



Session Overview

by DON ALLEN, Chairman, Government Relations Committee

The 2021 87th Regular Legislative Session was unlike anything Texas has experienced. Some of the challenges included:

- The state and nation were in the midst of dealing with the COVID-19 pandemic.
- The House had an open race for Speaker in back-to-back sessions for the first time in 45 years.
- On Feb. 15, the state was pummeled by winter storm Uri.

Despite these challenges, your government relations team persevered and TAB had a very successful session. We tracked over 1,800 pieces of legislation that directly or indirectly impact your business. Of those 1,800, we opposed 300. Fortunately, we were able to utilize our relationships and work with legislators to amend the opposed bills as they made their way through the process. By the end of the session, TAB removed its opposition to the bills.

While most of the challenges this session were unique and unprecedented, the Senate and House were able to fulfill their constitutional duty and pass a balanced budget — the one piece of legislation that they are required to pass.

This report contains a snapshot of bills and issues that your government relations team worked on to protect your business interests and the future of Texas housing. For a more in-depth look at all of the bills that TAB monitored, visit <https://bit.ly/87thSessionRecap>.

INFRASTRUCTURE

The TAB Government Relations Committee, as a result of the pandemic, voted to make broadband and issues related to increasing access to critical online infrastructure a priority. The pandemic made it very clear how dependent we have become on reliable internet access.

HB 5 TAB Priority

Rep. Trent Ashby (R), Sen. Robert Nichols (R)

This bill creates the Broadband Development Office (BDO) within the Comptroller's Office. The BDO is required to establish a program to award grants, low interest loans and other financial incentives to applicants for the purpose of expanding access to broadband services in eligible designated areas. The BDO is required to establish a map that classifies each designated area in the state as eligible or ineligible for BDO program incentives. The map will be published by the BDO on the comptroller's website by Sept. 1, 2022. Effective on June 15, 2021.

There were several bills filed this session that negatively impacted the concrete and aggregate industry. These bills would have increased regulation and reporting requirements, and made permitting more difficult for this industry. This would increase costs for products/slabs and road construction in subdivisions,

which directly and indirectly affect our members and customers. [HB 50, HB 56, HB 65, HB 289, HB 291, HB 416, HB 889, HB 1267, HB 1627, HB 1786, HB 1912, HB 2646, HB 3412, HB 3603, HB 3604, HB 4341, HB 4400, SB 368, SB 953, SB 1166, SB 1209, SB 1350 — ALL OF THESE BILLS WERE DEFEATED]

BUILDING & ENERGY CODES

HB 17 TAB Priority

Rep. Joe Deshotel (D), Sen. Brian Birdwell (R)
House Bill 17 prohibits a regulatory authority (city, county, etc.) from adopting or enforcing a measure that prohibits the connection or reconnection of a utility service or the construction, maintenance or installation of infrastructure for a utility service based on the type of energy to be delivered to the end-use customer. The bill prohibits an entity from imposing any additional charge or pricing difference on a development or building permit applicant for utility infrastructure that encourages those constructing homes, buildings or other structural improvements to connect to a utility service based on the type of energy to be delivered to the end-use customer or discourages the installation of facilities for the delivery of the service based on the type of energy to be delivered to that customer. The bill expressly does not limit the ability of a regulatory authority or political subdivision to choose utility services for properties they own. Effective on May 18, 2021.

HB 738 TAB Priority

Rep. Dennis Paul (R), Sen. Robert Nichols (R)
This bill updates the state municipal building code minimum from the 2000 to the 2012 version of the International Residential Code (IRC) and requires that a municipality hold a public hearing if they intend to adopt a local amendment to the code. The bill was amended in the Senate upon TAB's request to add the existing city/ESD prohibition on fire sprinkler mandates for one- and two-family homes, and to add counties to that prohibition. Effective on Jan. 1, 2022.

HB 3215 TAB Priority

Rep. Charlie Geren (R), Sen. Bryan Hughes (R)
This bill updates the existing performance-based avenue in the state energy

code with the latest American National Standards Institute (ANSI) energy rating index. The legislation also extends the sunset date on the performance path to six years and lowers the scores during that extension. Effective on Sept. 1, 2021.

Building Code Bills That TAB DEFEATED:

- **HB 233** by Rep. Andrew Murr (R). This bill would have limited TAB's product mandates protections from 2019 (HB 2439) to cities with a population of 25,000 or more.
- **HB 1034** by Rep. Vikki Goodwin (D). This bill would have allowed all counties to adopt the wildland urban-interface code that applies to all property/buildings, which could increase the cost of new homes by tens of thousands of dollars. It would also have expanded current county authority to adopt fire codes to all property/buildings, which could mandate fire sprinklers in one- and two-family homes.
- **HB 3634** by Rep. Shawn Thierry (D). This bill would have required that all pipes in homes be insulated to certain standards that are incomplete and somewhat irrelevant.
- **HB 4496** by Rep. Gina Hinojosa (D). This bill would have required builders to build to the most recently published versions of various fire, energy and building codes, regardless of the efficacy or possible shortcomings of the relevant version. The bill also could have required fire sprinklers in one- and two-family homes located in the unincorporated areas.
- **SB 1724** by Sen. Sarah Eckhardt (D). This bill would have unreasonably expanded current county code requirements by giving counties full building code authority including fees and county inspections. The bill would also have mandated fire sprinklers in one- and two-family homes.

MUNICIPAL REGULATIONS

SB 877 TAB Priority

*Sen. Kelly Hancock (R),
Rep. Geanie Morrison (R)*

This bill requires cities to accept independent third-party inspections by qualified professionals (including persons certified by the International Code Council, licensed engi-

neers and inspectors employed by municipalities) during a declared disaster to help reduce backlogs experienced in disaster areas. Effective on June 8, 2021.

SB 968 TAB Priority

Sen. Lois Kolkhorst (R), Rep. Stephanie Klick (R)
This bill is an omnibus pandemic health disaster bill that was amended, at the request of our industry, on the floor of the House to include a prohibition on local governments ordering a shutdown of construction and construction-related services during a pandemic. Effective on June 7, 2021.

SB 1090 TAB Priority

*Sen. Dawn Buckingham (R),
Rep. Andrew Murr (R)*

This bill makes clarifications to HB 2439 (the product mandates bill) from last session that cities can become Dark Sky Certified and can enforce POA restrictions under statutes that existed before the bill was passed. This bill also allows cities to require certain water saving standards when mandated by other existing state or federal programs and statutes. Effective on June 14, 2021.

Municipal Regulatory Bills

That TAB DEFEATED:

- HB 84 by Rep. Gina Hinojosa (D). This bill would have repealed the prohibition on inclusionary zoning that TAB worked hard to pass several sessions ago.
- HB 298 by Rep. Erin Zwiener (D). This bill would have expanded certain lighting ordinances in Dark Sky approved cities to the city's extraterritorial jurisdiction and would have allowed cities to force retrofits of certain lighting.
- HB 1347 by Rep. Vikki Goodwin (D). This bill would have repealed the prohibition on linkage fees for new construction that TAB worked hard to pass in 2017.

DEVELOPERS AND SPECIAL-PURPOSE DISTRICTS

HB 3833 TAB Priority

Rep. Phil King (R), Sen. Kelly Hancock (R)
This bill brings other land use tax exemptions in line with legislation passed last session that

reduced the agricultural land change in use tax from 7% to 5% and reduced the number of preceding years with which the tax must be paid from five to three years. Exemptions that were brought in line include recreational, park and scenic land, airport property and restricted-use timber land. Furthermore, TAB worked to amend this bill to eliminate the interest payments mentioned above for all exemptions including agricultural. Finally, the bill also specifies the appraisal method that should be used for low-income or moderate-income housing that is under construction or has not reached stabilized occupancy on Jan. 1. Effective on June 15, 2021.

Anti-Development Legislation

That TAB DEFEATED:

- HB 1101 by Rep. Michelle Beckley (D). This bill would have required mandatory sales price disclosure with the filing of any instrument conveying real property.
- HB 1347 by Rep. Vikki Goodwin (D). This bill would have repealed the prohibition on linkage fees for new construction that TAB worked hard to pass in 2017.
- HB 3883 by Rep. Kyle Biedermann (R). This bill would have indirectly stymied development in large areas of the state by giving all or parts of nine Hill Country counties (including portions of Bexar, Comal, Hays and Travis Counties) the authority to regulate lot size, set lot frontage minimums and adopt new county fees for water, wastewater, stormwater, drainage, flood control and roadways. The bill would have provided this broad grant of authority even if adequate and dependable water supplies exist.
- HB 3884 by Rep. Kyle Biedermann (R). This bill would have allowed Kendall County to adopt lot frontages if approved by the voters.
- HB 4146 by Rep. Tracy King (D). This bill would have prohibited the TCEQ from granting new (or expanding existing) domestic discharge permits for treated wastewater across large areas of the state, thus indirectly prohibiting residential development in those areas.

County Authority Legislation

That TAB DEFEATED:

- HB 1034 by Rep. Vikki Goodwin (D). This bill would have allowed all counties to adopt the wildland-urban interface code that applies to all property/buildings, which could increase the cost of new homes by tens of thousands of dollars. It would also have expanded current county authority to adopt fire codes to all property/buildings, which could mandate fire sprinklers in one- and two-family homes.
- HB 3843 by Rep. Erin Zwiener (D). This bill would have allowed counties to regulate land that is within 100 feet of the 100-year floodplain of perennial and intermittent streams/rivers through zoning and impervious cover regulations.
- SB 1724 by Sen. Sarah Eckhardt (D). This bill would have unreasonably expanded current county code requirements by giving counties full building code authority including fees and county inspections. The bill would also have mandated fire sprinklers in one- and two-family homes.

WORKFORCE

HB 636 TAB Priority

*Rep. Senfronia Thompson (D),
Sen. John Whitmire (D)*

This law continues the duties and functions of the Texas State Board of Plumbing Examiners (TSBPE). In addition to the continuation of the agency, there were several important changes that will improve access to the licensure of this important trade to our industry. Effective on May 26, 2021.

HB 3938 TAB Priority

Rep. Keith Bell (R), Sen. Beverly Powell (D)

This bill transfers the development of the recognized industry certifications list from the Texas Education Agency (TEA) to a newly created Industry Based Certification (IBC) Advisory Council. The council will ensure that our secondary education schools are most appropriately aligned with current and future workforce needs of their communities, regions and the state. It will also establish a

process, criteria and timeline for the consideration and selection of IBCs to be completed by Jan. 1, 2022. Effective on June 15, 2021.

BUSINESS ISSUES

HB 19 TAB Priority

Rep. Jeff Leach (R), Sen. Larry Taylor (R)

This bill makes reforms to the litigation process in lawsuits resulting from trucking accidents. TAB heard from many of our members across the state about the increase in frivolous lawsuits related to their vehicles. This important legislation makes many changes to protect businesses from falling victim to these predatory practices. For more specific information about this legislation, visit www.keeptexastrucking.com. As you will see, TAB was an active member of the coalition of trade associations working on this legislation. Effective on Sept. 1, 2021.

HB 2237 TAB Priority

*Rep. Dustin Burrows (R),
Sen. Nathan Johnson (D)*

This bill modernizes, updates and streamlines statutes related to mechanic's, contractor's or materialman's liens. It creates a simpler explanation for how to create a lien for specially fabricated materials that are never delivered to a project. It removes the conflicting term "retainage" that is currently applicable to both contractual withholdings and statutory withholdings — without eliminating/impacting the underlying concepts. It removes the confusing concept of "accrual of indebtedness." It eliminates a "Second Month" notice for down-stream subcontractors and suppliers. It establishes a one-year statute of limitations for bringing suit. It makes it clear that if a deadline falls on a weekend or holiday, the action date moves to the next business day. It establishes two statutory forms for notices — eliminating the potential for five types of notice. It establishes two, clearer deadlines for sending notice of indebtedness, and it creates a single deadline for a subcontractor to file a lien seeking retainage — versus multiple possible deadlines. Effective on Jan. 1, 2022.

SB 6 TAB Priority

Sen. Kelly Hancock (R), Rep. Jeff Leach (R)

The bill provides retroactive civil liability protections for large and small businesses, religious institutions, nonprofit entities, health care providers, first responders and educational institutions. The bill also extends current immunity that health care volunteers have during a man-made or natural disaster to include a health care provider that is getting paid during a man-made disaster, natural disaster or a health care emergency. Lastly, SB 6 provides civil liability protections to a person who designs, manufactures, sells, labels or donates certain products that have a defect or inadequate instructions unless the person had knowledge of the issue and acted with actual malice. Effective on June 14, 2021.

Business Issues That TAB DEFEATED:

- HB 87 by Rep. Ron Reynolds (D). This bill would have required employers to provide mandatory paid sick leave (one hour for each 30 hours worked). It would have required burdensome and detailed documentation and notices.
- HB 224 by Rep. Lina Ortega (D) and SB 389 by Sen. Sarah Eckhardt. These bills would have allowed counties and cities to adopt a minimum wage that is greater than the state minimum wage. This would create a burden for companies operating across the various jurisdictions in Texas.

HOW TO FOLLOW LEGISLATION

Legislative Line E-newsletter

Legislative Line is a tool that TAB uses to keep our members updated about the legislature’s activities during session on

a weekly basis. Additionally, we use Legislative Line to let you know when we need help with contacting your elected officials about legislation that is pending or moving.

To sign up for Legislative Line, visit www.texasbuilders.org, and click on the Government Affairs Advocacy & Action Center. Once there, you will see a section that says “Sign up for Alerts.” Enter your email and home zip code for the most accurate results.

Texas Legislature Online

Texas Legislature Online is a tool you can use to access bills. Visit www.capitol.texas.gov. When searching for bills, make sure you have the correct legislative session and bill number selected. ★

If you have an interest in learning more about these bills or other legislation, please reach out to the TAB government relations staff.

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