



# THE 88TH SESSION

## OVERVIEW

By Royce Poinsett

In 2023, Texas lawmakers faced an embarrassment of riches: a historic, almost mind-boggling \$32.7 billion surplus resulting from booming post-pandemic consumer spending and oil and gas production. This surplus was about triple the state's previous highest record and was larger than the entire budgets of most other states. The Republican-dominated Legislature budgeted billions of dollars back into neglected facets of state government, and then made huge “generational investments” in the state's infrastructure, education, and social services needs.

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However, in the January-to-May regular session, the state's Republican leadership failed to find consensus on their highest fiscal priority: delivering the "largest property tax cut in history" they had promised to voters on the campaign trail. This breakdown led Gov. Greg Abbott to immediately call legislators back into a June special session and to also veto dozens of their recently passed bills. But this "tough love" did not motivate Lt. Gov. Dan Patrick and Speaker of the House Dade Phelan to reach agreement on the issue. Instead, the "Big Three" leaders spent the ensuing weeks in open tax policy warfare, complete with dueling press conferences and tweets. So the governor called the Legislature back for "double overtime," and in July, in a second special session, the leaders were finally able to negotiate and pass a compromise property tax relief package.

In the regular session, the Legislature also failed to pass the "voucher or school choice" legislation pushed by the governor and Texas Senate, allowing parents to use taxpayer dollars to pay private school tuition or home-schooling expenses. The governor had traveled the state championing the concept, but in the House, enough rural Republicans teamed with Democrats to kill the proposal.

The regular session did see Republicans pass another batch of socially conservative priorities, focused on transgender issues, diversity initiatives, and school library books.

For added drama, the House expelled a Republican legislator for sexual misbehavior with an intern and then closed the session with the surprise impeachment of Republican Attorney General Ken Paxton.

The governor has pledged to call the chambers back for additional special sessions on school choice and other unfinished business. And the Senate plans to begin the attorney general's impeachment trial in September. So weary legislators are anticipating a busy summer and fall in Austin.

### Major Legislation of the 2023 Regular Session

Texas legislators filed more than 8,000 bills and passed over 1,200. The governor vetoed 76 bills, the second highest count in state history. Some of the most significant legislation is summarized here.

*State budget.* **HB 1** enacts a balanced two-year state budget with a record \$321.3 billion in overall spending, a 5.95% increase over the prior biennium's budget. **SB 30** provides another \$7 billion in supplemental appropriations. The Legislature left over \$10 billion in projected revenue unspent and left over \$27 billion parked in the state's "rainy day fund." Billions of dollars in spending on "generational investments" in various arenas are contingent on voter approval of constitutional amendments in November (as discussed below).

*Property tax relief.* It took two special sessions for the Republican leadership to agree on how exactly to direct about

\$18 billion in surplus funds toward property tax relief. **SB 2** and **HJR 2** (second called session) is a compromise package blending Senate and House priorities. If approved by voters, the state's residential homestead exemption will increase from \$40,000 to \$100,000 (at a cost to the state of \$5.3 billion for the biennium). And the state will "buy down" the school property tax rate by 10.7 cents per \$100 valuation for all homeowners and business properties (a 23.8% decrease, at a cost to the state of \$12.6 billion per biennium). Republicans predict these two mechanisms will save Texas homeowners an average of \$1,300 each year. Finally, the state will institute a three-year pilot program that caps property value increases at 20% for commercial properties, second homes, and investment properties valued at \$5 million or less.

*Higher education.* The state budget includes \$700 million in new funding for public universities and \$650 million for community colleges. The University of Texas and Texas A&M University received nearly \$700 million to research and develop microchips. And under **HB 1595/HJR 3**, voters will have the opportunity to approve a \$3 billion endowment to expand research activities at Texas State University, Texas Tech University, the University of Houston, and the University of North Texas. The budget also includes nearly \$1.5 billion in grants for low-income students.

**SB 17** bans diversity, equity, and inclusion, or DEI, offices, programs, and training at publicly funded universities, following the lead of Florida. **SB 18** maintains tenure at public universities but codifies tenure guidelines and requires regular performance reviews.

*Public education.* The budget provides almost \$6 billion in new public school funding. In response to recent violence **HB 3** allots \$330 million to schools' physical security infrastructure. The Legislature also allocated \$1.1 billion to help schools meet new safety requirements and passed **SB 838** to require schools to install silent panic alert buttons in each classroom. **SB 10** provides \$5.6 billion in cost-of-living adjustments for retired teacher pensions. A proposal to provide an additional \$5 billion in additional public school funding (including raises for teachers) fell victim to the battle over "school choice" but will likely be revisited in an upcoming special session.

**HB 900** requires a new rating system for books in public school libraries and bans "sexually explicit material" from school shelves. And **SB 763** allows public schools to employ chaplains.

*Infrastructure.* Legislators allocated \$5 billion for new highway construction, and voters can approve \$1.5 billion for expanding broadband internet availability (**HB 9/HJR 125**).

*Natural Resources.* Voters can approve \$1 billion for state parks conservation and acquisition (**SB 1648/SJR 74**) and \$2 billion to increase water supplies, fix failing water

infrastructure, protect the coast, and prevent flooding (**SB 28/SJR 75**).

*Electric grid reform.* The Legislature continued the reform of the state's electricity market that began when Winter Storm Uri hit Texas during the 2021 session. **SB 2627/SJR 93** and **HB 1500**, the Public Utility Commission's Sunset bill, seek to improve electric grid reliability by allocating up to \$5 billion to incentivize generators to build new "dispatchable" power plants (pending voter approval) and by setting new standards for generation reliability and responsiveness. The bills also included provisions aimed at reducing the grid's reliance on renewable energy.

*Preemption.* **HB 2127** is a sweeping "field preemption" law that could fundamentally shift the contours of business regulation in Texas. The measure bars cities and counties from issuing local ordinances that go further than what is permitted under state law in various arenas, including labor, agriculture, natural resources, and finance. Litigation to determine the exact scope of the new law is expected.

*Judicial Reform.* **HB 19** establishes new specialized business courts with jurisdiction over large, complex business disputes, following the lead of Delaware and 28 other states. **SB 1045** establishes a new statewide 15th Court of Appeals based in Austin. The new court will have exclusive intermediate appellate jurisdiction over a wide array of civil matters, including cases from the new business courts, most suits against state agencies, and all suits challenging the constitutionality or validity of a state statute or rule.

Legislators have criticized district attorneys who elect to not prosecute certain classes of crimes (typically those involving abortion, marijuana, or theft), and **HB 17** subjects those district attorneys to removal petitions.

*Economic development.* **HB 5** replaces the expired "Chapter 313" incentive with a new (less generous) "Chapter 403" property tax abatement program to help lure projects to the state. The new program excludes renewable energy projects. The Legislature also appropriated \$200 million for the state's film, television, and video game incentive program, more than quadrupling last session's funding.

*Human services.* The budget provides \$3 billion for new mental health facilities and services. **HB 12** extends Medicaid coverage for low-income Texans for a full year after childbirth.

*Transgender issues.* With **SB 14**, Texas joins 17 other states in prohibiting minors from accessing gender transition-related surgeries, puberty blockers, or hormone therapies. **SB 15** requires intercollegiate athletes at Texas public institutions to compete on the teams that align with their sex at birth, regardless of their gender identity. **SB 12** began as legislation specifically criminalizing "drag show performances" in front of minors, but the enacted version is a broader, vaguer bill

criminalizing any "sexually explicit performances" in public or in front of minors.

## New Laws That Affect Everyday Life

*Savings on Aisle 9.* **SB 379** nixes the sales tax on menstrual products, diapers for adults and children, baby wipes, breast milk pumping products, baby bottles, maternity clothes, and wound care dressings, effective September 1, 2023.

*Shorter Wait Times at Jiffy Lube.* **HB 3297** eliminates annual safety inspections for non-commercial vehicles, effective January 1, 2025. Emissions tests will still be required in 17 highly populated counties.

*Good Hair Day.* **HB 567** prohibits discrimination in education, employment, or housing on the basis of a person's "hair texture or protective hairstyle commonly or historically associated with race," such as braids, locks, and twists, effective September 1, 2023.



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## PUBLIC NOTICE

### UNITED STATES DISTRICT COURT SOUTHERN DISTRICT OF TEXAS HOUSTON, TEXAS

#### APPOINTMENT OF FULL-TIME UNITED STATES MAGISTRATE JUDGE

The United States District Court for the Southern District of Texas is soliciting qualified applicants in order to appoint a full-time United States Magistrate Judge for its Houston Division, pending approval of the position by the Fifth Circuit Judicial Council and the Judicial Conference of the United States Courts. The current annual salary of the position is \$213,992. The term of office is 8 years.

A full public notice for the position, which includes information concerning background and IRS tax checks as well as financial disclosure requirements, and the application form are available in the office of the United States District Clerk at Brownsville, Corpus Christi, Galveston, Houston, Laredo, McAllen and Victoria. The notice is also available on the Court's website at [www.txs.uscourts.gov](http://www.txs.uscourts.gov).

Applications may be submitted electronically, in person, or by mail and must be received by 5:00 p.m. on September 22, 2023. Details are provided on the Court's website.

Applications will be kept confidential, unless the applicant consents to disclosure, and will be examined only by members of the merit selection panel and judges of the district court. The panel's deliberations are confidential.