

Economic Freedom: 81st Legislative Session in Review

by Bill Peacock, Director, Center for Economic Freedom

Homeowners' Insurance

- TDI sunset legislation would have made modest improvements to the status quo, but the failure of the TDI sunset bill means consumers will still be subject to the regulatory confusion they've suffered through over the last decade or so.
- Unless, of course, the entire Texas Department of Insurance goes away. Something similar happened in Illinois years ago, and there hasn't been any rate regulation of homeowners' insurance since. Homeowners there have somehow survived, and now enjoy some of the best insurance rates in the country.
- Of course, that is not going to happen. The Legislature came back in special session and extended TDI until 2011 so the sunset process can continue at that time.

Windstorm Insurance

- The windstorm insurance bill passed this session fixed the symptoms without solving the underlying problems with Texas's windstorm insurance system. General revenue is no longer at risk, but coastal policyholders are still stuck with the most expensive windstorm insurance possible, and taxpayers and policyholders statewide will still have to pick up the bill.
- That will be especially true if we get another big storm, since the legislation this session punted how to handle storms with more than \$2.5 billion of claims to a future Texas Legislature.

Property Rights

- Eminent domain reform moved forward for the first time since 2005. HJR 14, if approved by voters in November, will stop local governments from using blight designations to condemn blocks of perfectly good

homes and businesses for economic development projects. That is good news. El Paso and other cities may be out of the downtown redevelopment business when it comes to using eminent domain.

- However, local government opposition weakened public use language in HJR 14, meaning more work needs to be done in 2011. Legislators should push for statutory changes that ban *Kelo*-style transfers of taken property from one owner to another, further reform blight laws, and end government land speculation by allowing original owners to repurchase any condemned property that hasn't been used within five years.
- When it comes to regulatory takings—which probably have a bigger negative impact on the Texas economy—nothing was accomplished. Cities are still free to take property by restricting its use with few limitations.

Electricity and Renewable Energy

- Most of the electricity bills this session had one thing in common—making electricity more expensive for Texas consumers or taxpayers. Fortunately, most of them didn't pass.
- The major bill that *did* pass provided incentives, i.e., subsidies, for electricity generation plants equipped with carbon capture technology. But it may not wind up costing consumers anything, since the technology for carbon capture is so expensive that even subsidies may not make such projects feasible.
- Consumers were saved from at least tens of millions of dollars in increased electricity rates when several renewable energy and energy efficiency bills died at the end of session.

Civil Justice

- There were numerous attempts this session to reverse the achievements of the last 10 years that have reduced abuse of Texas' civil justice system, lowered excessive litigation costs, and increased access to the courts for those who are truly injured.
- These included: reducing access to workers compensation (the Entergy bill); lessening causation standards in mesothelioma cases; allowing recovery of phantom damages in medical cases (paid or incurred); diminishing use of highly effective multi-district litigation panels; and interfering with indemnification agreements.
- However, none of them passed, making this session a big win for consumers and citizens in need of access to justice through the court system.

Telecommunications

- The good news about telecom taxes is that they won't be going up this session. The bad news is that they won't be going down. Texas has some of the highest telecommunications taxes in the nation. Recently, progress has been made in reducing those taxes, but there is still plenty of room for improvement.
- Our recent policy perspective, *Telecommunications Taxes in Texas*, explains where we should go next to reduce these taxes and improve the competitiveness and efficiency of the telecommunications market in Texas.

- Texas still needs to: reduce not only the local telecommunications franchise tax, but also franchise taxes for electricity, cable, and natural gas lines; eliminate sales taxes on telecom manufacturing equipment; change the way property taxes are appraised on many of the legacy telecom providers; and reduce the overall taxes on consumers' telephone bills.

Financial Regulation

- It is not high finance, but short-term lending helps many consumers out of tight places. This session, multiple bills would have significantly reduced or banned short-term lending.
- Banks and credit unions generally won't make short-term loans, so people in need of quick access to funds must turn to higher cost alternatives. While critics claim these higher fees harm consumers, many short-term borrowers could have been devastated if the Legislature had banned these loans.
- The higher fees are necessitated in part by the small size of the loans but also driven by consumer demand.
- All of these bills failed, so consumers will still have access to this much needed source of capital. ★

