



## Texas BOMA September Update

### Special Session

Although the legislature tackled many issues during the 87th Regular session, Governor Abbott announced that he would call a Special Session to address many of the failed priorities from the regular session. During a special session the legislature can only pass legislation that falls within the subject matter of the call. A special session can only last for up to 30 days.

### *First Called Special Session*

The First Called Special Session began on July 8th. Governor Abbott issued a proclamation that added the following items to the agenda: reforming the bail system; election integrity; border security; social media censorship; restoring Article X funding; family violence prevention; limiting student transgender athletes from participating in sports; restricting use of abortion-inducing drugs; providing a “13th check” for retired teachers; banning critical race theory; and appropriating funding for property tax relief, foster care system and cybersecurity.

Democrats expressed that the items on the special session call were politically motivated and did not prioritize the needs impacting the state.

One of the items on the special call was HB 3 and its senate companion, SB 1. HB 3/SB 1 would make various changes to the state’s election laws that Texas Democrats believed were discriminatory and amounted to voter suppression. In their response, the Texas House Democrats officially broke quorum, leaving the state to go to Washington D.C. to prevent the passage of HB 3 and SB 1, as well as other Republican priorities. This lack of quorum meant the Texas House failed to have the necessary number of members present (100 members) to conduct business. As a result, the Texas House failed to establish a quorum for the remainder of the first called special session.

Governor Abbott made it clear to the legislative body that he would continue to call special sessions until the legislature addressed all the issues on his agenda.

### *Second Called Special Session*

With the First Called Special Session ending without the House establishing a quorum, Governor Abbott proceeded to call a Second Called Special Session that began August 7th. The special session included the agenda items from the First Called Special Session in addition to the following items: funding for COVID-19-related healthcare expenses; expansion and funding of virtual learning; modification of the filing periods and election dates for primary elections held in Texas in 2022; radioactive waste; preemption of certain local employment laws; and modification of legislative quorum requirements.

Similarly to the first special session, the Texas House initially failed to establish a quorum. However, the House eventually gained enough members to establish a quorum and pass bills out of the House. By the end of the second special session, the legislature passed the majority of the Governor’s priorities, including the election reform bill that caused House Democrats to break quorum.



One of the issues on the second special session agenda that was a great interest to Texas BOMA was SB 14 which preempts a city or county from enacting certain employment policies that conflict with or exceed state or federal law. This includes employment leave, hiring practices, employment benefits, scheduling practices, or other terms of employment. Texas BOMA previously had advocated for legislation that would address the growing number of local municipalities that would require private employers to provide mandatory paid sick leave to employees. SB 14 would have eliminated a patchwork of employment regulations that can differ based on a county or city's jurisdiction. The bill passed the Texas Senate, but ultimately died on a point of order in the Texas House.

Although property tax relief was an item on call, the legislature focused on passing legislation that would provide property tax relief for certain homeowners. SB 8 would provide residence homestead property tax exemptions to homeowners in the year in which they acquired the property instead of the following January 1. SB 12 would extend a property tax reduction enacted by House Bill 3 in 2019 to elderly and disabled residents whose property taxes are frozen either when they turn 65 or buy a new property if they are disabled. The legislature also passed a SJR 2, which will be placed on the May 7, 2022 ballot, that amends the state constitution to authorize the state legislature to reduce the property tax limit for school maintenance and operations taxes imposed on the homesteads of elderly or disabled residents to reflect any tax rate reduction enacted by law from the preceding tax year.

### ***Third Called Special Session***

Governor Abbott announced that the Third Called Special Session will begin on September 20, 2021. He has included several items on the agenda: redistricting; appropriating federal funding from the American Rescue Plan Act of 2021; limiting student transgender athletes from participating in sports; vaccine mandates; and enhancement of penalties related to the unlawful restraint of a dog.

### **Redistricting Update**

Every 10 years the U.S. Census publishes new population data that reflects the growth of a community. The Legislature then uses those numbers to redraw the state's political maps based off of the new census data. Unlike prior years, Texas received its census data later than usual which delayed the Texas Legislature's attempt to redraw its district maps for the Texas House of Representatives, the Texas Senate, the State Board of Education, and the United States House of Representatives.

Redistricting is a highly politically charged process. Historically, Texas has seen 20-30 members retire every redistricting cycle and has seen up to ten members lose their re-election. Governor Abbott has added the redistricting process to the Third Called Special Session agenda. There has already been a lawsuit filed that challenges the Legislature's ability to begin this process during the special session. The Texas Constitution requires the Legislature to begin the redistricting process in the first regular session after the census has been published. Plaintiffs in the lawsuit argue that the plain reading of the Texas Constitution means the redistricting process must be completed in the next regular session (2023), and not during a special session. The court has not rule on this lawsuit.



## **Mask Mandates**

On May 18th, Governor Abbott issued an Executive Order that prohibited government entities in Texas from requiring or mandating individuals to wear a mask. Local governments or officials that attempt to impose a mask mandate could be subject to a fine of up to \$1,000. However, there were many local government entities concerned about the rising COVID-19 cases they were experiencing in their respective jurisdictions. In defiance of the executive order, various cities, counties, and school districts have decided to implement a mask mandate challenging the Governor's order. There have been multiple lawsuits filed regarding this issue but no clear and final ruling on whether or not local government entities can require mask mandates.