

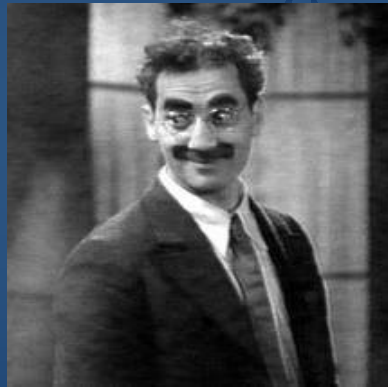
The background of the slide is a photograph of the Texas State Capitol building in Austin. The building is a grand, classical-style structure with a prominent central dome topped by a statue. The facade is made of light-colored stone and features numerous windows and classical columns. In the foreground, there are large, leafy green trees on the left and right sides. The sky is a clear, bright blue. The text is overlaid on the image in a white, sans-serif font.

88th Session(s) of the Texas Legislature

Rep. Four Price, Amarillo
Texas House of Representatives, District 87

Amarillo Area Estate Planning Council
May 8, 2024

“Politics is the art of looking for trouble, finding it everywhere, diagnosing it incorrectly, and applying the wrong remedies.”



Groucho Marx

88th Legislative Sessions

- Regular: 1/10 – 5/29 (140 days)
- 1st Called: 5/29 – 6/27 (30 days)
- 2nd Called: 6/27 – 7/13 (17 days)
- 3rd Called: 10/09 – 11/07 (30 days)
- 4th Called: 11/07 – 12/05 (29 days)

246 Days Total



88th Lege - Bill Statistics (Regular Session)



Filed: 8,046 bills & 11,807 total measures

- 87th Legislature (2021): 6,927
- 86th Legislature (2019): 7,324

Passed: 1,246 bills (Approximately 15%)

**** 77 Bills Vetoed by Governor Abbott**

- 87th Legislature (2021): 1,073
- 86th Legislature (2019): 1,429

88th Lege Demographics

- 181 seats
 - House – 150 (86 R / 64 D) (104 M / 46 F)
 - Senate – 31 (19 R / 12 D) (23 M / 8 F)
- 58 licensed attorneys
 - 48 – House
 - 10 – Senate

Selected High & Low Points

- * Started with \$32.7 Billion Surplus (left \$10B unspent)
- * Expelled a Sitting House Member
- * Impeachment of Statewide Elected Official
- * \$5 Billion Border Security Appropriation
- * Significant Infrastructure Investments Statewide
- * TRS & Municipal Retiree COLA bills passed
- * Secured Appropriation for new Amarillo State Hospital
- * Passed Texas' Largest Property Tax Relief Package

Selected Bills that Passed



Property Tax Reform



Property Tax Reform Package

- \$18 Billion Total Tax Relief to Texans & Texas Businesses
- \$12 Billion Compression of School Property Tax Rates
- \$100,000 Homestead Exemption
- 20% Circuit Breaker; 3-Year Pilot Project (\$5MM & under)
- Created New Elected Positions on Local Appraisal Boards
- Doubled Franchise Tax Exemption & Removed the Requirement to file No-Tax-Due Returns

Retirees

- Delivered a Cost-of-living adjustment for Texas retired teachers while maintaining the actuarial soundness of the TRS pension fund
- HB2464 – Providing a window of opportunity for cities like Amarillo to “catch up” and provide COLAs without paying the associated penalty

More AAEPIC Relevant Bills



SB 801 – Permissible Conveyances To A Trust

- Adds Section 114.087 to the Trust Code, providing that the trustee of a trust is considered for all purposes to be the named party to an instrument that names the trust as a party, unless the trust is a legal entity under state law.
- Applies to instruments executed before, on or after September 1, 2023
- A correction instrument identifying the trustee may be filed but is not required

Disclaimer by Agent Under Power of Attorney

- SB 1650 amends Property Code Section 240.008 to permit an agent under a durable power of attorney which authorizes disclaimers to disclaim property without court approval, even if the disclaimer results in property being paid to the agent.

New Statutory Probate Courts

- *The legislature authorized new statutory probate courts in Bexar, Cameron, Montgomery, Harris and Travis Counties.*

New Specialized Business Court & 15th Court of Appeals

HB 19 establishes specialized trial courts for complex business cases. The new court has jurisdiction over business governance disputes in which the amount in controversy exceeds \$5 million and involves certain enumerated factors. The business courts will also have jurisdiction over commercial disputes in which the amount in controversy exceeds \$10 million and meets certain elements. The courts will also have jurisdiction for suits seeking declaratory or injunctive relief for the above-mentioned types of cases.

Appeals from cases in the business courts will go to the newly created 15th Court of Appeals (SB 1045). While the effective date of the bill is September 1, 2023, the courts will not be operational until September 1, 2024.

Certified Mail No Longer Required

- **SB 1373 (probate) and SB 1457 (guardianships) allows most notices which previously required certified mail to be sent by a “qualified delivery method.”**
- **Qualified delivery method is defined in new Section 22.0295 of the Estates Code to mean delivery by (1) hand delivery by courier, with courier’s proof of delivery receipt, (2) certified or registered mail, return receipt requested, with return receipt, or (3) a private delivery service designated as a designated delivery service by the U. S. Treasury for delivery of tax documentation, with proof of delivery receipt.**

Certified Mail No Longer Required Continued...

- Permits using courier services for local delivery and designated delivery services like United Parcel Service and Federal Express for out-of-town delivery of virtually all notices previously required to be sent by certified mail, such as notices to beneficiaries under Chapter 308 of the Estates Code.
- The new methods are available for cases filed on or after September 1, 2023. Notices for cases filed prior to September 1, 2023, will have to be done under the former statute.

Felon May Serve As A Personal Representative

- SB 1373 changes previous law by providing that in limited circumstances a convicted felon may serve as personal representative. Section 304.003 is amended to provide that a convicted felon is not disqualified from serving as executor if (1) the person is named as executor in the will, (2) the person is not otherwise disqualified from serving and (3) the court approves.
- It is limited to cases in which there is a will naming the person, so a convicted felon still will not be eligible to serve in an intestate administration or in testate estates where he or she is not named.
- This change applies to applications for letters testamentary filed on or after September 1, 2023.

Purpose Trusts

In the past, noncharitable trusts had to have an identifiable beneficiary in order to be effective. HB changed this by adding Section 112.121 – 123 to the Trust Code to permit trusts “created for a noncharitable purpose without a definite or definitely ascertainable beneficiary.” A purpose trust may include seeking economic or noneconomic benefits.

A purpose trust is enforced by one or more trust enforcers named in the trust instrument. Trust enforcers are fiduciaries required to enforce the purpose and terms of the trust. They have the same rights as beneficiaries provided under the Trust Code and common law, but they are not beneficiaries of the trust.

The Uniform Trust Code has a provision allowing purpose trusts, and under the UTC the duration of the trust was limited to 21 years. The Texas version has no such limitation, so presumably one may create a purpose trust lasting until the expiration of the perpetuities period in 300 years.

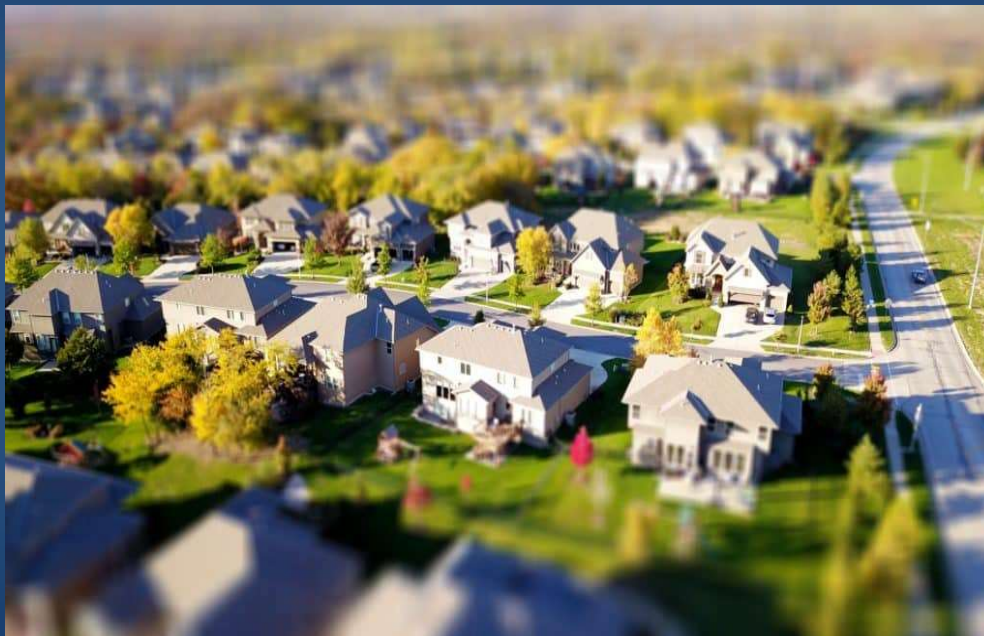
Brokerage Accounts Can Be Multiple Party Accounts

- Previously Chapter 113 of the Estates Code, with its rules about ownership of multiple party accounts, applied only to accounts with cash deposits. Many practitioners and some courts applied the same rules to accounts holding securities, but the statute didn't support this. Now SB 1373 has amended Estates Code Section 113.001 to provide that accounts holding securities, including stocks, bonds, and mutual funds are "accounts" for Chapter 113 purposes.

Affidavit of Heirship as Proof in Heirship Proceeding

- SB 1373 amends Estates Code Section 202.151 to permit proof at an heirship proceeding to be provided by an affidavit of heirship meeting the requirements of Estates Code Section 203.001 instead of by live testimony or deposition testimony. It remains to be seen if individual courts will accept this alternative method of proof.

Homesteads Owned By Trusts



Homesteads Owned By Trusts Continued...

- Under prior law, Tax Code Section 11.13(j) permitted the ad valorem homestead tax exemption if a trust beneficiary has a right to use the residence “rent free and without charge except for taxes and other costs and expenses,” while Property Code Section 41.0021 provided homestead creditor protection if a trust beneficiary has a right to use the residence “at no cost ... other than payment of taxes and other costs and expenses.” These now have been harmonized by making Section 41.0021 read “at no cost or rent free and without charge.”

Declaration Under Penalties of Perjury Instead of Notarized Oaths

Oaths of personal representatives under the Estates Code had to be sworn before a notary or other officer authorized to take oaths. Throughout the Covid pandemic, we learned that, while many documents which previously had to be notarized could be signed with unsworn declarations, oaths of personal representatives were not permitted as unsworn declarations. Now SB 1373 has amended Estates Code Sections 305.051 – 305.053 to permit “oaths” of personal representatives to be made by unnotarized declarations under penalty of perjury.

The new procedure is available for proceedings commenced on or after September 1, 2023.

Guardianships

SB 1624 includes a number of changes, including clarity regarding who can serve as guardian ad litem (it can't be an interested person and usually can't be the attorney ad litem), clarity of the role of the attorney ad litem, and what happens when a proposed ward or ward hires their own attorney, allowing a psychologist to perform a capacity exam for certain guardianships, updating the requirements for the guardian of the person's annual report, requiring a court investigator or visitor in counties with statutory probate courts to do a report every three years, and it provides what is required for a restoration proceeding. The bill further increases training requirements for judges and court investigators dealing with guardianships and the ward's bill of rights is updated to permit a ward to have private communications with a medical professional unless a court, after a hearing, orders such communications limited due to a risk of substantial harm to the ward or unduly burdening the medical professional.

Guardianships Continued ...

In **HB 3009**, advanced practice registered nurses acting under a physician's supervision can now prepare a Physician's Certificate of Medical Examination, or PCME, that is signed by a supervising physician.

RAP



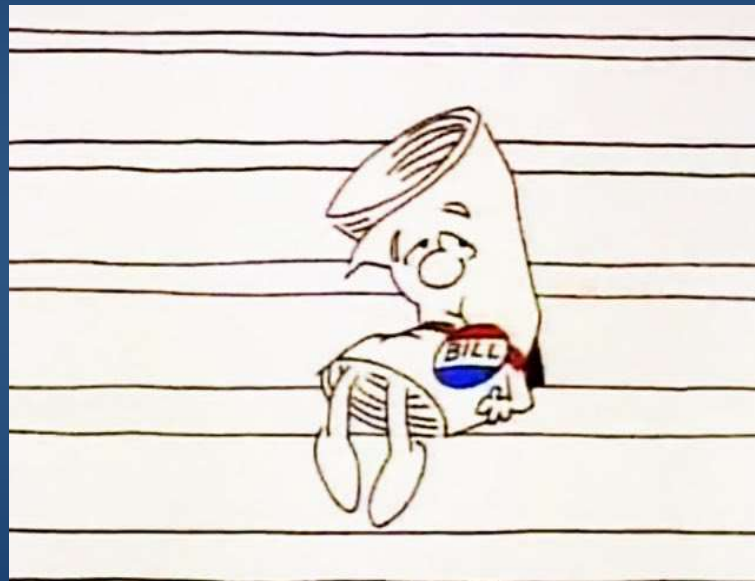
HB 2196 - Rule Against Perpetuities Cleanup

In 2021, Section 112.036 of the Trust Code was amended to adopt a 300-year perpetuities period for trusts. This legislation created confusion on a few points, so HB 2196 was a clean-up bill. First, instead of referring to the effective date of the trust, the statute now refers to the effective date of the trust instrument, which is the date it becomes irrevocable. Second, if the interest of one trust is distributed to another trust with a different effective date, the effective date of that interest in the second trust becomes the earlier of the effective date of the two trusts.

New Laws of Note Affecting Everyday Life

- SB 379 – eliminates the sales tax on menstrual products, adult & children’s diapers, baby wipes, breast milk pumping products, baby bottles, maternity clothes and wound care dressings. Effective 9/1/23
- HB 3297 – eliminates annual safety inspections for non-commercial vehicles, effective January 1, 2025. Emissions tests still required in 17 highly populated counties.
- HB 4183 – JP’s can now waive 72 Hour Waiting Period for marriages following the issuance of a license

Bills that Failed



Judiciary



Casino Gambling & Mobile Sports Betting



Daylight Savings Time

* Despite multiple attempts to establish a uniform time, the measure failed once again....



Recreational Use or Decriminalization



Other Headscratchers....

- Super Bowl Monday
- District of Austin/Secession
- Property Tax Reduction Based Upon Nos. of Children
- Duty to Substitute Teach (1X/Year) (Lists Made Public)

What's Next?



We Have A Lot Of It.....



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Odds & Ends

- Elimination of Property Taxes – Senate Interim Charges
- Vouchers – Public Education Reform More Likely
- Where Can I Find More Info?
 - You can find information about any of the bills mentioned in this paper (whether or not they passed), including text, lists of witnesses and analyses (if available), and actions on the bill, at the Texas Legislature Online website: www.legis.state.tx.us.
- Interim Charges...

Interim Charges

House & Senate Interim Charges – Reports will be finalized within 6 months

- Senate's just came out and House's are expected any time now....
- All committees meeting now in preparation for the 89th.

Optimism

- 8th Largest Economy
- \$27B Parked in our “Rainy Day” ESF
- TX Ranked Best State For Business for 20th Straight Year
- Gov Cup Winner Again (12th Year In A Row)
- TX Economy Just Recorded its 36th Successive Month of Growth – Performing Better Than The US Economy As a Whole

Questions



Thank you!