

Accomplishments of the 63rd Legislature

INTRODUCTION

The 63rd Legislature was certainly one of the busiest and, I believe, one of the most productive Legislative Sessions in history. The actions taken will have a direct effect on the lives of each citizen of Texas and I feel it proper that I report to you on the major legislation which was approved.

ETHICS

If any one matter can be said to have been uppermost in the minds of the membership of the 63rd Legislature, it was ethics. Almost all of us had been elected on platforms promising reform of state government and insuring greater ethical conduct on the part of all elected officials. The people wanted ethics legislation, and we provided them with what they wanted.

The Ethics Bill, House Bill 1, requires public financial reports from state officials and outlines standards of conduct for all state governmental officers and employers. Under the code, elected state officials, salaried appointive officers and members of 28 named boards and commissions with extensive budgetary powers will file financial statements listing income according to source and amount.

A description of property, stock holdings and other investments also will be listed in the public reports which will be filed with the Secretary of State's Office. Failure to file would constitute a misdemeanor, carrying a maximum six month jail sentence and a \$1000 fine.

The Lobby Control Bill, House Bill 2, requires lobbyists who spend in excess of \$800 yearly and who deal with legislators or representatives of the executive branch to register with the Secretary of State's Office. They must provide the name of their employer, a description of lobbying activities and other information.

Lobbyists attempting to bribe public officials to pass or defeat legislation would be subject to a felony conviction, punishable by two to ten years

imprisonment and a \$5000 fine. Persons violating other sections of the Act would be subject to a maximum misdemeanor sentence of one year in jail and a \$2000 fine.

The Campaign Reporting and Disclosure Act, House Bill 4, covers all office seekers who have taken "an affirmative action" to run for election. Candidates must continue to file campaign statements each year until the balance of their campaign expenditure has been settled. Corporations are prohibited from contributing to campaigns; officials would be subject to a fine of \$100 to \$5000 and a prison term of one to five years.

Election Commissions are established on the state and county levels to oversee the reports and inform district attorneys or the Attorney General's Office of violations.

Other ethics legislation adopted includes: House Bill 3, which requires that meetings of governmental bodies be open to the public; House Bill 6, which provides for public accessibility to information in the custody of governmental agencies; House Bill 8, which regulates campaigns for Speaker of the House and provides financial information; and House Bill 9, which provides penalties relating to bribery with the intent to influence votes for Speaker of the House.

BUDGET PROCESS

Always of priority interest is the nature of the Appropriations Bill which is adopted. The 63rd Legislature's consideration of the Appropriations Bill was notable for the emphasis placed on economy and efficiency. This care to reduce the costs of government to the lowest possible level resulted in our not having to increase taxes in any way. The total state budget for fiscal 1974-1975 is \$9.7 billion, and we have approximately \$70 million in unexpended state money.

The 63rd Legislature adopted several bills which are aimed at improving our budgetary process. The Legislative Budget Board has been directed to prepare its next budget recommendations in the format of a "Program Budget" (HCR 96) as well as in the traditional line-item budget it has used in the past. It is believed that the "Program Budget" is more informative about the way in which the state's money is to be spent so that the development of a set of priorities is facilitated.

The Legislative Budget Board was authorized to administer a performance auditing operation (House Bill 169). Performance auditing will enable the Legislative Budget Board to determine the efficiency, results and

desirability of programs directed by State Agencies.

The Legislature required the Legislative Budget Board to provide fiscal notes, estimating the costs of legislation authorizing or requiring the expenditure of state funds (House Bill 171). The Board is to estimate the costs for the first five years and state whether costs will continue after such period.

This practice of attaching fiscal notes to proposed legislation was included in the House and Senate Rules this year and is one reason we were successful in avoiding new taxes.

Finally, the Legislative Budget Board has been directed by Senate Concurrent Resolution 34 to study special state funds, priority allocation practices and constitutional and statutory dedication of revenue which denies to the Legislature normal biennial control of nearly four-fifths of the state spending.

In addition to these bills aimed at the budget process, two measures were adopted which were designed to improve the efficiency in the State's collection of the sales tax. House Bill 564 requires that sales taxes in excess of \$750 a month be collected on a monthly basis. House Bill 433 requires each person holding a sales tax permit to furnish the

Comptroller bond or security to protect the State against failure to pay the amount which may become due.

PENAL CODE

For some years, efforts have been made to revise our State's Penal Code, and this 63rd Legislature was successful in adopting the first full-scale overhaul of the State's criminal laws since 1856. Senate Bill 34 follows closely the recommendations of the State Bar of Texas which resulted from the State Bar's seven year study of the Code.

The new Code features the general reclassification of all crimes into three categories each of felonies and misdemeanors, with crimes and punishment graded according to severity. A Class 6 misdemeanor, for example, carries no jail term and a maximum fine of \$200. Felony classifications range from a two to ten year prison term and possible \$5000 fine for a third-degree crime, up to a maximum life sentence for a first-degree crime.

It would group about fifty present categories of theft into a single classification. This action eliminates the previous wide discrepancies in punishment.

while incarcerated or while attempting to escape from a penitentiary.

If a jury finds the defendant guilty of one of these categories of murder, it will be asked a series of questions about the deliberativeness of the murder, aggravating actions of the deceased and probability of future criminal acts. If the jury finds that none of these mitigating circumstances applies, the death sentence will be imposed. Should they find that there are outside factors, the sentence will be life imprisonment.

DRUG REFORM

The Legislature adopted a comprehensive revision of the State's drug laws (House Bill 447) responding to the public's concern over the drug problem and over the contents of some existing provisions. Most notable among these revisions is the lessening of the penalty for the possession of marijuana.

Our laws governing possession of marijuana have been the harshest in the nation, providing for first-offense punishment of two years to life imprisonment. Under this new Act, possession of up to two ounces of marijuana will be a misdemeanor, punishable by up to six months in jail and a \$1000 fine. For possession of from two to four ounces, the penalty will be up to one

year and a \$2000 fine.

Possession of over four ounces of marijuana will continue to be a felony, punishable by a prison term of two to ten years and a fine of up to \$5000. The trial judge will have the discretion in such felony cases to reduce the offense to a misdemeanor if the defendant can prove that he did not intend to sell the substance.

First-offense possession will carry an option permitting the judge to give the accused a "conditional release." In such a case, the defendant would be required to spend a period of time on good behavior and would have no criminal conviction on his record.

The larger scope of this Act is to divide narcotics, hard drugs and other "controlled substances" into four groups with separate penalties as follows:

GROUP 1. Heroin, morphine, opium, methamphetamine (speed), LSD and others. Possession is a felony, with two to twenty years imprisonment and a fine of up to \$10,000. Sale is a felony with five years to life imprisonment.

GROUP 2. Hallucinogens, including mescaline but excluding LSD, speed and peyote. Possession is a felony, with two to ten years imprisonment and a \$5000 fine, but reducible if the defendant can prove he did

not intend to sell. Sale is a felony, with two to twenty years in prison and a \$10,000 fine.

GROUP 3. Barbiturates, peyote, codine, amphetamines. Possession is a misdemeanor, with up to one year in jail and a \$2000 fine. Sale is a felony, with two to ten years imprisonment and a \$5000 fine, but reducible at the judge's discretion.

GROUP 4. cough syrups with mixtures such as codine. Possession is a misdemeanor, with up to six months in jail and a \$1000 fine. Sale is a misdemeanor, with up to one year in jail and a \$2000 fine.

It should be noted that the intent of this legislation is not to weaken our drug laws but rather to strengthen them by incorporating recent knowledge on the nature of drug abuse, by making the punishment more properly fit the crime, and by providing the most effective deterrents possible.

FAMILY CODE

The last two chapters in a complete recodification of Texas' Family Code were adopted by the 63rd Legislature. The first Title was adopted in 1969 and amended by this Session.

Title Two, containing laws affecting parent and child, is most notable for its provisions relating to

court procedures dealing with the custody and adoption of children. Under the new Code, the child's home will determine venue of a suit involving that child, and a single court will retain jurisdiction for all subsequent procedures involving the child. The intent of the new Code is to protect the child and to keep legal proceedings involving the child at the court equipped to determine what is best for him or her.

Title Three deals with juvenile delinquency. It provides that the upper age for the child in juvenile court is 17, with a new provision that prevents authorities from holding a child until after his 17th birthday to deprive the juvenile court of its discretion to hear the case.

The new Code also distinguishes between children considered delinquents and those just in need of supervision. A delinquent child must have committed a felony or a misdemeanor carrying a jail sentence or violate a juvenile court order. Such children could be committed to the Texas Youth Council.

ELECTIONS

Several measures revising our election laws were approved, although the major revision which had been sought was not approved. The most substantive

election law adopted, Senate Bill 11, was necessitated by the United States Supreme Court decision in Bullock v. Carter, which held that the filing fee requirements of Texas primary elections were unconstitutional in that they denied equal protection of the laws under the Fourteenth Amendment. Senate Bill 11 provides for temporary provisions relating to the conduct and financing of primary elections held in 1974--smaller filing fees, nominating petition in lieu of payment of a filing fee, and costs not covered by primary fund to be borne by the State, consistent with provisions for state financing outlined in the Act.

Other legislation relating to our election laws included:

Senate Bill 193, which provides for filing of permanent certificates of disability rather than the previous temporary certificates which had to be requested each time a voter applied for an absentee ballot;

Senate Bill 987, which provides an alternative date for municipal and school elections scheduled for 1973;

House Bill 128, which provides for the establishment of temporary branch offices for absentee voting by personal appearance; and,

House Bill 4, the Campaign Reporting and Disclosure Act, which has been previously discussed.

ENVIRONMENT

The environment remains a subject of legislative concern and action on several fronts was taken. Perhaps most noteworthy is the adoption of the Clean Air Financing Act (Senate Bill 195). This Bill provides a financing vehicle for pollution control facilities through the issuance of negotiable bonds or notes by cities, towns, villages, counties and districts. Corporations are allowed to claim investment tax credits and normal depreciation allowances.

Senate Bills 255 and 256 direct the State Board of Control to establish and maintain, in buildings under its control, facilities for collecting wastepaper separately from other wastes, selling this wastepaper for use as recycled paper and to contract for paper containing recycled fibers.

Non-game and endangered fish and wildlife are provided general protection and management under House Bill 260. There had been no general law affording such protection and existing federal laws were felt to be insufficient in scope and enforceability.

Senate Bill 327 altered the nature of the Texas Coastal and Marine Council, giving it primary responsibility for the development of coastal lands and beaches, consistent with a declared state policy to protect the natural environment of those areas.

House Bill 1502 places responsibility for coordinating all the State Agencies currently engaged in environmental protection in the Governors Planning Office and authorizes a study of how best to implement environmental planning.

ENERGY CRISIS

Of special concern to the 63rd Legislature is the severe energy crisis currently facing our people. Although one of the major proposals to alleviate this crisis--the majority consent unitization bill (House Bill 311, Senate Bill 120)--was defeated, positive steps were taken. The Natural Resources Committee was instructed to study the problems involved in allocating adequate supplies of natural gas produced in Texas to Texas consumers (Senate Resolution 871), and the statutory and constitutional authority of the State and its Agencies, Boards, Commissions and Departments to affect any and all phases of the production and dissemination of energy (Senate Resolution 881).

WATER DISTRICTS

Much controversy has arisen in the past few years over actions of certain water districts and over the need for greater regulation of such districts. The 63rd Legislature adopted a group of bills aimed at correcting abuses by water districts. They are:

Senate Bill 433, which provides increased penalties for districts that fail to file required reports with the Texas Water Rights Commission;

Senate Bill 434, which provides increased powers for the Commission in supervising districts;

Senate Bill 435, which provides procedures for the Commission to conduct detailed audits of the financial dealings of districts;

Senate Bill 436, which provides authority for the Commission to also regulate districts created by special legislative acts;

Senate Bill 437, which provides that petitions to create districts must be filed with the governments of the cities and counties in which they lie; and,

Senate Bill 438, which provides that district tax assessors and collectors may not be related to the developer or an employee of the developer or have been an employee of the developer for the past two years.

The remaining bills in this group are:

Senate Bill 439, which provides that district board elections are to be held on the first Saturday in April;

Senate Bill 440, which provides that home buyers must be notified that they are buying a home in a district and are subject to taxation. If such notice is not given, the contract on the home can be rescinded and the buyer can sue for up to \$500 damages;

Senate Bill 441, which provides that cities may contract with districts to provide sewage and water treatment facilities and underwrite the cost if the city is eventually to own the facilities;

Senate Bill 809, which provides that districts must give greater publicity to district bond sales;

Senate Bill 812, which requires that district offices, records and the board meeting place be in the district;

Senate Bill 826, which provides that cities may abolish districts within city boundaries if the district is no longer needed or not in the best interests of the citizens; and,

Senate Bill 807, which provides for the disqualification of certain persons to serve as district director in certain municipal type districts.

AUTOMOBILE INSURANCE

The public's continued requests for alteration of the automobile insurance system available to them was answered by three important measures.

House Bill 88 provides for comparative negligence which allows drivers to collect damages even though partly to blame. Under this law, juries will decide the percentage by which each driver contributed to an accident and any claim awards would be reduced by such percentage.

House Bill 64 provides for competitive rates. The State Board of Insurance will continue to promulgate yearly rates, as it does now, but companies will have the option of filing proposed rates either higher or lower than those set by the Board. The Board will then have 30 days to reject them.

House Bill 143 provides an optional no-fault system. The plan allows up to \$2500 in compensation for medical expenses and lost income for motor vehicle accident victims, regardless of who was at fault. Unlike true no-fault systems, it preserves the right to sue other drivers for accident damages.

WORKMEN'S COMPENSATION

The 63rd Legislature adopted an omnibus bill, Senate Bill 283, that would completely revise state Workmen's Compensation Laws to conform with federal regulations. It will increase benefits for injured workers from 60 percent of their regular weekly salaries to 66.7 percent. The maximum weekly benefit would be raised from \$49 to \$63 on September 1 and to \$70 on September 1, 1974. After that it would go up \$7 for every \$10 increase in the average weekly wage.

The Bill would provide Workmen's Compensation Coverage, for the first time, to state and local governmental employees.

Injured workers would be allowed to be examined and treated by physicians of their own choice.

Death benefits to the spouse and surviving children of a workman killed on the job, now limited to 360 days, would be extended for life or until the spouse remarries.

Surviving children would continue to receive benefits until they reach age 18, or 25 if enrolled in accredited educational institutions.

EDUCATION

Although many measures relating to education were adopted, I will limit myself to discussing two of the most important.

Senate Bill 121 establishes a program of bilingual education in Texas' public schools for children with deficiencies in the English language. Bilingual teacher training institutes will be established to help teachers become proficient in bilingual education. The Bill also provides for extra pay for such teachers and directs the Texas Education Agency to provide bilingual textbooks.

Beginning with September, 1974, any school in the State which has at least 20 children with foreign language deficiencies will be required to start bilingual instruction in the first grade. An additional grade will be added each year until bilingual education is offered through the sixth grade.

House Bill 147 creates Texas' first state-supported adult basic education program. The Texas Education Agency will administer the new statewide training, which will emphasize late afternoon and evening classes leading to high school diplomas or their equivalent. It will also emphasize specific remedial education for vocational training and college entrance.

ADDITIONAL LEGISLATION

Senate Bill 123 provides full majority rights to all those eighteen, nineteen and twenty years old.

Senate Bill 642 creates a Rapid Transit Authority in Houston with powers to build and operate a rail-type mass transit system. The Authority will be funded by revenue bonds and an emissions tax on combustion engine vehicles.

House Bill 417, the Deceptive Trade Practices Act, protects consumers against false, misleading and deceptive business practices, unconscionable actions, and breaches of warranty and provides efficient and economic procedures to secure such protection.

House Bill 185 gives the right to collective bargaining to police officers and firemen. It includes an anti-strike provision to guarantee that Texas citizens will not be without fire or police protection.

Senate Bill 383 licenses and regulates the operations of bailbondsmen.