Predictions for the 2015 Legislative Session

Texas Legislature 101

- 140 Days Every Odd Year
- Specials Called by Governor
- 181 + Governor, Lt. Gov.
- Must Pass – Budget Bill
- 6,378 Bills Filed in 2013
- THA Tracked 798 Bills
- Now we Focus on Rulemaking
The average legislative office handles the following during the 140-day session:

- 6,000 + bills
- 6,000 telephone calls
- 5,000 drop-in visitors
- 8,000 letters
- 15,000 emails
- 600 invitations

Setting the Stage for 2015
Significant Changes in State Leadership

- With Perry not running again, Texas will have a new Governor, Lt. Governor, Attorney General Comptroller, Land Commission and Agriculture Commissioner
- Major changes in the Legislature as well
  - New presiding officer in the Senate (Lt. Governor)
  - 8 new Senators (out of 31 total)
  - New chairs of Finance, St. Affairs + others
  - Straus likely to remain Speaker but new chair of Appropriations
- Legislature will be even more conservative – Tea Party is alive and well in Texas

169 Days until the Legislature Convenes
**Texas State Budget**

- Texas Writes a Biennial Budget
- “Must Pass” Legislation
- Texas Constitution Requires Balanced Budget
- **Texas Constitution Imposes a Spending Limit**
  - $95 Billion in General Revenue for Biennium
  - HHS Art. II $30B = 31% of budget
  - 54% of state revenue from sales tax
  - Economic Stabilization Fund
    - Rainy Day Fund ($9B expected)

**Competing Views on State Spending**

- “Restraint was clearly not the path that the Legislature took in 2013. When the Legislature discovered it had significantly more money available than it had two years before, it went on a spending spree, seemingly determined to keep money from retuning to taxpayers in the form of a tax cut. When all was said and done, the Legislature appropriated $44 billion more in 2013 than it had in 2013, an increase of 25.8 percent.” *Texas Public Policy Foundation*

- “In recent months, there has been a great deal of misinformation about the budget. Assertions made that spending grew by 26 percent are simply false. Those figures mislead rather than inform. It appears basic accounting principles were sacrificed as spending and revenue numbers were mixed across fiscal years and certain items were either included or excluded depending on whether they supported a predetermined conclusion. After such severe mathematical torture, the numbers were ready to confess to anything.” *Dale Craymer – Texas Taxpayers and Research Association*
The Texas Budget – Now vs. Last Session

- Last session the state had an $8.8 B surplus compared to a $27 B shortfall the previous session – driven by strong sales tax collections and oil and gas severance fees
- **This session the state expects to have at least a $2.5 B surplus**
- Supplemental Appropriations Bill will count against the spending cap ($981 M more GR for Medicaid/CHIP and $1.4 B for health cost incr.)
- Constitutional Spending Growth Rate
  - may not exceed the official estimate of Texas economic (personal income) growth
  - 2014-15 appropriations are below the limit by $263.4 million
- Both Houses can vote to expend more than the limit by majority vote but this has become a political litmus test

Medicaid Enrollment

![Medicaid Enrollment Chart]

- Medicaid Enrollment - 6.8% Increase - Jan-June 2014
- January - June enrollment growth trend
- Chart shows increasing enrollment from January to June 2014
### Major Issues for State Leaders

- Economic growth puts pressure on infrastructure (1,000+ people moving to the state each day)
- Focus on Water, Roads, Education and Tax Relief (what about healthcare / Medicaid?)
- Political pressure to remain fiscally conservation
  - Honor the constitutional spending cap
  - Don’t raid the Rainy Day Fund ($9 billion + balance)
- State share of Medicaid seen as crowding out other budget priorities (33 percent of state budget)
- Struggling with healthcare costs for retirees

### The Frustration with Medicaid

- Growing caseloads and cost
- Overutilization / frequent fliers
- Low rates = low provider participation
  - Few physicians accepting new Medicaid patients
  - Hospital costs reimbursed at 51% of cost
- Cost shifting to local governments / hospital districts to fund state share of supplemental payments (DSH, UPL, 1115 Waiver)
- Waste, Fraud and Abuse
HHS State Budget Issues – Legislator’s View

- Expand managed care
  - Budget certainty
  - Premium tax revenue
- No more lump-sum payments for uncompensated care
  - 1115 Transformation Waiver
  - Pay-for-performance / rate increases
- Arbitrarily reduce hospital payments for inappropriate ER utilization
- Relax scope-of-practice rules to help ease physician shortages
- Expanded focus on audit and OIG oversight

HHS State Budget Issues – Provider View

- How to Fund Medicaid
  - State Share for Medicaid Supplemental Payments
  - Acute Care Provider Rates
  - Graduate Medical Education
  - Physician Rates and Participation
- Mental Health Funding
- Trauma Funds
- Nursing School Funds
- 1115 Transformation Waiver Renewal
State Budget
Cost Containment Rider

Rider 51 – HHSC Cost Containment Initiatives:
- Directs THHSC to use a variety of methods to achieve savings of as much as $400 Million General Revenue / $963 Million All Funds
- Nine of these would impact hospitals potentially totaling $185.9 M GR / $445.5 M All Funds

State Budget
Cost Containment Rider in S.B. 1

Rider 51 components with direct impact on hospitals:
- Quality-based payment adjustments.
- Improve birth outcomes/reduce preterm births.
- **Transition outpatient payments to prospective payment system that maximizes bundling, including imaging (EAPGs).**
- Develop hospital ER rates for non-emergency visits.
- Strengthen prior authorization requirements.
- Expand initiatives to pay more appropriately for outlier payments.
- Adjust reimbursement for labor and delivery services provided to adults at children’s hospitals.
- **Re-establish hospital 30-day spell of illness limitation in STAR+PLUS.**
- Enforce appropriate payment practices for non-physician services.
State Budget
Mental Health in S.B. 1

Improved funding for behavioral health:

- $259 M General Revenue and $298 M All Funds for expansion of mental health services, including funding for the reduction of waiting lists and increased services from local mental health authorities.
- TDSHS Rider 78: Withhold 10% of GR funding from each Local Mental Health Authority as a performance-based incentive payment. Payment of these funds is contingent upon the achievement of outcome targets set by the department.
- TDSHS Rider 79: Requires that $183 M in GR funding be used to draw down additional federal funds through the Medicaid 1115 Transformation Waiver.

What is Sunset?

- In 1977, the Texas Legislature created the Sunset Advisory Commission to identify and eliminate waste, duplication, and inefficiency in government agencies.
- The 12-member Commission is a legislative body that reviews the policies and programs of more than 150 government agencies every 12 years.
- Assisting the Commission is a professional staff of about 27 whose reports provide an assessment of an agency's programs.
What is Sunset?

- Questions the need for each agency, looks for potential duplication of other public services or programs, and considers new and innovative changes to improve each agency’s operations and activities.
- Seeks public input through hearings on every agency under review and recommends actions on each agency to the full Legislature.
- In most cases, agencies under Sunset review are automatically abolished unless legislation is enacted to continue them.

Members of the Commission

- 5 members of the Senate appointed by the Lieutenant Governor
- 5 members of the House of Representatives appointed by the Speaker of the House of Representatives
- 2 members of the public, one each appointed by the Lieutenant Governor and the Speaker of the House of Representatives
Members of the Commission

- Senate Members
  - Jane Nelson, Chair (Flower Mound)
  - Brian Birdwell (Granbury)
  - Dan Patrick (Houston)
  - Juan "Chuy" Hinojosa (McAllen)
  - Charles Schwertner (Georgetown)
  - Dawn Buckingham, Public Member (Lakeway)
    - Surgeon with The Eye Physicians of Austin

Members of the Commission

- House Members
  - Four Price, Vice Chair (Amarillo)
  - Harold V. Dutton, Jr. (Houston)
  - Cindy Burkett (Garland)
  - Larry Gonzales (Round Rock)
  - Richard Peña Raymond (Laredo)
  - Tom Luce, Public Member (Dallas)
    - President and CEO of the Meadows Mental Health Policy Institute
HHS Agencies Currently under Review

- Health and Human Services Commission
  - Department of Aging and Disability Services
  - Department of Assistive and Rehabilitative Services
  - Department of Family and Protective Services
  - Department of State Health Services
    - Texas Health Care Information Council
- Interagency Task Force for Children with Special Needs
- Texas Council for Developmental Disabilities
- Governor's Committee on People with Disabilities
- Texas Council on Purchasing From People with Disabilities
- Texas Health Services Authority

What changes can be made through Sunset?

- The Sunset Commission’s report on an agency must include a recommendation to abolish or continue the agency and usually contains other recommendations to improve the agency’s operations.
- The Sunset Commission does not typically make recommendations regarding non-administrative statutory issues (Medicaid expansion) or appropriations issues (provider rates).
- Although not required by law, the Commission’s legislative members traditionally introduce and carry Sunset legislation.
Review Timelines – HHS Agencies

- Mid May – Staff reports issued
- June 24 & 25 – Commission public hearing
- August 13 – Commission decisions
- September – Staff report on HHSC “conclusions” and cross issues
- October / November – Final Commission decisions

Addressing Coverage Expansion

www.GetTexasCovered.com
Medicaid Expansion
Increased Coverage under the PPACA

- Hospitals agreed to $155B in cuts in Medicare and Medicaid over 10 years
- In return for more insured patients:
  - Insurance Exchanges w/ Subsidies for Affordability
  - Medicaid expansion to 133% of FPL, which equates to $30,657 for a family of 4.
  - Insurance Mandate
  - Insurance Reforms (lifetime limits, preexisting conditions, medical loss ratios, etc.)
  - Movement to a Quality-Based Payment System
- Full expansion was financed by $500B in cuts to hospitals, home health, nursing homes and Medicare advantage plans

Hospital Frustration:
Cumulative Impact of Cuts
Medicaid Expansion

Legislation, Riders Fail to Pass

- House Bill 3791: Rep. John Zerwas (R-Fulshear) sought to use the federal funding intended for Medicaid expansion to create subsidies that increase private market access to those who do not receive health coverage benefits through an employer. Bill did not make it out of House Calendars Committee.
  - NOT a Medicaid expansion bill
  - Requests federal flexibility to use federal funds designated for the Texas Medicaid program in a block grant; and if unsuccessful,
  - Requires the development of a new, cost-neutral program to provide low-income individuals with premium assistance in the private market using federal matching funds, premium tax revenue and general revenue offsets
- Leach Amendment to SB 7: only provide Medicaid to those eligible prior to ACA implementation

Impact of “Texas Solution” in Medicaid

- Employers would save up to $448 M in penalties
  (Source: Jackson Hewitt Tax Service)
- Texas would draw down average of $6 B in federal funds each year during 2014-2017
  (Source: THHSC)
- Cumulative net benefit to Texas economy over 10 years: $300.8 B (in 2012 dollars) in output
  (Source: The Perryman Group)
- A market-based approach for the expansion population, along with enrollment of current eligibles in Medicaid, would be 24% more efficient in the use of public resources than the traditional Medicaid approach
  (Source: The Perryman Group)
Questions?

John M. Hawkins
Senior Vice President
Advocacy & Public Policy
512/465-1505
jhawkins@tha.org
www.THA.org