



Center for Public Policy Priorities

# THE POLICY PAGE

An Update on State and Federal Action

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## 78<sup>TH</sup> LEGISLATURE – 1<sup>ST</sup> SPECIAL SESSION

In June Governor Perry called the first special session of the 78<sup>th</sup> Legislature with the primary purpose of imposing a new Congressional redistricting plan, which failed to pass during the regular session after 51 Democrats staged a walk-out in protest of the proposed map drawn by Republicans. Since the special session opened on June 30, the governor has added 28 issues to “the call”—i.e., the topics that may be addressed during the special session—most of which are from a government reorganization bill—SB 1952—that also didn’t pass during the regular session. With the expansion of the call the legislature will be revisiting many contentious issues beyond redistricting, which means the session may not end as soon as political insiders originally assumed. This Policy Page summarizes the primary charges of the special session, with CPPP’s major concerns noted.

### WHAT’S ON “THE CALL”

In addition to Congressional redistricting, the following issues are on the call for the special session:

- Any issues related to SB 1952, an omnibus government reorganization and “reform” bill, which would have abolished certain state agencies and reorganized the functions of others; increased the governor’s authority and oversight over certain agencies, while reducing legislative oversight of these agencies; given the governor the power to reorganize state agency operations via executive order; mandated a prison privatization study; created the “Texas Enterprise Fund”—a economic development slush fund for the governor; and weakened environmental protections, among other generally problematic provisions (go to [www.capitol.state.tx.us/tlo/legislation/legislation.htm](http://www.capitol.state.tx.us/tlo/legislation/legislation.htm) for a copy of the bill).
- Corrections to HB 3588, a transportation bill that passed during the regular session, to address problems in the bill identified by the Comptroller;
- Funding for Border health centers and medical schools.
- Changes to certain election procedures and deadlines.

For a detailed list of issues on the call, go to [www.governor.state.tx.us/divisions/press/pressreleases/PressRelease.2003-07-01.4241](http://www.governor.state.tx.us/divisions/press/pressreleases/PressRelease.2003-07-01.4241).

### SPECIAL SESSION RULES

The Texas Constitution authorizes the governor to set the agenda during a special session of the legislature. The governor may call a special session at any time, and each session lasts for up to 30 days. Legislators may begin filing

bills as soon as a special session is announced, provided it is within 30 days of the called date. If the governor calls a special session more than 30 days out, then filing of legislation must wait until it is within 30 days of the called date.

Although all bills filed are supposed to be relevant to one of the issues called by the governor, historically the Legislature—or the leadership, really—decides which bills will be addressed during a special session. During floor debate, however, members may call a “point of order” (an alleged violation of rules or procedures) on a bill that is outside the call, which is likely to be sustained if the bill is completely irrelevant to the issues included in the call. In addition, the governor may always veto legislation that is outside the call, although he is also free to sign any bill that passes, regardless of its relevance to the call.

Similar House and Senate rules for committee hearings, floor debate, etc., that were adopted in January apply to the special session, although there are special provisions to expedite the movement of bills and limit debate during the final days of a special session.

### ISSUES OF CONCERN

While there is no shortage of “bad government” ideas afloat this special session, the center is particularly concerned about the following proposals:

**Transferring the Office of State/Federal Relations to the Governor’s office:** Several bills would make the Office of State-Federal Relations an office within the Governor’s office, rather than the stand-alone office it is now. The office would be required to continue to provide information to the governor, the Lt. Governor, and the speaker, but would *no longer be required to give*

**information to the legislature**, making it less responsive and accountable to legislators. The responsibility for federal funds management—which involves ensuring Texas receives an equitable share of federal formula funds—is moved from the Office of State-Federal Relations to the governor’s office of budget, planning, and policy. (HB 57 by Casteel, HB 22 by Swinford, SB 19 by Ellis)

The center is concerned that this move will make the Office of State-Federal Relations *less* of an advocate for increased federal funding—which is critical for Texas right now—especially when these additional dollars are contingent upon the state spending more of its own money. For example, the governor has actively opposed measures to draw down additional federal matching funds by increasing state funding for Medicaid, opting instead to support the Bush administration’s proposal to block grant Medicaid, which would be disastrous for Texas. A block grant would cap the funding that states receive for Medicaid, leaving them more and more unable to deal with rising health costs or increases in the number of uninsured, without proposing any alternative approach to serving the uninsured. A block grant that caps funding for Medicaid furthers the ideological goal of downsizing government and eliminating entitlements, but does nothing to improve health care access, or reduce health care costs. Because of this, many governors oppose capping or block granting Medicaid. (For more information on a Medicaid block grant, go to [www.cppp.org/products/testimony/testimony/78th/tst-hcr58.html](http://www.cppp.org/products/testimony/testimony/78th/tst-hcr58.html).)

The governor’s recent stance on Medicaid funding issues raises the concern that his office would not go to bat in the future for changes in the federal funding formula for Medicaid. For example, former legislative leaders in Texas advocated with the Bush Administration for proposals to change the basis for the federal match rate for Medicaid from a state’s per capita income to a more representative indicator of need such as a state’s poverty rate. Such a change would result in a huge increase in Medicaid funding for Texas. The governor also recently dropped out of the National Governors Association (NGA), a primary advocate for federal fiscal relief for the states, which was responsible for the \$1.3 billion in additional federal relief that Texas recently received—funding that could be used to undo some of the cuts made in health and human services this session.

**Exempting the governor’s budgetary “working papers” from open records laws:** Several bills exempt budgetary “working papers” from state public disclosure laws. Budgetary working papers are defined as “information, other than a uniform budget estimate form, that is created, received, considered, or otherwise used by a governmental body in estimating revenues or in considering or preparing a draft or final biennial state fiscal budget, including a

draft, a working paper, supporting material, research material, or an internal or external communication relating to that budget”. This same exemption also applies to budgetary working papers prepared by the governor, lieutenant governor, comptroller, speaker of the House of Representatives, Legislative Budget Board, Senate Finance Committee, Senate State Affairs Committee, House Appropriations Committee, or House Ways and Means Committee. This statutory change would seriously hamper the public’s ability to play an informed role during the budget process, a role that is already limited by an unofficial lack of openness in budget deliberations and decision-making. (HB 23, 25, and 54 by Swinford)

**Abolition of State Auditor’s Office & Sunset Advisory Commission; creation of Performance Review Commission:** SB 19 abolishes the State Auditor’s Office and replaces the Sunset Advisory Commission with a new Performance Review Commission, which would be permanently headed by the Speaker of the House of Representatives. The position of State Auditor and the Legislative Audit Committee, which used to oversee the SAO, are abolished, and the duties and powers of the SAO are split up between the Legislative Budget Board (LBB) and the new Performance Review Commission. The State Auditor’s Office and the Sunset Advisory Commission—which conducts a regular review of state agencies, with public input a key part of the review process—are now independent entities that are supposed to play a non-partisan, objective role in enhancing accountability, effectiveness and efficiency in Texas state government. The changes proposed to these agencies could undermine the independence and accountability of these agencies and therefore their effectiveness. For a more detailed analysis of these provisions and their impact, or to support efforts to block these changes, contact Kathy Mitchell, at Consumers Union, [mitcka@consumer.org](mailto:mitcka@consumer.org).

For more information on these bills and an up-to-date report on bills as they are filed, go to [www.capitol.state.tx.us/tlo/reports/daily/78R/daily.htm](http://www.capitol.state.tx.us/tlo/reports/daily/78R/daily.htm)

#### BILLS NOT ON “ THE CALL ”

A number of bills have been filed that are not on the call, which the center would support were they to be placed on the call or appear to be gaining momentum. They are:

#### **HB 46** by Eiland

This bill would restore the personal needs allowance to \$60 per month for nursing home residents who receive Medicaid. The personal needs allowance was reduced to \$45 during the regular session as part of HB 2292, a change that is effective September 1, unless this or similar legislation is passed during the special session.

#### **HB 31** by Wise

This bill would ensure that undocumented immigrants can get a driver’s license by making identity documents issued

by another country an acceptable form of proof when applying for a license.

**HB 26** by Naishtat

This bill would increase the cigarette tax and dedicate the additional revenue for certain health and human services programs.

We will let readers know if any of these bills start to move.

#### UPCOMING HEARINGS

The Senate Committee on Government Organization will hear **SB 19** and **SB 22** on Tuesday, July 8, at 1:00 p.m. in the Betty King Committee Room.

These bills address the following government reorganization provisions:

#### **SB 19**

- Permits the LBB to hold meetings via teleconference.
- Gives governor power to appoint presiding officers of governing bodies of state agencies to serve at the pleasure of the governor.
- Moves office of State-Federal relations to governor's office.
- Mandates a study on prison privatization.
- Mandates review of university system administration for the purpose of making recommendations regarding reorganization and consolidation of system.
- Creates Legislative Information Services Board to replace Texas Legislative Council.
- Abolishes Sunset Advisory Commission and creates new Performance Review Commission.
- Abolishes State Auditor's Office and transfers its functions to LBB.

**Note:** There will be a committee substitute for SB 19 that will be available at the hearing.

#### **SB 22**

- Creates Legislative Information Services Board to replace Texas Legislative Council.
- Abolishes Sunset Advisory Commission and creates new Performance Review Commission.

On Monday, July 7, the House Committee on Government Reform heard **HB 54**, which would exempt budgetary working papers from open records laws, and **HB 57** to transfer the Office of State-Federal Relations to the governor's office.

For a posting of all hearings, go to [www.capitol.state.tx.us/](http://www.capitol.state.tx.us/).

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