

2	Public Education
4	Higher Education
5	Health and Human Services
6	Workers' Compensation
6	Business and Economic Development
7	Civil Practices
7	Criminal Justice
9	Gambling
9	Family Issues
9	Environment
10	Transportation
11	Financial Institutions
11	Government Organization
12	Local Government

## *Topics for the 79th Legislature*

The Texas Legislature will consider a variety of issues when it convenes in regular session on January 11, 2005. Revising the school finance system, as required by a state district court ruling, and granting property-tax relief are expected to top the legislative agenda. In addition, revising the state tax system, including business taxation and the possible expansion of legalized gambling, reforming the system of workers' compensation insurance, and reviewing the distribution of water resources are among the issues that likely will dominate the upcoming session. Also, 30 state agencies, including those dealing with utility regulation, teacher certification, and medical licensing, will be subject to review under the Sunset process.

This report highlights many, although by no means all, of the issues that the 79th Legislature may consider during its 2005 regular session. The House Research Organization has addressed a number of these topics in Focus Reports and *Interim News* articles issued since the end of the regular session of the 78th Legislature in 2003.

### **Spending and Revenue**

**Appropriations.** While the fiscal outlook at the beginning of 2005 is expected to be better than that which confronted the state two years ago, budgetary concerns remain. The state leadership has called upon each agency to cut 5 percent from its baseline general-revenue budget request for fiscal 2006-07.

As always, rising enrollment in public schools and the Medicaid program will drive increases in spending. In addition, lawmakers may consider restoring funding to certain budget areas, such as the Children's Health Insurance Program, that were cut by the 78th Legislature due to budget constraints.

*This report highlights many, although by no means all, of the issues that the 79th Legislature may consider during its 2005 regular session.*

**Taxes.** In order to grant property-tax relief, the state must compensate for the loss of local tax dollars by increasing its share of public education funding, which currently stands at approximately 38 percent (see *Public Education*, below). As part of a plan to lower school property taxes while maintaining or increasing current levels of education spending, legislators may consider some of the following tax increases or revisions:

**Franchise tax.** The Legislature may broaden the franchise tax, the state's primary business tax, to encompass a greater number of businesses that currently do not pay, including its possible application to partnerships and sole proprietorships. Lawmakers also may consider closing the so-called "Delaware sub" loophole that allows corporations to avoid the tax by allocating income to out-of-state subsidiaries that form tax-exempt partnerships.

**Business taxes.** Proposals may arise to augment or replace the franchise tax with a different or more comprehensive tax linked to business activity or added value. Components could include income, gross receipts, or payroll, or some combination of the three with an option to pay the lesser based on dollar or percentage thresholds.

**Tobacco and alcohol taxes.** Lawmakers may consider raising tax rates on cigarettes and other tobacco products and/or alcoholic beverages.

**Sales tax.** Lawmakers may consider broadening the sales tax base and/or raising its rate.

**Property taxes.** As part of an effort to grant lasting property-tax relief, lawmakers may revisit limiting the growth rates of property value appraisals and/or property tax revenue, which are set and collected by local governmental entities. Alternately, some may call for the implementation of a state property tax, which may involve taxing residential and business property at separate rates.

Lawmakers may propose modifications to business personal-property reporting by giving appraisers auditing and enforcement powers and moving up the reporting date. Mandatory disclosure of real estate sales prices to appraisal districts may be revisited, with a key issue being how and to what extent confidentiality would be maintained. Changes in appraisal board selection, composition, and administration also may be considered. Another proposal might allow local governments, particularly independent

school districts, to sell delinquent property tax accounts to third-party collectors.

**Tax administration.** A proposal prompted by an attorney general's opinion may seek to restrict or prohibit full disclosure of entire taxpayer files, including what some consider proprietary information, when the Comptroller's Office disseminates official information relating to tax accounts, such as rulings by administrative law judges. Lawmakers may be asked to reconsider the \$250,000 annual limit on tax refunds without legislative approval, which is contained in Rider 11 for the Comptroller's Office under the fiscal 2004-05 general appropriations act.

**"Taxpayers' Bill of Rights."** Some lawmakers favor amending the Texas Constitution to include a "Taxpayers' Bill of Rights" designed to further restrict spending by linking it to population growth and inflation.

**SSTP compliance.** The Legislature already has approved statutory changes conforming to most of the requirements of the Streamlined Sales Tax Project (SSTP), a multi-state effort to enact uniform sales tax laws and regulations in order to obtain congressional approval of interstate taxation of remote sales, such as by catalog or over the Internet. However, Texas is not in full compliance because it continues to allocate local sales taxes based on where sales originate rather than where goods or services are delivered, used, or performed (i.e., destination-based sourcing). The Legislature may debate whether to change the state's sourcing rule or to seek an exception or waiver from the SSTP's governing states.

## Public Education

**School finance.** State District Judge John Dietz has ruled that the current school finance system is unconstitutional and must be changed by October 1, 2005. In his initial ruling, Judge Dietz stated that because the cost of meeting state education requirements exceeds available revenue, the school finance system fails to provide an adequate education as required under Article VII of the Texas Constitution. The case currently is pending appeal.

Lawmakers may consider whether to retain some form of the current system of "recapturing" funds from property-wealthy school districts and transferring them to property-poor districts. Some may propose establishing a minimum

percentage of education costs that must be provided by the state. A variety of education changes are likely to be introduced along with funding proposals.

**Distribution formulas.** Likely proposals include adjusting the current system of distributing state funds to school districts through formulas based on various student characteristics and increasing the amount of money distributed through existing funding formulas. Lawmakers may consider replacing the current system by providing a basic level of funding for each student, including a higher base amount for high school students, with additional allotments for low-income, bilingual, and special-education students and students in career and technology programs. Lawmakers are expected to take into account resource discrepancies (levels of equity) among school districts, as well as additional state funding to cover inflation and transportation costs.

**Facilities.** Lawmakers may introduce proposals to increase equity in the funding of school facilities, which currently are financed primarily through local property tax collections, short- and long-term debt, and state assistance programs. Lawmakers may evaluate the use of bonds backed by the Permanent School Fund and consider a system of priorities for the use of these bonds. Some may propose automatically rolling forward the state's current allotment to help pay local debt for school facilities rather than leaving those funds contingent on the biennial appropriations process.

**Teachers.** Legislators may propose alternatives to the current minimum salary structure for teachers and other school professionals, which is determined based on seniority using formulas outlined in statute. Proposals may range from replacing these formulas with actual salary amounts to eliminating the minimum salary schedule altogether and emphasizing performance over seniority in determining teacher salaries. Legislators also may address the process of terminating teachers.

A continuing teacher shortage, particularly in critical areas such as science, mathematics, and bilingual education, may lead lawmakers to adopt a variety of proposals to attract and keep teachers. These include an across-the-board pay increase in addition to any pay raises teachers would receive otherwise and tuition exemptions at Texas public colleges for experienced teachers in critical shortage areas. To encourage more people to become teachers, lawmakers

also may open the state college student loan program to people enrolled in alternative certification programs approved by the State Board for Educator Certification.

**Incentives.** Incentive programs may be established to reward teachers or campuses where students have shown improvement on the TAKS test and other accountability measures. Lawmakers also may consider providing signing bonuses for shortage-area teachers in hard-to-staff schools. Others may propose rewarding student achievement by granting financial awards to schools for each student who graduates under the most challenging high school program, with additional awards if the student had been at risk of dropping out.

**End-of-course exams.** Some may propose eliminating the TAKS test for high school students and replacing it with end-of-course-exams in core subjects. Students would not receive a high school diploma without performing satisfactorily on tests in basic subject areas. Lawmakers may encourage school districts to conduct college readiness assessments, such as the SAT or ACT exams, for students in grades 8, 10, and 12.

**Statewide Student Enrollment and Achievement Tracking System.** Lawmakers may require school districts to participate in a statewide student tracking system that would include current information on each student's enrollment, attendance, achievement (including course or grade completion and test results) and, if applicable, reasons for leaving school or a school district.

**School employee health plan.** The Legislature likely will consider whether all public school employees should receive a \$1,000 annual passthrough from the state for health insurance and related costs. The \$1,000 passthrough, which first was granted in 2001 to all active school employees, was reduced in 2003 to \$500 per year for full-time employees and \$250 per year for part-time employees, and was eliminated altogether for certain professional staff. The full \$1,000 passthrough is scheduled to be restored for all employees on September 1, 2005.

**Accountability.** Lawmakers may consider proposals to conform Texas accountability requirements with the federal No Child Left Behind Act, particularly in regard to evaluation and accountability requirements for special-education students. Some may propose stricter limits on the number of students eligible to take alternative tests for special-education students rather than the TAKS test.

**Charter schools.** Lawmakers may consider authorizing the education commissioner to convert consistently low-performing public schools into independent charter schools under new management. Legislation also may be introduced to provide facilities funding for high-performing charter schools.

Others may propose limiting the number of campuses that each charter holder can operate and prohibiting residential facilities for disabled students from operating as satellite programs of existing charter schools. Stricter monitoring to prevent financial mismanagement of charter schools may be considered.

**Vouchers.** Legislators may consider allowing students in public schools that consistently fail to meet state and federal accountability standards to use tax money to attend the private school of their choice.

**Other issues.** Some lawmakers are expected to seek restoration of funding for programs that were scaled back or eliminated in 2003, including the After-School Initiative, Extended-Year Programs, and Safe Schools. Proposals for expanding the use of online textbooks and computer-based testing may be introduced, as well as legislation to fund “virtual charter schools,” which depend heavily on online education programs. Expanding access to early childhood education programs and dual language programs for English-speaking students may be considered. Some may propose requiring the school year to begin closer to Labor Day and limiting the option of school districts to start school earlier. Proposals may be introduced to prevent conflicts of interest by school superintendents who accept outside employment and school board members with a financial interest in companies contracting with the district.

**Sunset.** Texas Education Agency (TEA) will undergo Sunset review, along with the State Board for Educator Certification (SBEC), Regional Education Service Centers, and the Windham School District. In light of last session’s significant cuts at TEA and the service centers, the Sunset Advisory Commission is reviewing the role these entities play in the overall delivery of education-related services, particularly in the areas of monitoring and compliance. Some lawmakers may propose transferring authority for teacher certification from SBEC to TEA, which had this authority until it was transferred to SBEC in 1995.

## Higher Education

**Financial aid.** The Legislature likely will consider proposals to streamline and enhance financial aid programs, including allocating additional higher education student funds to the major state financial aid programs: TEXAS Grant Program, Texas B-On-Time Loan Program and TEXAS Grant II. Lawmakers also may consider increasing funding for Texas College Work Study.

**Time to degree.** In order to encourage students to complete their degrees on time, lawmakers may expand the tuition rebate program by increasing incentives to students and to institutions or offer tuition and fee exemptions for students who contract to graduate in a timely manner.

**Top Ten Percent Law.** Some lawmakers may propose amending the Top Ten Percent Law by capping the number of automatic admissions or allowing eligible students to select the university system – rather than the specific university – of their choice. Other proposals may include requiring institutions to automatically admit certain undergraduate transfer students.

**Research and excellence.** Proposals may emerge to define and develop research and/or “Tier 1” institutions in an effort to balance the needs of teaching and research institutions.

**Higher education funding.** Lawmakers may allocate additional funds for state research grant programs, community colleges, enrollment-growth institutions, and health profession-related enrollment growth. Others have proposed state compensation to universities that are required to give military veterans, or their children, free education under the Hazelwood Act.

**Developmental education.** Lawmakers likely will consider how to improve developmental education programs and how best to handle under-prepared students.

**Accountability and performance system.** In an executive order, the governor directed university regents to set accountability standards to ensure tax dollars are being efficiently spent and college students are receiving a quality education. The Legislature may consider refining this system for use in developing state policy for higher education.

## Health and Human Services (HHS)

The 78th Legislature enacted sweeping changes in health and human services, including a reorganization of HHS agencies and changes to the state's primary HHS programs. Issues before the 79th Legislature likely will include reconsidering some of the changes made to the programs, including those relating to the Children's Health Insurance Program (CHIP) and Medicaid. As in the past, containing the cost of health care programs will be a focus of debate as these programs are projected to require supplemental funding for the current biennium and additional funding to pay for growth in costs and caseloads in the coming one.

Among other reorganization issues, lawmakers may debate the establishment of call centers for eligibility determination as well as certain CHIP regulations regarding the payment of premiums. Other issues include the amount Medicaid nursing home residents keep of their Social Security benefits, funding for community care, and promoting independence for people with disabilities. Public health proposals that may emerge include the creation of an organ donor registry and measures to address rising childhood obesity rates.

**Medicaid and CHIP.** Legislators may seek to restore some of the cuts made to Medicaid and CHIP by the 78th Legislature, particularly those affecting children. Other issues related to the programs include the rates at which physicians are compensated for seeing Medicaid patients, and the possible creation of a buy-in program under which certain people could obtain health insurance by purchasing access to Medicaid. An issue relating to both children's Medicaid and CHIP is the possible extension of the statute that requires families to re-qualify every six months, rather than after one year, which will expire at the end of fiscal 2005. Access to health care and the rate of uninsured Texans will be two drivers in the discussions relating to state programs.

**Child Protective Services (CPS).** The state's competency in protecting children from neglect and abuse has been called into question during the interim as a series of cases have prompted lawmakers to review CPS. Proposals for improving the agency's operations include increased funding, privatization, additional caseworkers, internal policy changes, and more interaction with prosecutors and the police. The agency that administers CPS – the Texas Department of Family and Protective

Services – also administers Adult Protective Services, which has been under scrutiny following reports of neglected seniors in the El Paso area. While HHSC's preliminary report recommended some immediate corrective actions, including staffing and supervision improvements, it also is expected to recommend long-term changes.

**Mental health services.** Included in the HHS reorganization was a change in the state's delivery of mental health services to a disease management model that focuses on a different priority population. While outcomes from those changes likely will not be evident during the coming session, advocates say that they will ask lawmakers for additional funding to ensure that the new disease management programs can be implemented appropriately.

**Temporary Assistance for Needy Families (TANF).** Texas lawmakers likely will make decisions about the state's use of TANF funds without the benefit of a definitive reauthorization bill from Congress. The federal government most recently continued existing levels of funding in September 2004 and postponed the expiration date of the federal block grant, originally set for September 2002. Congressional observers say that a new reauthorization bill is unlikely to become law before the conclusion of the 2005 regular session in Texas. One area that could be at issue within TANF is the funding for marriage promotion programs. Because federal funding has not yet been authorized, budget writers may look to fund these programs with state funds.

**Contract management.** One of the trends in HHS has been privatization of certain services through contracts between the state agencies and service providers. Issues with the previous Medicaid contractor over software development, expenses, and other possible breaches of contract, as well as questions about HHSC's contract management practices, were reviewed by a Senate Finance subcommittee during the interim. Options for improving contract management likely will include standardizing contracting guidelines; requiring performance measures in contracts; and establishing clear staff accountability, monitoring, and enforcement.

**Human cloning and stem-cell research.** Proposals similar to those considered in the 2003 regular session would ban human cloning through the creation of stem cells and prohibit higher education institutions from receiving or spending funds for such purposes.

**Sunset.** Issues arising from Sunset Advisory Commission review of a number of health-related regulatory agencies include proposed changes to their licensing and regulatory functions, such as standardizing their licensing functions by ensuring they address criminal convictions as defined in general statute and better regulating physicians who use moderate sedation in outpatient settings by removing the statutory exemption and requiring physicians to comply with board rules, such as requiring patient monitoring. Scope of practice issues, such as the debate over treatment of the ankle area by podiatrists, though not addressed in the Sunset reports, also likely will be a subject of debate when the Legislature takes up some of the health licensing agencies.

## Workers' Compensation

Lawmakers may reexamine issues related to the system of workers' compensation insurance. Low return-to-work rates combined with high medical costs have prompted a review of the system, which has resulted in proposals to form networks of physicians, control costs, and limit utilization.

**TWCC.** In addition, in its review of the Texas Workers' Compensation Commission (TWCC), the Sunset Advisory Commission recommended dissolving the agency and moving its function to the Texas Department of Insurance (TDI). The recommendation would streamline dispute resolution processes and establish an Office of Employee Assistance to offer legal representation for injured workers and act as a public policy advocate. It also would require TDI to implement return-to-work guidelines, and cost-containment measures and offer income benefits to injured workers earlier and at a higher rate.

**Networks of physicians.** The current system of physician selection in the workers' compensation system uses the Approved Doctor List, compiled by TWCC, and permits patients to choose their primary physician from any on the list. Critics of the current system have proposed creating networks of physicians, similar to those used in group health, to rein in utilization and move to negotiated payment rates. Physician groups and employee representatives caution that the specifics of the network plan will be key, including the adequacy of specialty care in the network, the provisions for injured workers who live in rural and less populated areas of the state, and the amount of regulatory control the state retains over the networks.

**Rates review.** In addition to studying the overall system, the Senate Select Committee on Workers' Compensation was charged with reviewing the rates workers' compensation carriers charge employers for insurance. All of the recommendations relating to workers' compensation are designed to make the system less costly and more efficient, but whether or not a statutory rate reduction is needed will be an issue for the 79th Legislature to decide.

## Business and Economic Development

**Insurance.** Following the 2003 enactment of major insurance legislation authorizing the commissioner of insurance to order rate rollbacks for homeowners insurance, two of the state's largest insurers have challenged ordered rate cuts in court. To discourage such actions in the future, lawmakers may consider increasing the interest penalty that insurers must pay for unsuccessful legal challenges of ordered rate reductions.

Proposals may be introduced to combat fraud in various fields of insurance, including automobile, homeowners, health, and workers' compensation. Lawmakers may consider whether the Texas Windstorm Insurance Association is sufficiently funded should the state experience major damages from hurricanes and other weather events.

The rising cost of health insurance also may be an issue considered by lawmakers this session. The Texas Association of Business has proposed changes to the statutes governing health insurance policies that, among other ideas, would permit insurers to require patients to see only doctors within their networks and limit the time and scope of certain medical treatments. Other groups have proposed establishing health saving accounts or expanding state programs through a buy-in to offer affordable health insurance to more people.

**Telemarketing.** Proposals to modify the Texas "no call" list for telemarketers may include amending the state statute to comply with federal statutes regarding privacy issues and sharing of information with the contractor for the federal list.

**Telecommunications.** Emerging technologies, such as Voice Over Internet Protocol (VOIP) and various broadband platforms, pose an array of challenges for local

officials and state lawmakers under the existing regulatory structure. With the expansion of VOIP, lawmakers may consider how to pay for necessary state services such as the 911 system that currently is funded through fees on traditional telecommunications services. The nature and extent of the obligation of incumbent local exchange carriers, such as SBC, to share their lines with competitive local exchange carriers also may be addressed. Lawmakers also may consider issues related to rights-of-way acquisition for telecommunications and electric providers and consider strategies to promote broadband deployment in areas of the state that currently are underserved.

**Electricity.** Numerous concerns arose during the interim over the effectiveness of the Electric Reliability Council of Texas (ERCOT) board's management of the state's power grid. Proposals could include altering the size and composition of the 14-member board, reducing conflicts of interest among board members, and applying the Open Meetings Act to the board. Lawmakers could propose changes to the administration of economic dispatch, which is the process of the apportionment of power generation across the electric grid, in order to improve cost effectiveness and lessen the environmental consequences of power plants across the state.

**Texas Enterprise Fund.** Lawmakers may consider extending and re-appropriating funds to the Texas Enterprise Fund, an account from which the governor may reward grants for economic development, infrastructure improvements, job training programs, or business incentives. Also under review will be the process for evaluating and awarding grants from the fund, including their geographic distribution.

**Defense/homeland security.** Authorized expenditures of revenue generated by economic development zones could be broadened to include infrastructure and other needs of defense-dependent communities, especially those that may be adversely affected by the U.S. Defense Department's Base Realignment and Closure process.

**Sunset.** The Public Utility Commission (PUC), the Office of the Public Utility Council (OPUC), and the Electric Utility Restructuring Oversight Committee (EUROC) will be up for Sunset review. Lawmakers may consider whether to abolish OPUC or modify the agency's process for representing consumer interests before the PUC.

## Civil practices

Following the significant changes made to civil law in HB 4 by Nixon during the 2003 regular session, lawmakers may consider additional changes in this area. The issue of "statutory employer" in the construction industry will come up in conjunction with workers' compensation as the use of indemnity clauses and determination of who an injured employee actually works for is important in that industry.

Lawmakers also may consider changing the way asbestos cases are handled in Texas. A proposal similar to the one that died during the 2003 legislative sessions would place on an inactive docket claims by those exposed to asbestos but without immediate symptoms while focusing on prompt redress for symptomatic claimants.

## Criminal Justice

**Capital punishment.** The Legislature may consider changing the procedures for determining if a defendant in a capital murder case is mentally retarded. Other proposals could include banning the execution of people who commit capital murder when younger than age 18; authorizing a sentence of life without parole as a punishment for capital murder; authorizing the governor to impose a moratorium on all executions and to issue more than one reprieve to someone sentenced to death; creating a death penalty study commission; and changing the procedures used when imposing a death sentence following a guilty verdict.

**Identity theft and related issues.** Legislators may propose creating new offenses dealing with identity theft or increasing penalties for actions associated with it. For example, governmental bodies could be prohibited from disclosing to the public a person's social security number or restrictions could be placed on the use or release of information by financial institutions or the credit industry. Another proposal would eliminate the requirement that a consumer provide a police report to a consumer credit agency before a security freeze must be placed on the consumer's file.

A proposal could be debated to authorize the use of image verification technology in the driver's license system so that the Department of Public Safety could compare photographs in its database of license and identification card holders to identify persons holding multiple records and to verify an applicant's identity when issuing a license.

Proposals may be made to allow certain documents issued by foreign countries – such as a birth certificate or the Mexican *matricula consular* – to be used by foreign residents as proof of identity to obtain a Texas driver's license.

**Criminal procedure.** Lawmakers may debate whether changes are needed in the procedures used when a criminal defendant employs the insanity defense and may consider creating an “innocence commission” to review the handling of cases in which wrongfully convicted individuals have been exonerated.

Proposals to revise the 2001 law dealing with criminal indigent defense may include changing the deadlines under which attorneys must be appointed, revising the qualifications required for attorneys appointed in death penalty cases, and requesting additional state funding for the provision of indigent defense services by counties.

Creating regional crime labs or placing additional requirements on existing crime labs may be considered, as might the imposition of a moratorium on executing inmates whose convictions and sentences were tied to work done by the Houston Police Department's problem-plagued crime lab.

**Sex offender laws.** Sex offender registration laws may be amended to ensure the collection of DNA samples from all registrants, to add recently created crimes to the list of offenses that require registration, and to create a mechanism for monitoring the movement of offenders into child safety zones. Legislators may debate whether sex offender registration laws are being applied to the proper offenders. They also may reorganize the sex offender registration statutes and could revise laws dealing with the authority or operations of the Council on Sex Offender Treatment. The licensing of registered sex offender treatment providers also could be debated.

**Alcohol, drugs, and firearms.** Some lawmakers may push to establish sobriety checkpoints at which law enforcement officers could check motorists for signs of intoxication. Other proposals could include creating stiffer penalties for motorists who refuse to take breath tests when asked to do so by law enforcement officers; changing procedures used to suspend a driver's license for failing to pass a test for intoxication; and replacing parts of the administrative license revocation system for DWI offenses

with a system that automatically imposed increasingly restricted drivers licenses on these offenders. The Texas Alcoholic Beverage Commission will undergo Sunset review.

Proposals may be debated to restrict access to cold and allergy medications that contain non-liquid forms of pseudoephedrine, one of the ingredients used to make illegal methamphetamines, and to impose tougher penalties for manufacturing illegal methamphetamines and for their manufacture in the presence of children.

Some lawmakers may propose downgrading certain drug felonies to misdemeanors and downgrading the punishments for other nonviolent, non sex-related crimes. The procedures used to license carriers of concealed handguns also could be examined.

**Corrections.** Proposals for dealing with a projected need for additional prison beds in 2006 could be debated. Options include building additional prisons, contracting with counties or private facilities for beds, changing sentencing laws to channel offenders convicted of certain low-level, non-violent offenses to alternatives to incarceration in state facilities, and expanding treatment programs, drug courts, and other prison diversion programs. Discussions also could include how to best help inmates reenter society.

Legislators could debate the use of contracts with private entities for targeted prison system duties, such as transportation or factory operation, and they could explore the use of new, private sector technology.

Legislators could examine parole policies for specific prison populations, such as geriatric or chronically ill and incapacitated inmates who could be paroled to nursing homes and inmates from other countries who could be deported if paroled. Debate also could center around the appropriate length of time that specific types of inmates, such as parole violators and persons sentenced to substance abuse programs, spend in county jails before being transferred to state facilities.

Issues dealing with prison inmate health care could include how best to provide health care to prison inmates within budget constraints, how to deal with health care costs for a growing population of geriatric inmates, and how to deal with the spread of hepatitis in prisons.

Several issues dealing with local community corrections (probation) could be debated, including the funding structure for local community corrections programs, reducing the maximum terms of community supervision, and allowing the early termination of probation for certain offenders.

Legislators could debate the current statute dealing with persons who have been wrongfully imprisoned. Proposals include increasing the cap on the amount that these inmates can receive. Another proposal would eliminate the requirement that these inmates provide certification of their actual innocence signed by a prosecutor.

**Juvenile justice.** Legislators could debate how best to serve youths in the juvenile justice system who have mental health issues and how best to serve them before they enter the system. A growing population of youths who are required to attend Juvenile Justice Alternative Education Programs also may inspire legislation.

## Gambling

The Legislature may consider authorizing video lottery terminals at pari-mutuel racetracks or other locations throughout the state, including coastal cities and venues such as the Astrodome or the Fort Worth stockyards. Proposals also could be made to authorize full-scale casinos or to legalize casino-type gambling centers run by Texas Native American tribes. The laws governing electronic gaming machines, often called eight-liners, could be amended in an effort to outlaw them or to regulate them more strictly. The establishment of a gaming commission to oversee all gambling in Texas also could be debated.

Lawmakers may propose the authorization of keno, a game usually played in bars and restaurants with lottery terminals and television monitors. Other proposals could be made to allow the sale of lottery tickets at gas pumps, bars, and taverns, and to allow the purchase of lottery tickets with credit cards. Also, the Texas Lottery Commission will undergo Sunset review.

The Legislature may consider several proposals relating to charitable bingo including:

- authorizing multi-premise bingo (also called satellite or linked bingo) in which players at different bingo halls throughout the state play the same game;

- authorizing progressive bingo, in which jackpots are allowed to grow until a winner occurs within a specific number of balls;
- authorizing an electronic form of instant or “pull-tab” bingo, a game similar to scratch-off lottery ticket games; and
- allowing pull-tab bingo to be played in venues other than bingo halls.

## Family Issues

**Family law.** Legislators could examine the issue of paternity fraud. They also could debate a proposal to stay child support payments while an obligor is incarcerated. Proposals may emerge to disqualify homosexual people from adopting children.

**Same-sex marriage.** A constitutional ban on same-sex marriage could be proposed, either applying solely to marriage or more broadly prohibiting civil unions and domestic partnership arrangements.

**Abortion and related issues.** Lawmakers also may consider changing the state’s parental notification laws, possibly to require parental consent, rather than simple notification, when a minor seeks to have an abortion. Current notification laws include a provision for judicial bypass when a minor wishes to prevent parental notification, a legal avenue that goes unreported to the state. Lawmakers may propose requiring that all judicial bypasses be reported, including those that do not result in a hearing.

Controversy surrounding the “morning-after” birth-control pill could lead to proposals for a conscientious objector provision for pharmacists who object to dispensing certain types of medications.

## Environment

**Water policy.** The Legislature likely will consider changes to the regulation of groundwater in the state, particularly in areas that are not covered by a groundwater conservation district and are subject to the rule of capture. House and Senate committees held hearings over the interim on issues that may be addressed during the 79th legislative session, such as groundwater mining, water marketing, and the lease of state land to groundwater speculators. Legislators also may examine the ability of

existing groundwater districts to effectively manage the groundwater resources under their jurisdictions. Proposals may include increased funding for scientific research by groundwater districts, modifications or enhancements of the legal authority of groundwater districts, and district consolidation. Some may propose changes to the protection and regulation of water rights for environmental flows in rivers, streams, bays, and estuaries.

In light of the ongoing implementation of the State Water Plan, lawmakers may propose amending the laws governing inter-basin transfers and junior water rights. Recommendations from the interim Water Conservation Implementation Task Force also should receive the attention of legislators. Proposals to support desalination and other water development projects across the state also may be considered, with particular attention paid to questions of funding for the state's water infrastructure.

**Environmental policy.** Lawmakers likely will follow up on the implementation of the Texas Emissions Reduction Program to ensure compliance with federal Environmental Protection Agency clean air standards in non-attainment areas in the state. Lawmakers may consider expanding funding to retrofit emissions-producing equipment and facilities with environmentally cleaner technology, and they likely will examine the enforcement procedures of the Texas Commission on Environmental Quality against violators of environmental laws, an issue that has been under review by the agency since December 2003. Proposals may arise to streamline the permitting process for businesses in the state, and the permitting of quarries and rock crushers also may be addressed, particularly in regard to ensuring the proper regulation of mining facilities operating in Texas.

The Legislature may reexamine the process it established last session for allowing shipments of low-level radioactive waste from outside the state to a storage facility in West Texas to address various environmental concerns with the transportation and storage of such waste.

**Oil and gas.** The Legislature may consider revising the bonding requirements for oil and gas producers in order to expand the production capacity of small producers while addressing associated environmental issues. The promotion of alternative and renewable energy sources, such as wind power and hydrogen fuel cells, also is likely to be the subject of legislation.

## Transportation

**Toll roads and highway finance.** The Legislature may revise the Texas Department of Transportation's (TxDOT's) ability to convert segments of the state highway system to toll roads, under certain conditions. Some lawmakers may propose restricting TxDOT's tolling authority or prohibiting tolling of tax-supported highways altogether. Others may want to expand TxDOT's tolling authority and make toll conversion easier, including interstate highways if Congress approves. Lawmakers also may propose granting TxDOT more flexibility in how toll revenue may be spent, regardless of its origin.

Other proposals related to highway finance that may arise include allowing local governmental entities to levy dedicated sales or motor fuel taxes or fees to pay for transportation projects; raising or removing the annual \$800 million limitation on how much TxDOT may spend on public toll roads without reimbursement; and allowing local governmental entities to borrow money from the state to fund highway construction and reimburse TxDOT over time through negotiated payments based on traffic volume.

**Transit loans.** The Legislature may consider creating a state-funded state infrastructure bank (SIB) to help finance local transportation projects and a separate SIB to finance capital investment by public transit providers. Both programs would be similar to TxDOT's existing SIB, which is a federally funded, self-sustaining, revolving fund that makes loans and credit enhancements to communities for various transportation projects.

**Rail.** Lawmakers may consider granting TxDOT authority to negotiate agreements with railroads to move freight lines, especially those carrying hazardous materials through urban areas, or convert them to commuter rail lines or roadways and capitalizing a rail relocation bond fund. Other related proposals may include eliminating the \$25 million annual cap on expenditures for Trans Texas Corridor rail projects; repealing the annual \$12.5 million statutory cap on expenditures for non-Trans Texas Corridor rail projects; and removing the low-bid requirement for TxDOT rail contracts.

**Right-of-way acquisition.** Legislators may consider modifying advance acquisition of highway right-of-way authority by allowing TxDOT to acquire land from willing sellers before completion of the environmental clearance process.

**Comprehensive development agreements.**

Lawmakers may consider expanding beyond toll projects the use of comprehensive development agreements (CDAs), in which a single company or consortium is responsible for all phases of project development and construction, and repealing the 2011 Sunset provision for CDAs.

**TxDOT internal operations.** Some lawmakers have expressed interest in streamlining TxDOT's operations and finding more efficient ways to perform its functions and deliver transportation-related services. In addition, some may propose clarifying TxDOT's authority to finance, construct, and manage its own buildings; redirecting property sales proceeds from general revenue to the State Highway Fund; and allowing state district courts to hear eminent domain cases.

**County roads.** Lawmakers may be asked to authorize a motor fuels sales tax dedicated to supporting county road systems and to change state law to require county commissioners court approval of gates erected on county roads.

## Financial Institutions

**Banking code.** While fewer banks are based in Texas, more of them choose to be federally regulated, which often places them and their subsidiaries at a financial advantage. The Legislature likely will consider rewriting and updating the banking code to deal with issues of federal preemption of state law, competition, modern banking practices, and usury.

**Payday loans.** Restrictions may be considered for predatory lending practices such as so-called "payday loans," in which borrowers use their paychecks as collateral for short-term, high interest cash loans.

**Pawn shops.** The Legislature likely will revisit regulatory changes proposed for pawn shops, including allowing law enforcement to place holds on suspected stolen goods and requiring computerized pawn operations to transfer data on transactions to law enforcement or third-party providers.

## Government Organization

**Pensions and investments.** Lawmakers may consider increasing the state's contribution to the Employees Retirement System (ERS) and Teacher Retirement System (TRS) to better ensure that the agencies will be able to meet current and future payout obligations. Proposals may be introduced to expand membership on public pension fund boards to include members with greater expertise in financial and accounting matters. Some may advocate shielding detailed information about public pension fund investments from disclosure under Texas open records laws. Legislators may look at rules regarding retirement eligibility in considering long-term solvency for state pension funds. Lawmakers also will decide whether to extend the 90-day wait period for TRS eligibility for new employees, due to expire September 1, 2005.

**Campaign finance and ethics.** Proposals to amend Texas campaign finance laws may include establishing a limit on the amount candidates may receive from an individual or political action committee (PAC); adopting a version of the federal McCain-Feingold law enacted by Congress to tighten restrictions on corporate and union spending; prohibiting the use of corporate and union money for so-called issue ads in the closing days of a Texas election; clarifying allowable administrative expenditures for corporate and union-sponsored PACs; prohibiting a corporation or union from paying the administrative expenses of a PAC for which it is not the sole sponsor; prohibiting Texas candidates and political action committees from accepting contributions from any entity that receives corporate or union funds; and expanding the prohibition of corporate contributions to include limited liability companies. Legislators may consider clarifying or rewriting the definition of issue advertisements in election campaigns.

Lawmakers may consider requiring registration and disclosure of personal financial information of officers of certain school districts, junior college districts, and certain municipal retirement systems as well as requiring activities reporting by people seeking to influence these entities.

**Elections.** Proposals may emerge to require the governing body of any political subdivision to notify the voter registrar of any planned internal or external boundary changes, including single-member districts or annexations,

to avoid last-minute precinct changes. Another proposal might require all persons registering to vote, whether directly, with a deputy volunteer registrar, or by mail, to produce an appropriate form of identification.

Lawmakers also may consider moving the May uniform election date from the first Saturday to the second Saturday. This would allow for recovery, clearing, testing, and reloading of electronic voting units between the primary runoff and early voting for the May election. Another proposal may include reducing the number of uniform election dates from four to two by eliminating the February and September dates.

Because of concern that voters over age 65 who request a ballot-by-mail application must request one for each separate election, lawmakers may debate allowing counties to send a ballot-by-mail application during even-numbered years to every active voter over age 65. Persons completing the application would receive a ballot for the primary, the runoff (if applicable), and the general election. The Legislature may require a paper trail for electronic voting machines.

**Legislature.** Lawmakers may debate a constitutional amendment to change quorum requirements from two-thirds to a majority or exclude from the quorum count

lawmakers absent from the state. Others may propose a constitutional amendment requiring all non-ceremonial votes in the Legislature to be recorded and available to the public.

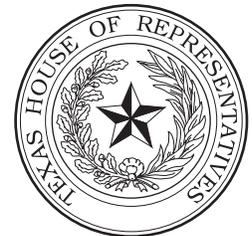
**Redistricting.** Lawmakers may propose to limit the redrawing of elective district boundaries to once every 10 years following each federal census. The Legislature may consider redrawing the district boundaries of the state appellate courts or modifying those of district and county attorneys.

## Local Government

**Unfunded mandates.** Counties have called for a constitutional prohibition against the Legislature's enacting new unfunded mandates – obligations imposed by the state on local entities without additional funding to pay for the new responsibilities.

**Filing fees.** A proposal may arise asking lawmakers to authorize counties to charge civil court filing fees to help pay for facilities construction, renovation, and improvement associated with the Texas Historic Courthouse Preservation program.

## HOUSE RESEARCH ORGANIZATION



### Steering Committee:

Roberto Gutierrez, Chairman  
 Dianne White Delisi, Vice Chairman  
 Harold Dutton  
 Peggy Hamric  
 Bob Hunter  
 Carl Isett  
 Mike Krusee  
 Jim McReynolds  
 Geanie Morrison  
 Elliott Naishtat  
 Joe Pickett  
 Robert Puente  
 Elvira Reyna  
 G.E. "Buddy" West  
 Steve Wolens

John H. Reagan  
 Building  
 Room 420  
 P.O. Box 2910  
 Austin, Texas 78768-2910

(512) 463-0752

[www.capitol.state.tx.us/hrofr/hrofr.htm](http://www.capitol.state.tx.us/hrofr/hrofr.htm)

### Staff:

Tom Whatley, *Director*; Ben Davis, *Editor*;  
 Rita Barr, *Office Manager/Analyst*;  
 Betsy Blair, Kellie Dworaczyk, Patrick K. Graves,  
 Tedd Holladay, Kelli Soika, *Research Analysts*