Texas BOMA Legislative Update  
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On Monday, June 1, the Texas Legislature adjourned sine die, ending the 84th Legislative Session. At this time, we do not anticipate Governor Greg Abbott (R) will bring legislators back in a special session, meaning the next time the legislature will convene is January 2017.

The Big Issues for 2015

Prior to the 2015 session, Comptroller Glenn Hegar (R) provided the legislature with his biennial revenue estimate. This estimate is effectively a hard cap on how much money the legislature may appropriate for the upcoming biennium. The revenue estimate, approximately $113 billion, was a substantial increase over the spending done by the legislature in the previous biennium. The state also had a soft spending cap of approximately $94 billion in non-dedicated general revenue, representing a nearly 12% increase from the previous biennium. This is a soft cap because the legislature, by majority vote, can choose to exceed it. To state things another way: Texas had a lot of money to play with in the 2015 session.

Governor Abbott set forth his priorities for the session shortly after he was sworn in. Chief among them were tax cuts, an increase in transportation funding, a greater focus on higher education, and a high-quality pre-kindergarten program. These proved to be the big issues of session, and the legislature generally passed the test on all of them. The last priority of Governor Abbott’s was ethics reform, something he said he will continue to push for in coming sessions.

Spending

After much debate, the Legislature chose to pass a budget that stayed well within the confines of the spending limits (both the hard cap and the soft cap). The state budget for the next biennium, pending any line item veto by Governor Abbott, will be approximately $106.6 billion in general revenue, or roughly $6.4 billion under the hard spending cap set by the Comptroller. For the soft cap, which only looks to non-dedicated general revenue, the state will spend $2.9 billion less than they could.
**Tax Cuts**

The House and the Senate each took their own positions on how tax cuts should look.

The Senate was the first out of the gate, and their plan focused on franchise taxes and homestead property tax exemptions. Specifically, the Senate plan lowered franchise tax rates by 15% and increased from $1 million to $4 million the small business exemption for franchise taxes. On the property tax side, the Senate would increase the homestead exemption from its current $15,000 flat amount to an amount indexed annually to 25% of the average home price statewide, resulting in a first year exemption of over $30,000.

The House, meanwhile, chose to focus on the franchise tax and the sales tax. The House plan lowered the franchise tax by 25% and increased the number of businesses able to use the E-Z tax calculation formula, but did not touch the small business exemption. The House plan would also cut the sales tax rate, from 6.25% to 5.95%.

Each of the House and Senate plans passed their respective chambers and then sat in the other body without action being taken on them. After heated debate, much of which took place through the media, the two chambers ultimately reached a deal. That deal, which represents approximately $3.9 billion in tax cuts, does the following:

- Increases the homestead property tax exemption from $15,000 to $25,000, without indexing that amount
- Decreases the franchise tax rate by 25% across the board
- Allow businesses with revenues of up to $20 million (up from the current $10 million) to use the E-Z calculation rate for the franchise tax

**Transportation Funding**

In 2014, voters approved diverting a portion of the state’s oil & gas severance taxes to transportation and away from the Rainy Day Fund. The amount of this diversion will vary annually based on the production numbers and the price of oil & gas, but it does provide a relatively steady stream of money for transportation.

The 2015 legislature chose to build on that momentum. Historically, the Department of Public Safety was funded from money intended for highways. This session, the legislature ended that diversion, effectively placing an additional $1.3 billion over the biennium back into transportation funding. Further, they passed a proposed constitutional amendment, which will be on the ballot this year. This amendment would result in up to an additional $2.5 billion per year in sales tax revenue going to highway funding. Further, in any year when motor vehicle sales tax revenue exceeds $5 billion, 35% of those funds will go to highway funding.

While these measures still require voter approval, they have been seen by observers as a positive step forward in ensuring adequate funding for transportation infrastructure.
Texas BOMA Issues

Texas BOMA was actively involved with the legislature in 2015, both pushing positive legislation and fighting off legislation that would harm the industry. All things considered, Texas BOMA had a very successful session.

Equal & Uniform Appraisals

Coming into the legislative session, there was a steady drumbeat from our opponents, contending that commercial real property owners were gaming the system to underpay property taxes via the equal & uniform method of appraisal appeal. Texas BOMA, working with a coalition of other interested parties, worked hard to defeat legislation that would limit the ability of property owners to use the equal & uniform method of appealing appraisals.

Ultimately, the legislature passed HB 2083, which restricts the use of equal and uniform appraisal to generally accepted appraisal methods and techniques. According to the Texas BOMA property tax professionals, this legislation should not have a detrimental impact on Texas BOMA members, though it will help weed out the bad actors who are undermining confidence in the process.

Property Tax Reform

While our opponents have claimed they are paying more property taxes because commercial properties are undervalued, Texas BOMA has pointed out that the true culprit in rising property taxes are local taxing jurisdictions. Local governments will determine the amount of money they need for a given year, then, based on the total appraised value of property in the district, will set the tax rate to achieve that revenue target. The rate of tax necessary to achieve the same revenue as the previous year in called the “effective tax rate”.

This session, in response to complaints from Texas BOMA and others, the legislature adopted property tax reform that will hopefully help lessen the increases in property taxes. The legislation would require the board of a local taxing district to take an affirmative vote to adopt any tax rate higher than the effective tax rate, and that vote would need to pass with at least 60% of the vote from the district’s board.

Appraisal Caps

Texas BOMA has historically opposed appraisal caps because they distort the market. This session, though there were several bills filed to lower the homestead appraisal caps and/or to put appraisal caps on all pieces of real property, none passed.

Construction Trust Fund for Retainage

Over the past several session, Texas BOMA has opposed legislation, pushed by the subcontractors association that would require accrued retainage from a construction project to be deposited in a trust fund account for the benefit of contractors. Texas BOMA’s opposition is based on the corresponding increase in construction costs such a requirement would bring. As Texas BOMA has done in 2011 and 2013, Texas BOMA once again defeated this legislation in 2015, although we anticipate the bill will come back up in 2017.