicts People Who Like Their Work.”

It included this advice from food and culture writer Francine Maroukian: “Whenever she hits a suspenseful moment in a book, she stops reading and saves it for Sunday night. She also makes sure she’ll find comfort in her apartment. “Lighting is critical,” she says, and “never underestimate the healing power of melted cheese. There’s something soothing about eating it.”

Why am I bringing this up? Out of a sense of empathy with Sen. John Carona, R-Dallas, who I trust had a very big bowl of mac and cheese last night.

Imagine, you’re preparing for a very long last grueling week of the session, and then you read the following two Sunday tweets.



Texas Tribune
@TexasTribune


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Coming tomorrow: [@TexasTribune](#) & [@TexasMonthly](#) launch pt 1 of 3-day series on Sen. John Carona, his [#txlege](#) career & his business practices.

5:27 PM - 19 May 2013

2 RETWEETS

And -



Evan Smith

@evanasmith

Follow

Seems like a billion yrs ago that [@byjayroot](#) started reporting on John [#Carona](#) as part of [#bidnessasusual](#). Publishes tmrw.

5:35 PM - 19 May 2013

1 RETWEET

Oh My God.

The Texas Tribune *and* the Texas Monthly.

Three part series .

And, if Evan Smith, man of science, is to be believed, *Jay Root has been working on this story since shortly after the Big Bang.*

Recall Root's recent one-part vivisection of Sen. John Whitmire's ethics as distilled into a New York Times story under the Johnny Cash headline "Sen. John Whitmire Walks a Fine Line on Conflicts."

Here is my reinterpretation of "I Walk the Line: The Whitmire Variation." (J. Cash, J. Root)

-I keep a close watch on this heart of mine/

-I keep my eyes wide open all the time/

-I keep the ends out for the tie that binds/

-Because when I'm not making laws, I'm working in the government affairs section of a politically connected law firm, I walk the line."

Well, the good news for Carona is that Whitmire's still standing.

The bad news ... well, here's "For John Carona: Conflicts and Interests," in which Root lays out how, amid the dubious ethical culture of the Capitol, "Carona stands out."

"By his own estimation, Associa" (of which Carona is founder, president and CEO) "employs 8,800 people and remains the largest and most active business operated by a member of the Legislature. Given the nature of his business, Carona has an impact on the lives of people far outside his Senate district because he sits at the top of the food chain for the 2 million or more people living under the rules of the privatized governments Associa helps operate. No other state legislator has that kind of power. *He is a senator and a special-interest group rolled into one.*"

"He's got to be number one in that category," said former state Sen. Jon Lindsay, a Houston Republican. "I can't think of anybody who serves in the Senate who has so much vested interest."

TWEET-TWEET



Susan Combs

@SusanCombs

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ICYMI: here's my interview on [@TxCapTonight](#) discussing the budget process: bit.ly/12mRfzm

7:21 PM - 19 May 2013

1 FAVORITE



Joe Deshotel

@joethepleb

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Jan Soifer being sworn in as new [@tcdp](#) Chair. #atx #txblue pic.twitter.com/6tH4iimFqY

4:31 PM - 19 May 2013 from Austin, TX, United States





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@RepLloydDoggett spurs standing ovation for outgoing chair @AndyBrownTx. ow.ly/i/29u5i #atx #txblue

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1 RETWEET



Michael Hurta


@MichaelHurta

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Jan Soifer points out that almost half of the precincts in Travis County don't have a Democratic precinct chair. #atxvotes

4:35 PM - 19 May 2013







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Meanwhile, Constable Sally Hernandez and & ADA Gary Cobb win best ice cream @ Elfant's social with their "Sweet Harmony" creation. #atxvotes

4:51 PM - 19 May 2013

1 RETWEET 


(Miya Shay, a Houston broadcast journalist with KTRK, is married to Rep. Gene Wu, D-Houston)




miyashay
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So @GeneForTexas has left for the last week of #txlege session. Will he come home for good next week, or will there be a special? Ack!

8:38 PM - 19 May 2013

1 RETWEET 




Harold Cook @HCookAustin 12h
@miyashay @GeneForTexas my prediction: both.



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8:44 PM - 19 May 2013



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