



**Shields**  
*Legislative Associates*

## *82nd Legislative Session Final Report*

*The 2011 Texas Legislative Session has adjourned having met for the 140 consecutive days allowed in the Texas constitution. When they convened back in January they faced a \$27 billion shortfall for the next budget, the political challenge of redistricting, and the inexperienced enthusiasm of 38 freshmen legislators. Despite that, they accomplished a lot... They redrew the lines of the House and Senate districts according to the new census population numbers; passed legislation requiring voters to show a photo ID; prohibiting texting while driving; loser-pays tort reform; allowing the hunting of feral hogs from helicopters; and regulating the practice of "hand-fishing" or Noodling.*

*Of major importance, the legislature passed a budget for fiscal years 2012-2013, which will spend \$27 billion less in those*

*years than was spent in 2010-2011. This was accomplished without raising taxes or depleting the state's 'rainy day fund.' However, the "fiscal matters" bills that provided the cost savings in public education and Medicaid didn't pass and a special session of the legislature will have to address those issues.*

*Each legislative session seems to be recognized more for the measures that failed to pass, and this session will be no different. Contentious issues that never made it to the Governor's desk included a ban on smoking in public places; bans of sanctuary cities; allowing concealed handguns on college campuses; and congressional redistricting...although, some of those issues may be addressed during the special session.*



## *TYA Legislative Recap*

About a year ago yoga studios in Texas came under attack from the Texas Workforce Commission. The TWC contended that any studio who taught classes to yoga instructors was engaged in an educational program that prepared an individual for a vocational endeavor and therefore must be licensed as a **Career School or College**. Months of negotiations with the TWC didn't produce a compromise and many yoga studios were faced with significant fines if they continued to offer classes for instructors.

Yoga studio owners argued that Texas law defined a "career school or college" as a program that offered a "postsecondary program that may lead to an academic, professional, or vocational degree, certificate, or other

recognized educational credential." The yoga courses in question did not lead to an academic or professional degree and do not require a high-school diploma.

The Texas Yoga Association took the lead in representing the yoga community and took their fight to the Texas legislature. The lobby team initiated a public affairs campaign that brought a message to the legislature that **"Teaching Yoga Shouldn't be a Crime."** Two bills were filed at the beginning of the 2011 legislative session. SB 1176 by Senator Mike Jackson (R-La Porte) changing the definition of a "postsecondary" program in the TWC code to exempt yoga from regulation, and HB 1839 by Representative Larry Phillips (R-Sherman) which took a list of avoca-

tions already exempted by the TWC, adding yoga and put the list into the TWC law. We had hoped that one of the bills would pass, but to our delight, both bills passed and are scheduled to be signed by Governor Rick Perry in the next few days.

These new laws will exempt all yoga teacher-training from regulation by the Texas Workforce Commission. However, there are some larger yoga studios that specialize in teacher training and want to be licensed as a career school. Those schools receive certain federal funds and benefits that make the regulatory burden worthwhile. For those yoga teacher schools, they can maintain their career school status if they offer any other course that IS covered by the TWC laws.



## *The Following Is a Recap of Other Major Legislative Issues This Session*

### *Redistricting*

Every ten years, following the U.S. census publication, the state of Texas must by constitutional mandate, reapportion the states representative and senatorial districts to equalize the population and representation. This legislative session The Texas Senate and House of Representatives have passed the redistricting maps after heated debate and threats of lawsuit in the Texas House. The proposed maps are not always a division along party lines, each member takes the stakes personally. There were 10 (R) votes against the map and 3 (D) votes for it in the House. There are no open seats created in the Senate and now 7 open seats in the House to be filled in the upcoming elections; District 3 composed of NE Houston, Magnolia, Hempstead and Conroe; District 12, Falls, Robertson, Limestone and East Waco; District 33, Rockwall and Frisco; District 85,



Jackson, Wharton, South Ft. Bend, Richmond and Rosenberg; District 101, Arlington and Grand Prarie; District 106, NE Denton County, The Colony, Oakpoint and Aubrey; District 149, NE Austin, Cedar Park and Leander. These open seats allow for several opportunities for new representation in the house. With open seats comes "pairings", incumbents who will now be running against each other, because they both live

in the same district. This is true in 7 districts; District 2, Representatives Flynn and Cain; District 21, Representatives Ritter and Hamilton; District 34, Representatives Scott and Torres; District 88, Representatives Chisum and Landtroop; District 105 Representatives Harper-Brown and Anderson, R.; District 113, Representatives Burkett and Driver; District 137, Representatives Hochberg and Vo.

The committee on redistricting was headed by Chairman Solomans in the House and Chairman Seliger in the Senate. The Senate approved a new district map that protects all of the Republican incumbents and all but one Democratic incumbent, Senator Wendy Davis of Ft. Worth.

The Congressional districts have yet to be decided upon, and this must be done by the legislature and not the Legislative Redistricting Board. Governor Perry has added this to the agenda for the special session.

### *Frivolous Lawsuits*

Governor Perry officially signed House Bill 274, which brings important lawsuit reforms to Texas courts. The bill, which was designated as an emergency item for this session, will require the civil parties who lose in the Texas courts to pay the court costs and attorneys' fees of their opponents. The bill introduces a "motion to dismiss" into the state's civil-justice system. For the majority of states, and in the federal system, judges are allowed to dismiss unmerited lawsuits at an early stage, before the parties have exchanged evidence. The bill would also take Texas where very few states have gone; creating a mandate that either plaintiffs or defendants who lose at the motion-to-dismiss phase pay the court costs and attorneys' fees of the



Gov. Rick Perry signs HB 274, the 2011 Omnibus Tort Reform Act, into law while legislators and TLR Chairman Richard W. Weckley look on.

other side. Among the states only Alaska currently employs a loser-pays system. The senate panel voted unanimously to

support the bill after a compromise was reached among various constituencies.



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*Major Legislative  
Issues This Session  
cont.*

## *State Smoking Ban, Not This Time*

After losing efforts on the statewide smoking ban, a promising glimpse for supporters occurred late on May 20. This bill was expected to have a positive fiscal note of hundreds of millions of dollars spent treating patients with smoking related diseases. The House voted (73-66) to add the smoking ban to the spending bill. The legislation would have prohibited smoking in restaurants, bars and other public facilities that require a license from the health department. With the special session, contingent on SB 1811, Senator Deuell stated that, " Keeping the ban amendment in the bill puts it at risk of a procedural objection. That bill was too important to jeopardize over that issue." The bill is dead as of now.

## *Better Protection for Nurses*

SB 192, sent to the Governor, will help protect nurses from being fired or punished for reporting rule violations or practices that put patients at risk. Doctors could be fined up to \$25,000 for retaliating against nurses. The bill also gives nurses immunity from criminal prosecution for reporting violations in good faith.

## *Voter ID Bill Passes*

A bill that caused much controversy and brought many delays to the forward movement last legislative session was declared an emergency matter by the Governor this session. The voter ID bill, which now requires a government issued photo ID to be showed at the polls.

## *Payday Lending Gets Approval*

The Senate approved two measures that bring some oversight to the largely unregulated payday lending industry in Texas. The legislation will require more than 3,500 storefront payday offices to obtain a state license and to disclose information about their fees to customers. Representative Vikki Truitt carried the legislation, HB 2592 and HB 2594, which were overwhelmingly approved in the Senate with few changes. The Senate sponsor, Senator John Carona urged Senators to not amend the bills because of the probability of the House not concurring in Senate amendments. Both bills were the results of negotiation between the industry and consumer groups. The legislation does not address the so-called cycle of debt - when consumers cannot pay off their loans and instead roll them over, racking up heavier fees. Those fees are still unregulated. The House approved the Senate changes and the bills have been sent to the Governor.

## *Tax Exemption Extension Wins*

Legislation extending the exemption of the state business tax for the first \$1 million in revenue for two years is set as one of the many amendments to Senate Bill 1811, the fiscal matters bill. The extension will keep about 28,000 Texas businesses from being subject to the revenue-based tax starting in 2012, according to the NFIB.

## *Puppy Mill Bill*

The bill by Senfronia Thompson, designed to crack down on so-called "puppy mills" in Texas that breed dogs and cats in unsanitary and unsafe conditions, was approved in final form in the Senate after triggering much controversy throughout the legislative session. HB 1451 would cover new regulations for breeders who have 11 females and sell more than 20 offspring each year, but includes exemptions for specialty dogs breeders.

## *Perry Signs Ultra- sound Measure*

Perry signed the bill that would require women seeking an abortion to first undergo an ultrasound procedure at least 24 hours prior to a termination. This law will go in to effect Sept. 1, provided that it does not get caught up in court, however, a legal challenge appears highly likely due to the highly controversial nature of the bill.

## *No Campus Carry*

State Senator Jeff Wentworth was the lead proponent of a bill to allow concealed handguns in college classrooms. The bill died after a point of order was withheld on a last attempt to add the legislation to the fiscal matters bill. The point of order was called by Representative Mike Villareal, declaring that the bill shouldn't be considered because the amendment was about a different subject than the main bill.



208 W 14th St. Austin, TX 78701  
brad@bradshields.com  
512.413.2700