



# Advocacy & Issues

A Guide to League Program Issues  
League of Women Voters of Texas  
2022-2024

1212 Guadalupe #107

Austin, TX 78701

512.472.1100

[lwvtexas@lwvtexas.org](mailto:lwvtexas@lwvtexas.org)

[www.lwvtexas.org](http://www.lwvtexas.org)

For League use only. Others please contact LWVTX for permission to reprint.

# League Principles

**League Principles are concepts of government to which all Leagues subscribe.**

They are the beliefs shared by League members everywhere. Principles are the basis upon which national, state, and local program is adopted.

**The Principles themselves may be used to take action at any level of government.**

However, because they are broad statements, such action is usually taken in conjunction with current League positions. Additional information on their use is found in [Impact on Issues](#), the program publication of the League of Women Voters of the United States (LWVUS).

**The League of Women Voters believes:**

- In representative government and in the individual liberties established in the Constitution of the United States.
- That all powers of the U.S. government should be exercised within the constitutional framework of a balance among the three branches of government: legislative, executive, and judicial.
- That democratic government depends upon informed and active participation in government and requires that governmental bodies protect the citizen's right to know by giving adequate notice of proposed actions, holding open meetings, and making public records accessible.
- That every citizen should be protected in the right to vote; that every person should have access to free public education that provides equal opportunity for all; and that no person or group should suffer legal, economic, or administrative discrimination.
- That efficient and economical government requires competent personnel, the clear assignment or responsibility, adequate financing, and coordination among the different agencies and levels of government.
- That responsible government should be responsive to the will of the people; that government should maintain an equitable and flexible system of taxation, promote the conservation and development of natural resources in the public interest, share in the solution of economic and social problems that affect the general welfare, promote a sound economy, and adopt domestic policies that facilitate the solution of international problems.
- That cooperation with other nations is essential in the search for solutions to world problems, and that the development of international organization and international law is imperative in the promotion of world peace.

# Table of Contents

<b>League Principles</b>	<b>2</b>
<b>Taking Action!</b>	<b>5</b>
<b>Action Guidelines for Local Leagues</b>	<b>5</b>
Applying Diversity, Equity, and Inclusion (DEI) Lens to Our Work	8
<b>We Support 2022-2024</b>	<b>9</b>
<b>Adopted by Convention 2022</b>	<b>12</b>
<b>2022-2024 LWVTX Program Positions</b>	<b>13</b>
I. Government	13
A. Campaign Finance/Ethics	13
B. Texas Constitutional Revision	18
C. Election Laws & Voting Rights	20
D. Executive, Legislative, and Judicial Issues	32
E. Financing State Government	38
F. Homeowners Association Reform	43
G. Intestacy (Dying Without a Will)	43
H. Public School Finance	44
I. Public School Testing and Accountability	55
J. Redistricting	59
K. State-Local Relations	64
II. Administration of Justice	66
A. Criminal Justice	66
D. Immigration	74
E. Juvenile Justice	77
F. Spousal Sexual Assault	79
G. Trafficking of Persons	80
H. Payday & Auto Title Loans in Texas	81
III. Social Policy/Human Resources	83
A. Child Abuse & Neglect	83
B. Child Support Enforcement	86
C. Early Childhood	86
D. Domestic Violence	91
E. Equal Opportunity/Income Assistance	94
F. Health Care for Those of Lesser Means/Child Health Care	98
G. Health Care System for Older Texans	103
H. Post-Divorce Payments	106
I. Services for People With Behavioral Health Disorders	106
J. Transportation	110
IV. Natural Resources	113
A. Climate Change and Air Quality	113
B. Land Use	120
C. Water	125

<b>LWVUS Program Positions</b>	<b>133</b>
I. Representative Government	133
A. Citizen's Right to Know/Citizen Participation (Open Government)	133
B. Public Policy on Reproductive Rights	136
II. Natural Resources	144
A. Energy	144
B. Waste Management/Nuclear Waste	146
C. Public Participation	151
III. Social Policy	154
A. Early Intervention for Children at Risk (Child Health)	154
B. Gun Policy	156

# Taking Action!

## What is *Advocacy and Issues*?

This publication contains all the positions of the League of Women Voters of Texas (LWVTX), including an explanation and a history of all state advocacy since the adoption of the position. It is intended for LWVTX Issue Chairs, local League presidents, and any other member who is interested in League advocacy. It will help local League leaders understand and act on state League program. *Advocacy and Issues* is updated after each Texas legislative session and each biennial League convention.

## What is program?

The word *program* has a special meaning in the League. It is not a meeting or a series of speakers. League program consists of the government issues selected by League members for study and—after consensus is reached—action.

**LWVTX may also take action at the state level using LWVUS positions**, and the League may not take action if we do not have a position. The LWVUS positions that we regularly use are listed at the end of *We Support* and our LWVTX positions, with a summary of our action.

## What is program review?

In order to keep LWVTX positions current, certain positions are periodically updated. Members, issue chairs, and/or the state board recommend reviews during state program planning. The appropriate issue chair and/or a board-appointed committee carry out the review. If the committee recommends any changes and the board approves, delegates at the next Convention or Statewide Conference must approve them. Delegates readopt all positions at each biennial Convention with any approved amendments.

## A Few Uses for *Advocacy and Issues*

### This handbook may be used to:

- Educate local presidents, program/action vice presidents, and other members about state positions.
- Find state positions that may be used as a basis for action on local issues.
- Find additional background when responding to Action Alerts or other calls for action.
- Educate members about state program during the Program Planning process. (During Program Planning in the fall before the Convention, members will recommend issues for study and state positions to be reviewed or amended.)
- Help members with program language when they write letters, speeches, news releases, etc.

## Action Guidelines for Local Leagues

Action is our League effort to bring about governmental change based on the positions we derive through member study and consensus. Because we are a multilevel organization with positions at each level, we must:

- Coordinate our action efforts to **speak with one voice**.
- Choose Priority Issues at all levels in order to allocate resources effectively and maximize political impact.

If you are unsure about what action to take, please contact the appropriate issue chair. For issue chair contact information, check the Advocacy and Issues page at [lwvtexas.org](http://lwvtexas.org), or email the state office at [LWVTexas@LWVTexas.org](mailto:LWVTexas@LWVTexas.org), or call 512-472-1100.

## Action Guidelines for All Leagues

- Leagues act only when we have a local, state, or national position or are acting under League principles.
- Leagues never lobby in opposition to a League position.
- Lobby only your own representatives unless otherwise directed.
- **Local Leagues may only lobby at the local government level without asking for state or national authorization;** any local, state, or national position may be used to lobby at the local level.
- Only the president may speak for the League, unless another person is authorized by the president.

## Advocacy Rules of Thumb

- Generally, local Leagues advocate to local officials, the state League advocates to state officials, and the national League advocates to national officials.
- If a local League wishes to advocate a local position to a state or national official, they must obtain authorization from LWVTX or LWVUS.
- The state League must obtain authorization to advocate a national official.
- For permission to lobby national officials: <https://www.lwv.org/federal-action-request-form>
- For permission to lobby state officials: [lwvtexas@lwvtexas.org](mailto:lwvtexas@lwvtexas.org)

## Before Taking Action on an Issue, Ask Yourself

- Under what position do you wish to act: local, state, national? League Principles?
- Is authorization needed from LWVTX, LWVUS, or other local Leagues before you act? (See Action Guide on next page.)
- Who should receive copies of your letter, testimony, etc.? (See Action Guide on next page.)
- How can my League promote the action to get the best response from the community—letters to the editor, social media, website, email?

## Action Alerts

There are three sources of action alerts: LWVUS, LWVTX, and your local League. Action in response to these requests is expected and does not require authorization.

- An Action Alert means your League's help is critically needed. Leagues are expected to respond to action alerts. Action alerts provide specific instructions.
  - LWVTX sends Action Alerts to all local League members by email and posts them on social media and lwvtexas.org. Action alerts give information on pending state legislation or governmental actions, and a sample letter to be sent to your elected representative or a legislative committee.
  - LWVUS sends Action Alerts to the League's online grassroots supporter list and state and local League presidents. These detail the subject under consideration, the proposed action steps, and the officials to be contacted.
  - All local League presidents are expected to respond to Action Alerts on behalf of their local League.

## When You Initiate Action

Local action you initiate may require contacting officials shared with other Leagues. Or you may wish to contact officials other than your own. If so, you must contact the other local Leagues who are affected. For example:

- LWV Houston Area wants to testify before a state legislative committee holding a hearing in Houston on land use and protection of critical areas. They believe this is a good opportunity to advocate the League's state land use position. After authorization by LWVTX, they are ready to act.
- LWV Tarrant County wants to appear before the North Central Texas Council of Governments on a regional issue. After consulting other Leagues in the region, they speak at the Council of Governments meeting.

<b>Action Guide: What to Do When Your Local League Initiates Action Before a . . .</b>
<b>Local government or official in your League area only</b> (E.g., city council, mayor, planning commission, school board)
✓ A local League board decision; copy action to local League files
<b>Regional agency or official which is shared with other local Leagues</b> (E.g., common city government or special purpose district, council of governments, regional task force)
<ul style="list-style-type: none"> <li>✓ A local League board decision; copy action to local League files</li> <li>✓ Requires authorization from other local Leagues affected by this action; copy to these local Leagues</li> </ul>
<b>State government or official</b> (E.g., state representative or senator, governor, state agency)
<ul style="list-style-type: none"> <li>✓ A local League board decision; copy action to local League files</li> <li>✓ Requires authorization from LWVTX advocacy committee chair or president; copy action to state office by email to <a href="mailto:lwvtexas@lwvtexas.org">lwvtexas@lwvtexas.org</a></li> </ul>
<b>Federal government or official</b> (E.g., member of Congress, federal agency, U.S. President)
<ul style="list-style-type: none"> <li>✓ A local League board decision; copy action to local League files</li> <li>✓ Requires authorization from LWVTX advocacy committee chair or president; copy action to state office by email to <a href="mailto:lwvtexas@lwvtexas.org">lwvtexas@lwvtexas.org</a></li> <li>✓ Requires authorization from LWVUS (sometimes LWVTX can authorize); copy action to national office and to state office by email to <a href="mailto:lwvtexas@lwvtexas.org">lwvtexas@lwvtexas.org</a></li> </ul>

## LWVUS Recommendations for Taking Action

### Speaking with One Voice

“Speaking with one voice” is one of the most important tenets of the League. The national League is responsible for determining strategies and action policies that ensure that the League’s message on national issues is consistent throughout the country. Similarly, state Leagues are responsible for a consistent state message, and local Leagues must cooperate with one another to ensure that regional issues are addressed in a manner consistent with neighboring Leagues. Typically, the president of the national, state, or local League is the only person who speaks for the League in an official capacity, unless another person has been designated as the official spokesperson on a specific issue. This may be a League expert, a senior staff person, or a former board member. The key is that this designation is explicitly made by the appropriate Board. This helps to ensure that the League speaks with one voice, which is essential for our effectiveness as an advocacy and lobbying organization.

### Advocacy vs. Lobbying

Advocacy is a broader concept than lobbying. Advocacy activities are often considered “educational.” This is the case even when only one side of an issue is presented if no action on a piece of legislation is requested. Such activities can include: 1) developing public policy briefs that analyze issues and provide detailed information and recommendations for addressing them through specific reforms and 2) providing forums for discussing issues and educating policymakers and the public. Speaking in support of the organization is also advocating, i.e., for the overall cause of the organization.

Lobbying is defined as an attempt to influence specific legislation, both legislation that has been introduced and specific legislation that has been proposed. Lobbying includes actions that transmit a point of view on a specific piece of legislation to elected officials or their staffs, as well as action urging the public to contact their legislators about a specific piece of legislation. It also includes communications to the general public expressing a view on specific referenda or other ballot measures.

## Applying Diversity, Equity, and Inclusion (DEI) Lens to Our Work

The DEI lens is a way of examining a program, a process, a product, or otherwise in relation to how it will be perceived by a variety of communities, voices, and perspectives, and what barriers may exist that are preventing it from being equitable or inclusive to everyone. All League work should be examined through this lens to best ensure that we are reaching the full diversity within League communities and are being equitable and inclusive in how we approach and execute our work. Applying a DEI lens asks that you consider the following key questions:

1. Who is involved in the process? Leagues should consider whether this work impacts a group or community, and is their voice represented and how diverse is the group of decision makers who represent a variety of relevant viewpoints.
2. Who will be impacted? Leagues should consider who benefits from this, how it helps meet the needs of underserved voters, and how we address various specific marginalized groups and how they'll be impacted.
3. What are the intended and unintended outcomes? Leagues should consider the issue we are trying to solve, what we hope will happen, what the potential negative impacts are, who could be hurt by this, what data or evidence supports this, and how might this be perceived by others.
4. Does this align with our vision for an equitable and inclusive organization? Leagues should consider how equity is addressed, what barriers might this place in the way of achieving equity, and how does this impact the organization's culture.
5. What changes could be made to make this more equitable? Leagues should consider what the short and long-term goals are, what policies or bylaws need to be added or amended, what the benefits to members are, and what the benefits are for partners and/or members of the community.

Please consider downloading LWVUS DEI lens resource at <https://www.lwv.org/league-management/dei-resources/dei-lens> for inclusion in your planning documents.

Leagues should be aware that this process will take more time in the beginning, but as the DEI lens is regularly applied it will become easier to move through the questions, identify opportunities, and react in a way that bolsters DEI. In instances where Leagues go through the questions and find that the DEI lens is not present fully or partially, Leagues should work to include as many factors as possible and consider obstacles that led to gaps in one area versus others and how to continue to build upon this work anytime the League is taking action. When applying the DEI lens to events, Leagues should consult the LWVUS DEI checklist, [https://www.lwv.org/sites/default/files/2019-10/dei-checklist\\_module2.pdf](https://www.lwv.org/sites/default/files/2019-10/dei-checklist_module2.pdf).



# We Support 2022-2024

The League is a multi-issue organization and we hold positions on issues at the national, state, and local levels. These positions are updated periodically, and are readopted at each League convention. We use these positions for advocacy at all levels of the League. Each position is detailed in our publication [\*Advocacy & Issues\*](#), with a history of our advocacy on the issue. A complete statement of LWVUS positions can be found in [\*Impact On Issues\*](#).

## League of Women Voters of Texas Positions

**Government.** Achieve an efficient, effective, responsive state governmental system through constitutional revision and legislative action.

**Campaign Finance/Ethics.** Eliminate excessive and/or inappropriate spending and limits to contributions to promote equitable competition among candidates. Strengthen accountability and combat undue influence.

**Constitutional Revision.** Support revision of the Texas Constitution to make it a framework of basic law.

**Election Laws Voting Rights.** Support every citizen's right to vote (including online voter registration and same-day registration), uniformly enforced election procedures, clearly stated election laws that facilitate voter engagement and turnout.

**Executive, Legislative, and Judicial.** Increase the effectiveness of the executive department and the efficiency of the legislature. Support the appointment/retention method and/or nonpartisan election of the judiciary.

**Financing State Government.** Promote adequate and fair funding for major state responsibilities, equitable taxation and increased accountability.

**Homeowners Associations.** Protect against unreasonable foreclosure on homesteads, priority of payments, and election safeguards.

**Public School Finance/Testing/Accountability.** Promote adequate state funding for public schools to ensure that all Texas school children receive a high-quality education. Oppose a voucher system. Support achievement tests that measure individual master and proficiency for diagnostic purposes, and a fair, nonpunitive accountability system.

**Redistricting.** Achieve an effective method for drawing non-partisan boundaries for legislative districts.

**State and Local Relations.** Support increased county authority in order to better manage growth in urbanizing areas.

**Administration of justice.** Achieve an equitable system of criminal justice in Texas for adults and juveniles.

**Capital Punishment.** Promote a moratorium on the death penalty. Support the option of life sentence without parole in capital cases.

**Criminal Justice.** Provide a secure prison environment with maximum educational opportunities and adequate health care. Promote meaningful sentencing reform. Support bail reform for economic non-violent crimes.

**Drug Laws and Policies.** Support treatment programs for drug abuse and addiction as an alternative to incarceration. Support elimination of penalties for cannabis when recommended by a physician or for small amounts.

**Immigration.** Support state services for all immigrants, especially education and health care.

**Juvenile Justice.** Support and fund substance abuse treatment, mental health needs, and education for youth at risk and for those incarcerated.

**Payday and Auto Title Loans.** Support regulation of payday and auto title loan businesses to function as a consumer service and a successful business.

**Trafficking of Persons.** Support measures to prevent the use of force, fraud, or coercion to exploit a person for sex or labor; prosecute traffickers and protect victims.

**Social Policy and Human Resources.** Achieve equal rights for all; combat discrimination and poverty; and provide equal access to housing, employment, quality education, and health care.

**Child Abuse and Neglect.** Protect children from abuse and neglect through adequate funding, services and programs, training to report signs of abuse and neglect, and correctional measures for abusers. Enforce court orders for child support.

**Domestic Violence.** Support programs to eliminate the incidence of domestic violence, including protective orders and financial compensation for victims.

**Early Childhood.** Support early childhood education, professional development, and access to affordable, high-quality childcare. Support universal prekindergarten. Increase services for children with disabilities/developmental delays.

**Equal Opportunity/Income Assistance.** Support action to achieve equal rights for all. Combat discrimination and poverty. Provide equal access to housing, employment, and education. Provide services and job training for income assistance (welfare) recipients.

**Health Care for Those of Lesser Means.** Support for a basic level of health care for the medically indigent, including children of low-income families. Support for expansion of Medicaid payments.

**Health Care for Older Texans.** Support adequate funding for a comprehensive health care system for older adults that ensures a seamless continuum of quality care.

**Services for Behavioral Health Disorders.** Ensure adequately funded services to enable the mentally ill to function at an optimal level in the least restrictive environment. Support for community-based residential services.

**Transportation.** Support a variety of transportation modes and services, and work to minimize harmful effects on the environment.

**Natural resources.** Achieve conservation, protection, and judicious development of the state's natural resources.

**Climate Change/ Air Quality.** Support measures to combat climate change, including promotion of renewable energy resources, energy conservation, and environmental justice. Support control of air pollution in Texas.

**Land Use.** Support coordinated land use management. Preserve agricultural land and open space, and protect areas of special significance.

**Water.** Support funding for safe/adequate water, including conservation measures. Support groundwater protection, conservation, and development.

## **LWVUS Positions**

### **Representative Government.**

**Open Government.** Promote transparency and public participation in government. Protect citizen's right to know and facilitate informed understanding of government decision-making.

**Women's Health/Reproductive Choice.** Support adequate funding for basic health care for those unable to pay. Protect the constitutional right of privacy of the individual to make reproductive choices with access to comprehensive reproductive health services. Support medically accurate sexuality education.

### ***Social Policy.***

**Child Health/Children at Risk.** Promote the well-being, full development and safety of all children. Ensure adequate funding, improve enrollment and retention, and maintain effective delivery systems for the Children's Health Insurance Program and Children's Medicaid.

**Gun Policy.** Protect the health and safety of citizens through limiting the accessibility and regulating the ownership of handguns and semi-automatic weapons. Support regulation of firearms for consumer safety.

### ***Natural Resources.***

**Energy.** Support policies that reduce energy growth rates, emphasize energy conservation, and encourage the use of renewable resources.

**Hazardous Waste.** Promote policies for solid and hazardous waste, including reduced generation, reuse and recycling, and safe transportation, handling, and disposal.

## **New Study: Adequacy of the Voter List Maintenance Process**

- Adopted by Convention 2022

### **Focus:**

**A study of the list maintenance process required by the 87th Texas Legislature**

### **Scope:**

- Phase One: statewide study committee will outline tasks for Local Leagues to undertake in the counties they serve. This work has multiple benefits: (1) establishing or maintaining contacts with the county election officials; (2) calling attention to county efforts undertaken; and (3) identifying ways to assure accurate voter lists that do not disenfranchise voters.
- Phase Two: statewide study committee would coordinate with the Local Leagues to assess the results of the implementation of new 2021 statutory requirements, and document problems or benefits.

# 2022-2024 LWVTX Program Positions

With complete wording, explanation, and history of our advocacy

## I. Government

### A. Campaign Finance/Ethics

1992, 1999 (See also LWVUS position "Money In Politics" in *Impact On Issues*)

#### Campaign Finance

*The League of Women Voters of Texas supports laws and practices relating to political campaign finance that eliminate excessive and/or inappropriate spending and promote equitable competition among candidates. Appropriate measures include:*

- A limit on the total amount of campaign contributions a candidate may accept from a person or an individual political action committee (PAC).
- A limit on the total amount a candidate may accept from PACs, individuals, and out-of-state contributors.
- A limit on the total amount of contributions a candidate may accept.
- A limit on the time during which a candidate may accept contributions.
- A limit on what a candidate may spend to get elected.
- Comparable media public service time and/or space made available to candidates who agree to limit their campaign expenditures.
- Requirements that campaign contributions be used only for campaign expenses.
- Responsibility of the media to:
  - Encourage candidates to discuss issues.
  - Report inconsistencies in public statements by candidates.
  - Assign reporters with appropriate expertise to cover campaigns.
  - Seek independent verification of candidate allegations.
- Responsibility of candidates to:
  - Articulate their positions on issues.
  - Verify allegations prior to their release.
  - Control the conduct of their campaigns by staff and consultants.
  - Be accountable for advertising decisions.
  - Voluntarily limit campaign spending.

#### Ethics

*The League of Women Voters of Texas supports limits on the contributions that can be accepted by political parties in Texas and supports enforcement of regulations governing their use.*

*The League of Women Voters supports public financing for state elected offices in Texas. In order to receive public funding, candidates would agree to limits on private contributions and campaign spending.*

*The League of Women Voters of Texas supports changes in laws, practices, and policies governing political campaigns in order to protect citizens' right to know; strengthen accountability in financial reporting; combat corruption and undue influence; and promote fairness and accuracy on the part of candidates, public officials, former officeholders, lobbyists, and the media.*

*The League of Women Voters of Texas supports full, timely disclosure through electronic filing of required finance reports. Specifically, the League supports:*

- Requirements that candidates report or disclose:
  - The total amount of contributions during a year.
  - In-kind contributions.
  - Personal finances, income distributions, and assets/liabilities.
  - Any funds deposited in a political account.

- Ethical standards that include:
  - A minimum time before a former elected official can become a paid lobbyist.
  - A requirement that lobbyists disclose gifts to candidates.
  - A fairness code governing the conduct of individuals and groups engaged in election campaign.

### Explanation: Campaign Finance/Ethics

The LWVTX was founded in 1919 to carry on the work of the Texas Equal Suffrage Association after the ratification of what was then called the Susan B. Anthony amendment, giving women the right to vote in Texas. Many early activists felt that efforts to promote informed and active citizenship were a necessary and logical next step for those involved in the suffrage movement (Humphrey, J. G., 1988, *A Texas Suffragist*). These efforts are still part of the League's mission.

In recent years, the breakdown of confidence in the integrity of the electoral process in Texas and nationwide sparked an interest among League members in examining the political campaign process and its effect on voter disillusionment and apathy. These considerations led delegates to Convention 1991 to adopt a study of the Political Campaign Process in Texas, which would evaluate political campaign laws, practices, and finances, and their ethical implications. *Facts & Issues: How They Run, The Political Campaign Process in Texas*, was produced by the study committee and circulated to members, public officials, and other interested persons. Consensus was reached in the fall of 1992, and the state board announced the position in November of that year.

During the Periodic Program Review process of 1997-98, the committee suggested additions to the 1992 position that would allow the League to advocate for public financing of campaigns and for better disclosure procedures of campaign funding. The additional positions were adopted at Convention 1999.

### History: Campaign Finance/Ethics

**1991.** In the 1991 Legislature the League supported the creation of the Texas Ethics Commission as originally introduced. This support was based on the LWVUS position calling for an independent body to monitor and enforce laws concerning the election of public officials. However, the bill that finally passed had been considerably weakened, and the League decided to oppose the proposed constitutional amendment on the November 1991 ballot because the prescribed method of appointing members to the commission was flawed. The amendment passed, however, and the commission was created in January 1992. The League closely monitored the proceedings of the Ethics Commission during its first two years of existence, 1992-93.

**1993-94.** During the 1993 Legislative Session, Political Campaign Process was one of the League's priority issues, and an advocacy paper, "Take Back the System," was published. LWVTX supported bills that would have imposed limits on campaign contributions and expenditures, working in coalition with groups such as Common Cause and Public Citizen. These bills did not pass.

Several bills were introduced which would have modified the commission's regulation of lobbyists. These proposals were a mixed bag, from the League's point of view; none were enacted. After the session ended, a League representative was asked to serve on a Rules Advisory Task Force to evaluate the rule-making authority of the Ethics Commission, including that of regulating lobbyists' activities.

The League also joined a coalition of public interest groups that asked candidates running for the Texas Supreme Court, Court of Criminal Appeals, and Courts of Civil Appeals to sign a Fair Campaign Practices Pledge. This initiative was undertaken in response to concerns expressed by citizens, attorneys, and judges about special interest contributions to judicial campaigns and the possible effects of such gifts on judicial decisions.

**1995.** The notion that justice was for sale came to a head in the 1994 General Election and helped create a climate in which campaign finance reform had the attention of the 74<sup>th</sup> Legislature. A law was passed that limits the period of time in which judicial candidates can accept contributions and the amount of money they can accept from specific sources, including law firms and political action committees (PACs). The measure also provides for voluntary limits

on candidates' expenditures. The LWVTX supported the Judicial Campaign Fairness Act and looks to it as a step toward more comprehensive reform in the next session.

Campaign finance reform and other aspects of the political campaign process in Texas will continue to be active issues in the foreseeable future, and the LWVTX will maintain an active role in advocating its positions.

**1997.** Although many bills relating to election laws/campaign finance were filed during this session, few met with success. The League published an advocacy paper, "Take Back the System: Campaign Finance Reform in Texas," and also actively supported a bipartisan bill to move primary elections from March to May. Using testimony presented to the House Elections Committee, the League distributed information to each member of the House prior to floor debate. The bill passed the House, but failed to pass in the Senate.

**1999.** Disclosure of campaign funding through the filing of campaign finance reports became the focus of League efforts during the legislative session. The League was successful in achieving passage of a measure that mandates that campaign finance reports be filed electronically and published by the Ethics Commission on the Internet. A new advocacy paper was produced for this session and is listed below.

**2001.** Limits on campaign contributions and expenditures continue to elude us. Very few bills were filed in the 77th legislative session that would provide for limits, and those that were, did not get hearings. Both political parties continued to support closing loopholes in existing disclosure laws. Comprehensive bills were filed in the House and the Senate, but differences over including identification of contributors' occupations and employers (and other issues) sent the bill to a conference committee. No agreement was reached and the bill died in committee. The League was active throughout the process providing testimony in favor of the House version, and urging passage out of the conference committee.

**2003.** The Ethics Commission was due its first review by the Sunset Review Commission since its establishment in 1991. In anticipation of legislation to be presented in the 78<sup>th</sup> Session of the Texas Legislature, the League joined Show Me the Money, a coalition composed of 60 diverse organizations throughout the state. Of these, six organizations, the LWVTX, Common Cause, Campaigns for People, Public Citizen, The Baptist Christian Life Commission, and Texans for Public Justice, developed strategies during the interim to prepare for legislation in the upcoming legislative session.

House Speaker Craddick appointed a Select Committee on Ethics, which introduced a comprehensive bill that outlined reforms to make the Ethics Commission more effective and included strengthening disclosure laws. The League testified in favor of the bill although it did not include all the reforms the coalition and we would have liked. The bill passed the committee unanimously, and subsequently passed the House. However, the Senate Government Organization Committee produced and passed a watered down bill, despite testimony presented by the League and other coalition members. The watered down bill passed the full Senate. As a result, the bill was referred to a Conference Committee to settle House and Senate differences. Fortunately, the Conference Committee restored the provisions that had been deleted by the Senate.

The Governor signed the bill. These provisions will:

- Restrict contributions until after the deadline for the governor to veto bills.
- Require disclosure of cash balances.
- Require reporting of occupation and employer of large donors.
- Require filing of campaign reports electronically.
- Prohibit lawyers to represent paying clients before state agencies.
- Require disclosure by lawyers of trial delays during the legislative session.

During the 79<sup>th</sup> Legislative Session, a coalition of diverse, statewide organizations concerned about the unlimited amounts of money used to finance our state's elections will focus on:

- Closing corporate and union money loopholes.

- Setting reasonable individual and aggregate contribution limits.
- Improving the effectiveness and independence of the Texas Ethics Commission.
- Opening the legislative process and recording legislative votes.

**2005.** In preparation for the 79<sup>th</sup> Legislative Session, the LWVTX collaborated with a coalition of over 60 diverse, statewide organizations, including both political parties. There was great concern about the unlimited amounts of money used to finance campaigns, and concern about unnamed corporations that contributed undisclosed millions of dollars to defeat candidates with mass mailings, negative issue ads, flyers, and phone banks. This appeared to circumvent the century-old Texas state law prohibiting corporations and unions from contributing funds for administrative costs to engage in political activity. The fundraisers claimed that the issue ads were educational because they did not use the words for "for" or "against" the candidates they were targeting. These activities were concentrated in the last 60 days before the primary election of 2002. The proponents also claimed that the definition of administrative costs in the Texas Election Code was unclear. As a result, the coalition agreed to focus on:

- Closing the corporate and union money loopholes
- Setting reasonable individual and aggregate corporate contribution limits
- Improving the effectiveness and independence of the Texas Ethics Commission
- Opening the legislative process and recording non-ceremonial votes

During the session, the group prioritized its focus primarily on closing the corporate and union money loopholes. Working with Representative Eiland (D-Galveston) and Representative Smith (R-Eules) that ensured bipartisan support, a bill was filed, HB 1348, that would specifically define administrative costs as those incurred in the normal course of business, would prohibit acceptance of contributions and make expenditures 60 days before a primary election, ban sham issue ads 60 days before the primary election, and would prohibit expenditures from PACs not connected to unions and corporation. Over 90 bipartisan House members signed on as cosponsors.

A subcommittee of the Elections Committee held a public hearing in which the League presented testimony and was left pending with a substitute. The Elections Committee did not hold a hearing. Consequently, a bold maneuver to bypass the Elections Committee and debate the bill on the House floor was attempted but was defeated when Representative Keel, one of the cosponsors, scuttled the bill on the basis that it bypassed the legislative process. Subsequently, the Elections Committee held a formal hearing and defeated the bill 4-3. The bottom line is that the bill did not have the support of the House leadership, most of who benefited from the unreported funds given by the unnamed corporations. It is very likely that the issue will be revisited in the 80<sup>th</sup> Legislative Session.

**2006 (Legislative Interim).** The LWVTX joined with Common Cause Texas and Texans for Public Justice in efforts to make the state government more transparent and accountable. The groups, acknowledging that reforms are needed to strengthen Texas' campaign finance laws and insure open and independent government, free from the influence and dominance of special interests, developed a list of five, nonpartisan reforms:

- Place a \$100,000 aggregate limit on individual contributions
- Close the revolving door between the legislature and lobbyists
- Keep judges independent by appointment and retention election
- Record all nonceremonial legislative votes
- Create an independent redistricting commission

**2007.** In the 80<sup>th</sup> Legislative Session, the League, in collaboration with Common Cause, Texas for Public Justice, Public Citizen, Baptist Christian Life Commission, and Gray Panthers, focused on two of the five campaign finance issues agreed to in the 2006 interim. The group advocated and provided testimony for three bills limiting individual contributions. HB 110 (Strama) broke down in categories the amount the limits would impose on candidates for the executive branch, state senator, state representatives, and state board of education. HB 111 (Villereal) would impose limits of \$ 100,000 on the total amount an individual could contribute to a candidate in an election cycle. HB 1085 (T. Smith) prohibited the use of corporate or union funds to pay for phony issue ads. Closing the revolving door HB 602 (Howard) required legislators who leave office to wait 2 years before becoming lobbyists. None of these bills made it out of the Elections Committee.



Two disclosure bills we supported did pass although without the governor's signature. These bills provided some measure of success in the session. The Texas Ethics Commission ruled it had no authority to report the value of cash gifts given to elected officials unless the legislature passed required legislation. To correct this, HB 158 (Naishtat) would require the reporting the value of cash gifts. Both houses of the legislature passed it. SB 64 (Zaffirini), passed by both houses, requires a general-purpose committee to file additional reports 9 days before an election until noon on Election Day. This would curtail the "late train" donations before an election in which the public was not previously informed.

**2009.** In the 81<sup>st</sup> Legislative Session, not much progress was made to reform the way political campaigns are financed. Four minor bills supported by the League were passed by both Houses and were signed by the governor. Two of the bills were related to the Texas Ethics Commission: HB 3216 provides for immediate notification to respondents of complaints either electronically or by telephone and by written notice after 5 days; HB 3218 requires that a sworn complaint must include the person's name, address, telephone number, email address if known, be a resident of the State of Texas, and include other pertinent information. These reforms standardize the complaint process.

SB 1152 prohibits accepting political contributions in state buildings. HB 4060 limits the time when judicial candidates can accept contributions even if the candidate is unopposed. While these four bills could be called piece-meal legislation, they do tighten up some loose ends of the political campaign process. More comprehensive legislation such as HB 105, the Texas Fair Campaign Act, HB 391 and SB 246, The Clean Elections Act, would impose limits on individual campaign contributions for elected state offices. The League supported these measures.

**2011.** In the wake of the most expensive election in the state's history, it should come as no surprise that campaign finance reform was a low priority this session. Only one League-supported campaign finance bill (HB 336) passed. It requires school boards to post candidate financial information on their websites, beginning September 1, 2011. Strangely, a very similar bill that focused on city and county elections failed to get out of committee.

**2013.** On May 1, 2014, the House State Affairs Committee held an interim hearing on campaign finance disclosure. This hearing was to revisit the issue that was addressed in the 2013 session by SB 346 (Seliger), a bill that was passed by both legislative chambers but was vetoed by the governor after adjournment.

Currently, names of contributors who give directly to candidates and officeholders must be disclosed, but certain types of political PACS are not required to disclose the names of their contributors. The League believes that voters have the right to know the names of any person or entity that spends money to influence elections.

At the hearing, a Utah legislator testified about a political scandal in his state in which members of his own political party forced the Utah Attorney General to step down after an investigation conducted. The investigation revealed that much of his campaign money, although "laundered" four times, came from the payday loan industry after he had made promises to rule in their favor. The Utah legislator urged the Texas Legislature to pass stringent disclosure measures.

While the LWVTX does not believe that disclosure is the only remedy to a government answerable to the people and not just big donors, we see it as an essential part of democracy. We expect to work with the legislature in the next session to get this measure passed.

**2015.** The governor stated that one of his five priorities for the 84<sup>th</sup> Legislature was to address ethics reform. The LWVTX worked with the Texas Anti-Corruption Campaign (TACC), a partnership of several organizations, including Common Cause, Public Citizen, and Clean Elections Texas, to track and support serious ethics reform bills.

More than 100 bills were filed relating to government ethics. Just 15 passed the House and Senate. Two were vetoed. The bills passed were, by and large, limited efforts to curb specific abuses in a piecemeal manner. For example, SB 20 (Nelson), which the LWVTX watched carefully, did pass and, while it has some loopholes, it has the

potential to prevent some contracting abuses. Another bill, HB 23 (Davis, Sarah), which the LWVTX supported, will extend contracting disclosure requirements to immediate family members.

SB 19 (V. Taylor), the most comprehensive bill, which the LWVTX testified on, passed both the House and the Senate. Although it was not perfect, following testimony by the LWVTX and other organizations it was improved to include a number of provisions that, if enforced, would have strengthened the Texas Ethics Commission and established meaningful guidelines and criminal offenses for serious official misconduct. Unfortunately, it did not pass out of conference committee, apparently due to disagreements regarding whether to include curbs on "dark money" (undisclosed campaign contributions). The last-minute loss of this bill means serious reforms to rein in egregious campaign practices and almost unimaginable spending once again have eluded us.

Most significant, HB 1690 (P. King), which the LWVTX strongly opposed, passed and was signed by the governor. Its primary purpose was to dissolve the Public Integrity Unit based in the Austin District Attorney's office. Instead, the Texas Rangers are to investigate complaints and refer them to the alleged offender's home county prosecutor. The LWVTX concern is that this bill creates a separate and unique legal system for politicians and government officials. In addition, a strong nondisclosure provision will prevent public scrutiny. We are left to conclude that the political will to root out and prevent corruption just wasn't there, despite the governor's professed concerns.

**2019.** We registered support for two bills, HB 1876 and HB 1877 (Davis). Both were omnibus bills which incorporated several laws passed by the House in 2017, but not the Senate. The Texas Ethics Commission for recommended these bills.

HB 1876 would have expanded the blackout period for political contributions that exist for the regular legislative session to also apply to special sessions. HB 1877 would have allowed corporations and labor organizations to make political contributions to certain political committees; extended existing prohibition of using public funds to make political contributions to include an officer or employee with a political subdivision; removed unconstitutional regulations on contributions to Speaker of the House campaigns. Both bills were left pending in the House State Affairs committee.

## B. Texas Constitutional Revision

1954, 1959, 1962, 1969, 1971, 1979, 1993

*The League of Women Voters of Texas supports revision of the Texas Constitution. Principles for a good constitution include:*

- A bill of rights.
- A framework of basic law.
- Clear separation of powers with responsibility definitely assigned.
- Qualifications for voter eligibility and guarantees of fair elections.
- Provisions for justice with a minimum of delay.
- A coordinated finance structure capable of flexibility.
- Maximum home rule for municipal and county governments with coordination of overlapping functions.
- Provisions for support of public education.
- Provisions for support of public health and welfare services.
- Provision for amendment and revision.
- Basic policies regarding state employee selection, retention, and promotion.

### Explanation: Texas Constitutional Revision

Interest in Texas constitutional revision grew out of a 1948 League *Know Your State* survey. By 1954 the League had reached consensus supporting general revision of the constitution, to be preceded by thorough review and adequate research. By 1959 the League had adopted nine principles for a good constitution, adding a tenth in 1959, an eleventh in 1971, and a twelfth in 1979. The last was dropped by delegates to Convention 1993. In response to renewed interest in Texas constitutional revision, the Convention 2003 requested that the LWVTX develop a publication with up-to-date information on this position.

## History: Texas Constitutional Revision

**1962-70.** League members agreed in 1962 that a constitutional convention preceded by qualified research is the most desirable method for general revision of the constitution. A Texas House resolution in 1967 established a 25-member Constitutional Revision Commission, and the governor appointed a League member to the Commission. League members, fearing they would be unable to support the commission-revised constitution even if they wished to do so, added a new position in 1969: "...preferably by a constitutional convention although alternative methods can be supported."

The completed document, submitted to the legislature in 1969, failed to win the approval of two thirds of both houses. The League supported this document because it was more logically arranged, shorter, and more understandable. Obsolete sections had been removed. Action in 1969-70 centered on supporting three proposed constitutional amendments. Voters approved the amendment to remove some obsolete, superfluous, and unnecessary sections of the constitution.

**1972-75.** In 1972 the League supported a constitutional amendment calling for members of the legislature to sit as a constitutional convention beginning in January 1974. Voters approved this amendment, and a 37-member Constitutional Revision Commission was appointed to study the present constitution. A League member was appointed to this commission. At a series of statewide hearings held by the Commission, members of both the state League board and many local Leagues testified regarding League positions. The League supported the recommendations of the Commission.

As a result of an article and tear-off postcard in the *Texas VOTER*, the League added new details to its Texas Constitutional Revision position:

The question of calling a constitutional convention should be submitted to voters at least every 20 years; the legislature should provide for the election of delegates from each legislative district and should appropriate sufficient funds for the work of the commission and convention.

When the constitutional convention convened in January 1974, League members across the state worked hard to get League positions incorporated in the new constitution. The convention was unable to produce a document to submit to voters. In 1975 the 64<sup>th</sup> Legislature approved a new constitution to be voted on article by article. Once again the League worked tirelessly for passage of a revised constitution, but all 11 articles were defeated at the polls.

**1987-89.** The League made constitutional revision and advocacy issue in 1987 when 25 proposed amendments were submitted to voters. The League neither endorsed nor opposed individual propositions, but widely publicized the view that many of the proposals dealt with matters that should not be in a state constitution, and that the large number and complexity of propositions demonstrated the need for constitution reform. The League reiterated its arguments for reform again in the fall of 1989 when 21 proposed amendments were on the ballot.

At Council 1988 League members heard a speech by Professor Terrell Blodgett of the LBJ School of Public Affairs, University of Texas at Austin, in which he encouraged the League once again to look at constitutional revision. He also presented the League with a check from a disbanded coalition account dating to the time of the 1974 constitutional revision efforts. League directors talked legislators about the possibility of another revision attempt. Legislators and other state officials advised that it would probably be better to wait until after the 1991 session when redistricting had been completed.

**1990s.** Unfortunately, legislators showed little interest in constitutional revision in the 1991, 1993, 1995, and 1997 sessions. However, the League continued to call attention to the need for a new constitution in conjunction with the inordinate number of proposed amendments that appear on the ballot after each legislative session.

**1999.** Leaders in the House and Senate introduced companion bills to attempt constitutional revision through a legislative process, the reopening an official discussion after many years of silence. While the LWVTX was not able to

support the specific proposals in the legislature, we issued a press release supporting the concept of constitutional revision.

**2005.** The LWVTX provided updated written information to local Leagues about the history of constitution revision in Texas and the current state of constitutional reform. The LWVTX worked with KLRN in San Antonio to produce and televise a successful program, "Conversations on the Texas Constitution."

Position is now inactive.

## C. Election Laws & Voting Rights

1999, 2010, 2022 (See also LWVUS position "Citizen's Right to Vote" in *Impact On Issues*)

*The League of Women Voters of Texas supports every citizen's right to vote, improvement in voter registration procedures, uniformly enforced election procedures, clearly stated election laws that facilitate citizen participation, and the right to a secret ballot.*

*Specific measures include:*

- Adequate safeguards against fraud.
- Convenience to the voters.
- Impartiality of treatment for all voters.
- No declaration of party affiliation when registering.
- Revision of election laws to ensure enforcement.
- Supervision of all local elections by a single county election authority responsible to a central state authority.
- Mandatory uniform training for all election personnel.
- Provision for jointly conducted primaries.

Criteria for election administration should include:

- Reasonable costs for conducting elections.
- Election laws and procedures that uniformly and regularly produce honest and accurate results.

*The League of Women Voters of Texas supports election laws that facilitate citizen participation and voter convenience, as well as voting procedures that may increase voter participation.*

*Our support includes, but is not limited to, the following:*

- The use of uniform election dates for local and state elections whenever possible.
- Consolidation of polling places when several governmental entities conduct elections simultaneously.
- Countywide Polling Process.
- Reduction of the number of days between the primary and general elections.
- Unlimited access to vote-by-mail with no restrictions.
- A permanent vote-by-mail list on which any voter may request to be placed.
- The establishment of guidelines that would allow jurisdictions to conduct all vote-by-mail elections.
- Election Day registration.
- Poll site Internet voting for military/overseas voters.
- Instant Runoff Voting/Ranked-Choice Voting

*The League of Women Voters of Texas supports election systems for elected offices in single seat elections that require the winner to receive a majority of the votes, as long as the majority is achieved by Instant Runoff Voting/ Ranked Choice Voting, rather than a second, separate run-off election.*

## Explanation: Election Laws, Voting Rights

The right of every citizen to vote is a principle of the League of Women Voters. The 1976 national Convention delegates adopted voting rights as an integral part of the national program. This added impetus to the LWVTX position and provided additional ways for Leagues to take action through vertical programming.

In 1991 the LWVUS Board of Directors launched the campaign to "Take Back the System" as the top priority of the League. Included in this campaign was a major grassroots effort to pass the National Voter Registration Act (NVRA), finally passed by Congress in 1993. The LWV believes the legislature should be given the responsibility and the necessary authority to build a statutory framework essential for a proper electoral system. The specific details of election administration are thus left to legislation.

During the LWVTX periodic program review of 1998-99, the positions dealing with election laws which had been part of "Political Campaign Process" were moved to be part of "Election Laws and Voting Rights," where they seemed to fit more logically.

At Convention 2008 a study of "Voting Procedures to Increase Voter Participation" was adopted. A *Facts & Issues*, consisting of five separate papers, was distributed to members electronically. Consensus on several issues was achieved and was added to our position in 2010.

The position was amended by concurrence at Convention 2022 to add Instant Runoff Voting/Ranked Choice Voting, and the accompanying explanatory paragraph.

### History: Election Laws and Voting Rights

**1985-86.** A bill recodifying the election code was passed by the 1985 Texas Legislature; it became effective January 1, 1986. The recodification was a result of more than a year's work by the Joint House-Senate Select Committee on Election Code Revision and its advisory committee. The LWVTX was represented on the advisory committee and actively supported the recodification bill during the. With passage of the legislation, the LWVTX position on recodification was achieved after many years of advocacy. Therefore delegates to the 1987 Convention voted to drop the position.

In addition to eliminating obsolete matter and clarifying some ambiguous provisions, the recodification addressed several of our other positions, including: mandatory uniform training for all election personnel; supervision of all local elections by a single county election official responsible to a single state authority; protection of secrecy of the ballot; and restoration of voting rights to ex-felons 2 years after completion of probation, parole, or mandatory supervision.

**1987-89.** During the 1987 Texas Legislative Session, the League supported a bill providing for conjointly operated primaries, which failed to pass. A bill requiring agency-based voter registration passed the legislature but was vetoed by the governor. In 1989 the League supported an omnibus voter registration bill that included voter registration when a person applies for a driver's license or personal identification card ("motor voter"), a change in the purge date, and changes in the method of verification by computer. This legislation passed the Texas Senate but died in the Texas House.

**1991.** The 1991 session of the legislature was a productive one for voting rights issues. A motor voter bill was introduced and strongly supported by the League. Although it appeared to be progressing well, in the waning hours of the session its sponsor withdrew the bill from House consideration when it appeared that strong opposition to the method of funding was certain to kill the bill. However, a similar bill passed quietly through the first special session as a small addendum to the weighty bill reorganizing the Texas Highway Department and the Department of Aviation into the new Texas Department of Transportation. Thus without fanfare, Texas joined the vanguard of states with motor voter legislation in place.

Additionally, the League supported legislation to extend hours of early (formerly "absentee") voting in person in counties with a population of 100,000 or more, and in counties of 4000,000 or more to provide additional places for early voting. This bill eventually passed. Other successful bills supported by the League included one that amends the voter application form by identifying the "county in which applicant resides and intends to vote." Another bill broadens the jury source to include all those who have a valid driver's license or personal identification card issues by the Department of Public Safety.

**1993.** In 1993 two bills were introduced which would have facilitated voter accessibility to the electoral process by permitting voter registration at all state agencies dealing directly with the public and allowing election day registration at polling places. The League supported these measures and countered opponents' arguments with evidence that similar laws in other states do not encourage fraudulent practices. The bills died in committee.

In the study of the Political Campaign Process in Texas (1991-93), League members reached consensus in support of changes in election laws to shorten the election cycle. The League believes that a shorter cycle would reduce the cost of campaigning and lessen the pressure on candidates to raise enormous amounts of money. A shorter election cycle was also one of the Texas Ethics Commission's recommendations to the 73<sup>rd</sup> Texas Legislature. There was some discussion of this recommendation in committee hearings during the 1993 session, but the topic did not gain sufficient momentum for serious consideration

**1994-95.** The LWVTX voting rights efforts during this period focused on assuring full implementation of the National Voting Rights Act (NVRA) in Texas. The national motor voter law, which went into effect January 1995, extends Texas' previously enacted motor voter law by providing for voter registration at additional government agencies, including those that serve people with disabilities or provide public assistance. Bills enacted in the 1995 Texas Legislative Session established implementation procedures that have brought Texas into full compliance with the federal statute.

A League representative served on the state NVRA Task Force, appointed by the secretary of state, charged with assisting Texas to achieve the NVRA goals. The League continued to monitor agencies to ensure that the process is fully implemented and that it works. As we monitor agencies, we hope to learn: Are individuals asked about voter registration? Are voter registration applications readily available? Is assistance offered in completing voter registration applications?

Our position on voting rights is an important way of helping to achieve the purpose of the LWV to encourage citizens to participate in their government. The League will continue to take action to support the right of every eligible citizen to vote. Though many of the improvements called for in our positions have been implemented, we retain some positions to enable us to act should these rights be threatened, as the following two examples illustrate. In one case, many counties have central election authorities, but many legislators are not comfortable with this arrangement. In the second case, the League believes that a declaration of party affiliation is detrimental to the establishment of a strong two-party system in Texas. Year-round registration with no fee and no party declaration has been in effect for some time in Texas. However, there remain those who would like to see this undone, so we retain our position. In summary, much work for secure voting rights remains, though progress is being made.

**2001.** After disappointments in several past sessions, both houses of the legislature passed, and the governor signed into law, a bill that removed at least 3 of 10 exemptions from the Election Code that provides for four uniform election dates. "This is a bill whose time has come" was the focus of League testimony and work with a special statewide Uniform Election Dates Coalition. This reform has been long in coming. A major exemption, and one that created the most controversy, that of school bond elections, has been curtailed. Two of the dates have also been changed to the first Saturday in February and the second Saturday in September. A bill that would have consolidated polling places when several governmental entities conduct elections failed to pass.

**2003.** The legislature passed and the Governor signed a bill that implements the Help American Vote Act (HAVA). The LWVUS and the LWVTX have been actively involved in HAVA since its inception. Following federal guidelines, the state HAVA bill requires the state to expand the size of its voter registration application to include space for additional requirements and additional voter instructions. It also requires the state to create a statewide, computerized voter registration system that will be the official database for all voter registration purposes. It sets up an administrative complaint process; develops and implements a provisional voter program; places a Direct Recording Electronic (DRE) device in each polling place for disabled voters; creates additional instructional information for voters, including a voter's bill of rights; and launches a voter education program. The state HAVA legislation includes no state funds, but provides the legal basis for the state to appropriate funds that will be

provided by the federal government. Much of the funding will be transferred to county governments to enable them to satisfy new federal mandates.

The most significant change in this legislation for Texas is going from the current system of challenge ballots to one of provisional ballots. This means that any ballot cast by voters who can't prove (by affidavit) that they are registered, would go to a board that would determine if the ballot should be counted. The bill contains detailed procedures for determining eligibility, how that ballots are handled, how they are counted, disposition, etc. Because of the additional time required for this review, the time period for holding runoff elections will be extended from 3 to 4 weeks.

The legislature also dealt with other election issues such as uniform election dates, tightening loopholes and developing methods for electronic filing and transfer of campaign data, posting and publicizing a list of voter's rights, and removing the postage paid from the voter registration card. Legislation giving all persons completing a felony sentence voter information at the completion of their sentence, when they in fact become eligible to register to vote, did not pass.

**2005.** Many election law changes were proposed in the 79<sup>th</sup> Session. Five of the bills signed into law related to our positions. HB 57 reduced the number of election dates from four to two. Reducing the number of election dates is a long-held LWVTX position. The bill eliminated the February and September elections and changed the May election to the second Saturday. The November election date remains the first Tuesday after the first Monday in November. The bill laid out the procedures for early voting in May and for making the transition to the May and November elections.

The issue of a recountable voting system did not have support. (For the position on electronic voting adopted by the LWVUS Convention 2006, see *Impact on Issues*.) The closest Texas came to addressing direct-recording electronic (DRE) voting machines was making tampering with DREs a 3<sup>rd</sup> degree felony.

HB 2465 dealt with public hearings on approval of electronic voting machines. The LWVTX strongly supported an amendment to this bill that would have strengthened the bill by requiring testing methods such as electronic hash code testing before and after the election, parallel testing of programming and equipment during the early voting and post-election periods, and verification counts from each redundant electronic source provided by the voting system. The amendment failed and Texas was left with weak protection from fraud in connection with DREs.

Two other bills that addressed ease of voting issues: HB 120 related to using regular polling places even if the regular polling place of the election precinct is not located wholly in the political subdivision holding the election; and HB 2454 would allow a registered voter who has resided in a new county for less than 90 days to vote a limited ballot.

There was a strong push for legislation to require a photo ID at the polls (the LWVTX was part of a coalition that worked against this bill, and it died in committee), and there will be a strong push in 2007 to adopt a photo ID bill. During the interim there will be a focus by the attorney general's office on potential voter fraud.

HAVA implementation proceeded on schedule. The LWVTX continued to meet with the secretary of state to keep up to date on HAVA progress in Texas while offering assistance that would be needed to implement the reforms.

**2007.** Five bills regarding the ballot and elections supported by the LWVTX passed and were signed by the governor. They are: SB 90 related to establishment of a pilot program to provide a ballot by electronic mail to military personnel serving overseas; HB 629 related to the consolidation of elections; HB 2823 related to voting by a person who applied for a ballot by mail; a voter can request a provisional ballot if they did not receive their ballot by mail; HB 3105 related to a program allowing for countywide voting locations for elections.

HB 770 requiring the Texas Department of Criminal Justice to give notice to certain persons for their right to vote, supported by the LWVTX, was passed by the legislature, but was vetoed by the governor. HB 218, the Voter ID bill

opposed by LWVTX, was narrowly defeated when Senator Mario Gallegos, recovering from a liver transplant, was brought to the Capitol in a hospital bed to vote against the bill.

**2009.** After the 81<sup>st</sup> Legislature convened, the Senate changed the rules for passing a Voter ID bill (requiring a photo ID at the polls) from two thirds to three fifths. (The last time that the two-thirds rule was ignored was in 2003 when the Senate forced through the redistricting plan engineered by Tom DeLay.) This action signaled the start of the push to pass a Photo Voter ID Bill, SB 362, vigorously opposed by the LWVTX. The LWVTX sponsored two press conferences on this issue and participated in a third. At the last press conference we presented a two-page statement of Principles for Non-Partisan Voter Reform, a paper developed by the Election Reform Coalition of which the LWVTX is a member. The paper asked others to join with the coalition as we move forward using these principles to increase voter turnout. The Voter ID bill ultimately failed to pass. Toward the end we watched legislative procedural moves aimed at stopping it, among these chubbing, or the putting intended obstacles in the way of voting for a bill. A special session was called and Voter ID was not included on that agenda.

SB 310, supported by LWVTX, allowing counties to have super precincts on Election Day, was added as an amendment to another bill and passed. It authorizes five counties to apply for a trial of super precincts. Issues that never made it out of committee included: rules regarding electronic voting machines, same-day registration, and procedures for voting. The governor vetoed one election bill supported by LWVTX that would have required the secretary of state to develop a system for accepting voter registration applications when the information provided by the voter does not match the identifying information for that individual in the records of the Department of Public Safety.

2009 was also the year that Texas finally ratified the 24th Amendment. Most states passed this 45 years ago. This was a symbolic stand against the poll tax.

**2011.** The LWVTX and the Election Reform Coalition were active in holding off voter photo ID legislation in previous sessions, but were not successful in 2011 when photo ID was included in the emergency items designated by Governor Perry. The LWVTX participated in a press conference and testified against the bill at both House and Senate hearings. Nonetheless, the bill was signed into law on May 27. The secretary of state was given responsibilities to educate election workers and voters on the new requirements beginning September 2011. Voters must show one of a limited set of photo IDs to vote a regular ballot after January 1, 2012. As of the publication of this document this law is still pending.

*Note.* Under the 1965 Voting Rights Act, Texas is among the states required to obtain preclearance from the U.S. Department of Justice (DOJ) or courts before putting election law changes into effect. Texas sought preclearance of election law changes from DOJ. The LWVTX submitted written comments to the DOJ raising questions about preclearance for voter photo ID and for the prohibition against performance-based decisions in voter registration efforts. The State of Texas has sued and the LWVTX has intervened against the state's position. This case is expected to go to the U.S. Supreme Court as a challenge of the Voting Rights Act. As of June, 2012 we don't know if Voter ID will go into effect for the November 2012 election.

The LWVTX testified against requiring documentary proof of citizenship to register to vote, and this bill was not considered by the full House. While Texans will still be able to register to vote without providing proof of citizenship, most voters will need to provide documentary proof of citizenship to obtain or renew the forms of photo ID required to cast a regular ballot as of 2012.

The LWVTX supported the bill to bring Texas into compliance with the federal requirements for military and overseas voters. The bill was passed and signed by Governor Perry. Email transmission of ballot materials to military/overseas voters is allowed, but not electronic return. To provide the time required for preparation and return of ballot materials, candidate filing and runoff dates for spring primaries were changed. Because some county election officials would be unable to meet requirements for a May primary runoff in addition to local elections on the May uniform election date, the law allowed for changing local elections to the November uniform date.

A number of bills on which the LWVTX took positions failed either to make it out of committee or to pass both chambers. Bills the LWVTX supported that did not pass include those on Election Day voter registration, voter suspense list procedures, allowing electronic voter registration for those with a valid Department of Public Safety



driver's license or ID, and adding Texas to the National Popular Vote Compact. Bills which the LWVTX opposed that did not pass include those limiting the number of voters an individual could assist, allowing poll watchers to record images and sound, increasing penalties for untimely volunteer deputy registrars, and limiting volunteer deputy registrars to registered voters with 6 months of continuous state residence.

Two bills, HB 2194 and HB 2817, became more complex as they progressed through the legislature and, as passed, included both positive and negative provisions. They contain unnecessary restrictions on volunteer deputy registrars; also performance-based compensation and employment decisions are prohibited in voter registration efforts. On the positive side, the secretary of state was given authority to increase the number of counties participating in trials of countywide polling locations.

**2013.** As the League's 2012-14 biennium began, the LWVTX was involved in litigation over preclearance of the photo ID requirement passed by the 2011 Legislature, SB 14 (Fraser), which LWVTX opposed. The LWVTX lobbied the U.S. Department of Justice (DOJ) to deny preclearance and intervened supporting DOJ's decision to deny preclearance when Texas sued for preclearance. The Washington, DC, court denied preclearance in late August 2012, so the requirement was not in effect for the November 2012 General Election. The State of Texas appeal of the denial was put on hold while the U.S. Supreme Court considered the Shelby County, Alabama, challenge to preclearance.

A number of positive bills on voter registration passed during the 2013 Regular Legislative Session and were signed by Governor Perry: SB 910 (Duncan) faxed voter registrations; HB 2465 (Farias) suspense status information online; and HB 3593 (Burnam) determining a voter is deceased.

Positive election bills that were passed and signed include: SB 160 (Huffman) poll watcher identification; SB 553 (Uresti) high school students as early voting clerks; and SB 578 (Duncan) countywide polling locations for primaries and runoffs. Several positive bills the LWVTX supported did not pass: HB 465 (Johnson) repeal of photo ID; SB 315 (Uresti) and HB 313 (Strama) online voter registration; HB 331 (Guillen) accepting voter registration from any eligible Texan; HB 2728 (Gutierrez) volunteer deputy voter registrar online training; HB 3081 (Wu) voting in a precinct of former residence; HB 1958 (S. Turner) curbside voting; and HB 2306 (S. Thompson) permanent mail ballots for some voters.

Significant bills the LWVTX opposed that did not pass include: HB 2093 (Harless) limiting early voting; HB 3049 (Springer) eliminating the May uniform election date; HB 966 (Murphy) voter registration residence address; and HB 3074 (R. Miller) proof of citizenship to register. HB 148 (Burkett) limiting assistance with mail ballots has become law but in its final form only limits payment for ballots mailed and does not otherwise limit assistance with mail ballots. Election law bills were filed in special sessions, but none were heard in committee.

In late June 2013, after the regular session, the U.S. Supreme Court announced the Shelby County decision striking down the Voting Rights Act (VRA) criteria for determining jurisdictions subject to preclearance. Texas immediately implemented the photo ID requirement passed in 2011. U.S. Representative Marc Veasey and others quickly filed a VRA Section 2 challenge to photo ID in the Corpus Christi federal court. Others, including the DOJ, have filed challenges raising constitutional and other legal issues in Corpus Christi and asked that Texas be bailed-in to preclearance under Section 3 of the VRA. Trial is scheduled for early September 2014 with the possibility of a decision prior to the November 2014 general election. In the meantime, the photo ID requirement remains in effect.

**2015.** As the League's 2015-16 biennium began, the photo identification requirement lawsuit remained under consideration. The Corpus Christi federal court ruled in favor of U.S. Representative Veasey, yet there was no stay of the voter ID law during the State's appeal to the Fifth Circuit Court. A Fifth Circuit Court three-judge panel met during the 84<sup>th</sup> Session on the case with no final outcome. Arguments included judicial questions asking why the Texas Legislature has not broadened the types of accepted photo IDs.

During the 84<sup>th</sup> Session of the Texas Legislature, eight bills were introduced to add acceptable IDs to the list acceptable for voting that died in committees without any hearing. Other IDs proposed included the addition of

student photo IDs from public and private higher education institutions, Texas and federal government-issued photo IDs, expired Texas driver licenses, Veteran's Administration health photo IDs, and any form of photo ID. The House Elections Committee allowed a hearing on only one bill that would allow tribal photo IDs, but it also died in committee without a vote.

Only one voter ID related bill, SB 982 (Bettencourt), passed into law. It provides a cost-free birth certificate for anyone in need of that document when applying for a Department of Public Safety photo ID. The only other voting/elections bill supported by LWVTX that passed during the 84th Session and was signed by Governor Abbott, made a variety of minor improvements all related to voting by mail. HB 1927 (Bonnen, Greg) requires vote by mail (VBM) be made available for all elections, regardless of the election's administration (special districts, ISDs, etc.) and includes runoff elections; allows VBM applications to be submitted any time in the preceding year prior to an election; and allows VBM applications to be emailed.

The LWVTX supported a number of other positive bills that did not pass: providing online voter registration, HB 76 (Israel), HB 953 (Alvarado), both garnering one late session public hearing but no action; HB312 (Harless), HB 444 (Johnson), HB 446 (Johnson), and SB 385 (Uresti); broadening acceptable photo IDs, HB 535 (Nevárez), HB 295 (Canales), HB 447 (Johnson), SB 170 (Uresti), SB 230 (Watson), HB 534 (Nevárez), HB 536 (Nevárez), HB 733 (Israel), and HB 1117 (Martinez, "Mando"); improving the vote by mail process, HB 1198 (Israel), HB1540 (S Thompson), HB 913 (Israel), HB 954 (Alvarado), and SB 86 (Ellis).

The most significant bill the LWVTX opposed that did not pass was HB 1096 (Murphy) and its companion SB 984 (Bettencourt), calling for identical residential addresses on photo IDs and voter registration cards. HB 1096 was left languishing on the full Senate bill intent list on the final day it could be considered.

**2017.** The brief story of the 2017 Texas Legislative Session for voting rights and elections: Nothing really bad was passed and a few minor process improvements were made.

The chants of "voter fraud" continued to be recited even though all League members know that there is no "rampant voter fraud or impersonation" in our state or any other. Governor Abbott and Lt. Governor Patrick, the two chief cheerleaders rallying the voter fraud cry let it be known that no online voter registration bills would be considered this session. Although, mail-in balloting, the one area where some irregularities have been documented, was addressed in a somewhat even-handed manner during the regular session, but was overturned in the special session. There was only one very small victory: Volunteer Deputy Registrars (VDRs) will now be able to deliver voter registration applications to county offices the day after the deadline to be registered before elections.

We followed 280 bills related to voting and elections during the 85<sup>th</sup> Session. The House and Senate committees offered public hearings on precious few of those. Thankfully only a few made it to the finish line and were passed by both houses.

**Online voter registration.** As mentioned above, none of the bills to establish online voter registration even received lip service this session. When it became common knowledge that the governor and Lt. governor would quash any online voter registration action, the early session hope of passing HB 143 by House Elections Vice Chair Celia Israel ended. Israel authored HB 76 in the 2015 Session and received 75 House coauthors and an abbreviated hearing in the House Elections Committee, but no vote. Neither HB 143, nor any other voter registration modernization bills received any action but referral to committee. Others included:

- HB 70 by Representatives Minjarez/Gullen, automatic registration
- HB 80 by Representative Alvarado, online voter registration
- HB 159 by Representative Dutton, optional county online voter registration
- HB 469 by Representative Eric Johnson, same day registration
- HB 955 by Representative J. Rodriguez, same day registration
- HB 1955 by Representative Reynolds, secretary of state online voter registration

Other positive voter registration bills were introduced and did not see any action. Among those:

- HB 910 by Representative Romero, allow volunteer deputy registrars to register voters in all counties
- HB 953 by Representative J. Rodriguez, requiring counties to contact registrants via email about application problems before rejecting the applications
- HB 1002 by Representative Israel, requiring the Department of Public Safety to provide receipts for voter registration

**Voter ID.** Legislators filed numerous bills to expand the types of photo voter identification. Only HB 1173 by Representative Nevarez, to add tribal ID cards, received a public hearing, and then was left to die in committee.

The most talked about bill approved this session was SB 5, the Lt. governor's high priority voter ID bill. It passed early in the session; soon afterwards there was a hearing on the companion bill, HB 2481 by Representative King in the House Elections Committee. It then languished in the House Calendars Committee. On Sunday night, May 21<sup>st</sup>, Governor Abbott named it an "emergency matter for immediate consideration," and it was set for House floor action the following Tuesday. On June 1<sup>st</sup> Governor Abbott signed it, and it is set to become law January 1, 2018.

The bill generally codifies the changes in voter ID requirements set in the July 2016 U.S. District Court order, with a few exceptions. The main SB 5 addition is making it a state jail penalty to make a false statement on the substitute impediment form used when voting without one of the seven photo IDs. That was just one of several differences between SB 5, as introduced, and the Court order. On the House floor members added multiple amendments making the bill more reasonable. Some of those changes (retaining the 4-year expiration date for IDs and address matching issues) remained in the final adopted bill.

However the Court is set to revisit the Issues in June 2017, following the legislative session. Because the Court ruled SB 14, the voter ID law passed in 2011, as intentionally discriminatory, it is still to be determined how SB5's passage will be received. Placing Texas back under U.S Department of Justice preclearance for any election-related actions is a possibility, although U.S. Attorney General Sessions' Department of Justice idea of preclearance will likely be different than his predecessors.

**2017 LWVTX actions.** While our advocacy on online voter registration languished, we took positions and actions on the following bills.

**Bills we supported.** A few bills we registered our support for were passed by both Houses, although none of the bills we presented testimony to support made it to the finish line. Also note below, some bills we supported in one house were significantly amended in the other house.

*Bills passed and sent to the governor.*

- HB 658 by Representative Bernal, originally introduced to provide priority treatment for voters with certain disabilities, and our support was based on that. It became a "Christmas tree" bill in the Senate with a more than six-page comprehensive amendment by Senate State Affairs Chair Huffman adding special voting available to residents in residential care facilities (senior living/nursing homes). It is meant to address voting irregularities in elder care residential or nursing homes. It was hailed as a major improvement by Governor Abbott, yet the provisions for residential care facility ballot by mail were repealed in the special session (see below).
- HB 961 by Representative J. Rodriguez, allows the option of plurality voting for junior/community college trustees (other than Blinn College). Governor Abbott vetoed the bill.
- HB 999 by Representative Israel, unless otherwise required by statute, requires water district officer/board elections on the May uniform election date. Signed by Governor Abbott, effective September 1, 2017.
- HB 2324 by Representative Israel, allows individuals or volunteer deputy registrars to turn in voter registration applications to county offices the day after the deadline 30 days prior to elections. Signed by Governor Abbott, effective September 1, 2017.
- HB 4034 by Representative Bohac, originally introduced to require counties to send list of registrants who indicate an interest in working elections to the two county chairs of each county executive committees. Our support was based on that original bill. Amended in the Senate by State Affairs Chair Huffman to give

secretary of state authority to eliminate duplicate voter registration records as part of the statewide registrations rolls, though indicating weak or strong matches and only acting on strong matches; allow secretary of state to withhold funds to counties not complying with deleting dead voters from the rolls. Signed by Governor Abbot, effective June 12, 2017.

*Note.* HB 2837 by Representative Dean also passed and contains exactly the same language on dead voters as HB 4034. We testified against HB 2837 because registrars report often not being in receipt of deaths from the various suppliers of that information. Signed by Governor Abbott, effective September 1, 2017.

***Bills we supported with testimony that died.***

- HB 187 by Representative Dutton and HB 260 by Representative E. Johnson, on Department of Criminal Justice providing those "off paper" with voter registration forms and information
- HB 450 by Representative Fallon, to allow mobile devices in the voting booth
- HB 1887 by Representative and SB 148 by Senator Garcia, concerning eligibility of interpreters in an election
- HB 3328 by Representative E. Rodriguez, requiring secretary of state to make public the expenditures for voter identification education

***Bills we opposed.*** While none of the bills passed that we opposed, two bills passed that we would have like to see fail. One we testified against, HB 2837 by Representative Dean (mentioned above) passed on its own and as part of HB 4034. The other is SB 5 by Senator Huffman that is discussed above and was signed by Governor Abbott.

***Bills we opposed that did not move forward.***

- HB 384 by Representative Murphy, to require photos on voter registration certificates
- HB 1149 by Representative S. Davis, to allow for only electronic posting of voting locations rather than printing in a newspaper
- HB 1683 by Representative Fallon, to significantly reduce the number of early voting days
- HB 3422 by Representative Laubenberg, to authorize data sharing to permit Texas participation in interstate voter registration crosscheck program, with the stated intention of that being the State of Kansas free matching system, not the more reliable and multistate Electronic Registration Information Center system.
- HB 3474 by Representative Fallon, to require proof of U.S. citizenship at voter registration

***Took no position: Bills that passed.***

- HB 1735 by Representative Faircloth, began as a mostly partisan primary bill and became more so in the last days of the session. It deals with a miscellany of election officer rules, oaths, and penalties for voting in both primaries in the same election. It makes it easier for someone to discreetly select the party primary they wish to vote in. It provides for prosecution of "vote harvesting organizations" that consist of three or more who may or may not know each other, but are subverting the rules. Of note to LWV voters guide leaders: It spells out the contents of a candidate's application for office, including a reliable email address for reaching the candidate or campaign.

***Additional action in special session.***

- SB 5 by Senator Hancock, dealt with ballot by mail abuse; widens the definition of mail-in ballot fraud, boosts penalties for certain offenses, and strengthens rules for signature verification. Somewhat helpful, it also requires election judges to notify voters when ballots are rejected. It also limits who may assist mail-in voters. The LWVTX recognized that there is an issue to be addressed; however, it opposed the severity of increased penalties and called for clearer mail-in ballots and carrier envelopes to prevent innocent mistakes. Signed by Governor Abbott, effective December 1, 2017.
- Representative Goldman, the House sponsor of SB 5, inserted a surprising amendment on the last day of its consideration. The amendment was meant to eliminate the new nursing home/residential facility mail-in ballot process passed in regular session in HB 658 by Representative Bernal (discussed above). The intention was to eliminate the new residential facility process before it began, but as finally passed, it was in effect for the November 2017 General Election and officially removed from law December 1, 2017. Removing the process was largely the result of county election officials across the state objecting to the new

process that would have called for election judges to go to the nursing home/residential facilities to accept the mail-in ballots in person.

**2019.** In the 86th Legislative Session, LWVTX made dramatic strides in its advocacy on voting rights and election law issues. We contributed to the **defeat of SB 9**, the most suppressive voting rights/election administration bill since Voter ID was adopted. This defeat and the denial of David Whitley's confirmation as Secretary of State, were symbolic of a major change this session in our collaborative strength. Most amazing was our establishment of an ongoing organizational infrastructure, and the availability of the Texas Civil Rights Project's legal insights on the meaning and potential impacts of legislative proposals. The LWVTX Action Alerts (using One-Click Politics) played a gigantic role in our successes. These alerts provided a quick/easy link for all League members for contacting their personal representatives at opportune times to affect legislative action. President Grace Chimene and VP Advocacy Janet Imhoff played a big role in assuring they were appropriate and timely.

**We did not achieve our major goals of establishing online voter registration in Texas or requiring improved paper trail election equipment that would permit post-election audits.** However, progress was made on the latter. The most negative efforts were defeated, and no major bills passed to decrease voter access. LWVTX testified in favor of 11 bills – 3 of those passed and were signed by the Governor. We testified in opposition to 3 bills – none of them passed! In addition to our testimony, we registered support for 24 bills – 10 passed and were sent to the Governor. All 10 made it off his desk and became law. LWVTX registered opposition to 13 bills and only 2 of them passed and were signed by the Governor.

In addition to procedural bills, we supported a budget rider that allows Texas to participate in the **Electronic Registration Information Center (ERIC)** process to improve the accuracy of our voter rolls and increase access to voter registration for all eligible citizens. ERIC is governed and managed by states who choose to join, and was formed in 2012 with assistance from The Pew Charitable Trusts. Participation requires expenditure of approximately \$1.5 million to begin the membership. This session, Elections Committee Chair Stephanie Klick successfully inserted that amount in the budget and the Governor exercised no line item budget vetoes.

**The demise of SB 9** in the House was a high point for League members and many other organizations and individuals. It included many of the proposals seen in previous sessions (and will likely be seen again in the 87th) to restrict voter access and establish or increase penalties for unintended errors. Other positive actions include passage of bills to greatly **improve the county and Secretary of State websites by requiring more voter information (HB 933)**. Another new law requires **improvements to county cybersecurity protection of voter registration lists and other election-related documents, systems and technology (HB 1421)**. Female candidates for office may now choose to run using any surname acquired by law or marriage on ballots (HB 2075), and there will be personalized auto license plates available that promote voter registration (HB 1130).

The most negative new law requires any temporary voting location in the early voting period to be open for the entire early voting period. In other words, **eliminating temporary voting locations** that have been so useful in urban and rural settings alike (HB 1888).

**2021.** Two situations shaped the 87th Legislative Sessions in 2021. First, the worldwide COVID-19 Pandemic. Second, legislative leaders were intent on following the wishes of the individual who lost the 2020 Presidential race and a super majority of Texas Senators and Representatives followed leadership. The pandemic created a situation that drastically limited advocacy involvement in the Capitol. The second situation assured eventual passage of voting and elections bills desired by the Governor and Lt. Governor (both with close ties to the former national leader). Texas was not alone. This session began after the insurrection of the U.S. Capitol January 6, 2021, and attacks on voting and election laws in almost every state. The increase in unsubstantiated accusations of voting irregularities was a backdrop throughout 2021 and continues in 2022. State leaders and their acolytes often used the phrase, "making it easy to vote and hard to cheat." Their goal would better be described as "making it hard to vote and easy to insinuate massive cheating requiring increased felony penalties."

As in previous sessions, most LWVTX actions were defensive, with a true goal of making it easy to vote and harder for voters to make innocent errors because of confused rules and processes. We and our many advocates-in-arms tried mightily and had some success in ameliorating the worst. One example was the outrageous legislation introduced to allow extreme poll watcher actions. LWV members and supporters sent more than 240,000 LWVTX Action Alerts to their Senators and Representatives about poll watcher provisions and the other issues. League members living in the districts of legislators with key voting/election roles assumed extra contact duties.

**Pandemic Impact** -- At the beginning of the 2021 Legislative Session, COVID-19 Capitol procedures were little known and ever-changing. The House and the Senate had separate rules on masking and virus testing, and mask requirements were not consistently enforced. There was less than normal in-person contact with members or staffers throughout the session, but staff and members offered virtual meetings. Local Leagues also arranged virtual communications with Legislative members. LWVTX advocates testified on bills as soon as hearings began. We did not miss a beat! By the end of March, fully virus-vaccinated advocates began regularly attending Committee hearings and meetings in the Capitol. This pandemic is the first example in our lifetimes of such constrained access.

**National & Texas Political Impact** -- As a matter of historical perspective, the Lt. Governor was the state campaign chair for the unsuccessful national leader who claimed he did not lose the election but was the victim of election mischief. The Attorney General, the chair of the House Elections Committee, and the law partner of the Senate State Affairs Committee Chair and author of the passed omnibus SB 1, were all involved in former national leader's legal defense. [That law partner is now the new Texas Secretary of State John B. Scott who oversees Texas elections among his other duties.] The Governor of Texas was also part of that political group. His first emergency item for Legislative consideration was "Election Integrity," so it was inevitable some election legislation would pass. When it did not in the regular session, the Governor continued to call special sessions until it did. Procedurally, it was delayed by enough Democratic House members to break the body's quorum twice. The first break was a stunning departure in the last days of the regular session. Four days after the First Special Session began enough members departed and did not return a quorum until sixteen days after the Second Special Session began. The major omnibus voting/election bill, SB 1, passed in the last week of the Second Special Session and became law December 2, 2021. Most of the quorum defectors spent their time out of the state in Washington, D.C. promoting national legislation to address voting and election law.

### 87<sup>th</sup> Session Legislative Outcomes

**Positives** -- We did not achieve our long-standing prime goal of establishing **online voter registration** in Texas. Yet the cause was advanced by full motor-voter registration when updating driver licenses. That action came as the result of a lawsuit with LWVTX participation. A member of the majority party introduced a bill for regular online voter registration in the first Special Session that could possibly tee up action in the 88<sup>th</sup> Session.

In the 2019 session, LWVTX's other top priority was **election security**. We sought a requirement for Texas to only use election equipment that offers a ballot paper trail and allows reliable related post-election audits. We laid groundwork in the 86<sup>th</sup> Session. Both were achieved in the 87<sup>th</sup> Session, albeit with many other unnecessary provisions. The equipment switch is to be complete by September 2026; the risk-limiting audits are to be tested in 2024 in a limited number of counties.

Among other beneficial actions approved in the Regular Session are:

- Requiring standardized training for county election officers that is similar to election judges/clerks training. Also, standardized training for the early voting ballot board and central counting station workers, and poll watchers
- Making an online Ballot by Mail Tracker available to voters

Additional improvement actions approved in Special Sessions 2:

- Allowing voters to update voter registration addresses at Texas.gov when they move to a new county
- Clarifying the purpose of poll watchers is to observe without obstructing; requiring they undergo SOS training every election; and revising their oath to specify watchers will not disrupt proceedings
- Providing an opportunity for voters to correct defects in mail ballots up to six days following an election

- Increasing the minimum number of required hours during early voting
- Directing an SOS study on educational programs for voters with disabilities

**Negatives** – “Election Integrity” legislation passed in 2021 predominately threatens those who run Texas elections with felony level penalties for any missteps. That means anyone involved – from the County Clerk or Elections Administrator to the least senior clerk or tabulator. The laws make most all aspects of voting more onerous and eliminates all innovations hardworking election officials legally employed during the Pandemic-impacted 2020 elections. Those included extended hours of voting and convenience of voting locations. Many measures make it broadly harder to vote; however, the biggest target is voting by mail. Some provisions are being challenged by multiple lawsuits. The U.S. Department of Justice is one, and others include LWVTX as well as multiple individuals and voting rights advocacy organizations. Lawsuits also add to overall confusion – winning some, then being appealed, etc. There is already ample evidence that these drastic changes are creating problems for voters. There are contradictions within some of the new laws, as well as ambiguities.

These new election laws are threaded throughout the election code. To implement them requires major changes in processes, procedures, forms and software. It also requires communications, education, and training. This very complicated set of changes became law December 2, 2021. The number of individuals possibly touched by the changes is much larger than the election officials and election workers. It potentially affects more than 17 million registered Texas voters. In the 2020 presidential election there were more than 11 million voters and more than 11 percent of them voted by mail. There is widespread confusion about what the laws mean, computer systems unable to provide reliable services, and new limitations on any assistance that can be accepted. LWVTX and all local Leagues have committed to sharing accurate information and advice for meeting all the new requirements. Given these new laws, it is clear LWVTX is a more valuable resource than ever and will remain so for the foreseeable future.

**A summary of new Texas Election Code provisions changed by 87<sup>th</sup> Session legislative action follows.**

#### Election Procedures and Outcomes

- Limits the eligible early voting hours to between 6 am and 10 pm
- Directs SOS to conduct an audit of 4 counties at random (2 over 300,000 pop/2 under)
- Makes a crime of obstructing a poll watcher’s view
- Allows lawsuits by candidates challenging improper election procedures & prioritizes it before the courts
- Defines everyone with any involvement in election conduct an “election official”
- Disallows early voting in a movable structure
- Permits Poll Watchers in signature verification committee meetings
- Allows Poll Watchers to observe all election activities related to closing a polling place and to follow the transfer of election materials wherever they go
- Entitles Poll Watchers to observe any activity related to curbside voting
- Allows Poll Watchers who believe they were unlawfully prevented or obstructed to seek injunctive relief, including temporary relief
- Prohibits voter from using a commercial post office box for election-related use
- Creates civil penalties for election officials who violate any Election Code provision
- Provides mechanism for candidates to file civil suits for violations of the Election Code

#### Voter Assistance

- Anyone who drives 7 or more voters to curbside vote must report their name & address

#### Vote by Mail

- Requires Applications for a Ballot by Mail (ABBM) be physically signed & include voter’s Driver License (DL) or SSN #
- Requires the ABBM be rejected If the DL or SSN # do not identify the voter, and notify the voter
- Prohibits election officials from providing unsolicited ABBMs
- Requires voters to vote provisionally, if they do not surrender the mail ballot
- Requires the carrier envelope for the mail ballot include the DL or SS #

- Forbids drop boxes for mail ballots and requires delivery to the election official in person and recording of the voter's name, signature and photo ID
- Makes it an offense for any election official or state government official to provide third-party ABBM distribution to anyone not requesting it
- Requires a signed affirmation statement for individuals with a disability that a sickness or physical condition prevents voting at the polls

#### Voter Registration

- Increases penalty for false statement on application (Class A, with possible state jail felony)

## D. Executive, Legislative, and Judicial Issues

### Executive

1968, 1969, 1970

*The League of Women Voters of Texas supports measures to increase the effectiveness of the executive department of the state government including:*

- The governor limited to two terms that may or may not be successive.
- Constitutional provision for the succession to the office of the governor should the governor become unable to perform the duties of the office.
- Cabinet-type executive department, with only the governor, lieutenant governor, and the attorney general elected.
- The governor having the power, with safeguards prescribed by law, to remove appointive officers of the executive department and citizen appointees to boards and commissions.
- Reorganization of state boards and commissions along functional lines by grouping them in areas of responsibility.

#### Explanation: Executive

In 1968 the LWVTX decided to evaluate the organization and functioning of the State of Texas executive department as a continuation of its studies of the constitution and the legislature. In the first year, the study concentrated on the office of the governor. In the second year, the League examined the total administrative organization, discussing other officers in the executive branch. In 1970 the League focused on the various executive boards and commissions, concentrating on those concerned with natural resources.

#### History: Executive

**1974.** During the Texas Constitutional Convention, the League actively supported change in the executive article.

**1979-81.** In 1979 and again in 1981, the League successfully opposed passage of a constitutional amendment providing for legislative review of the process of rule making by executive agencies. We believe this amendment to be a violation of the separation of powers of the executive and legislative branches of government. In 1980 the LWVTX supported a constitutional amendment, approved by the voters, allowing governors to remove public officials they appoint.

**1985.** Over League opposition, a vague and deceptive amendment that also violated the principle of separation of powers was passed by the voters. The amendment requires that an undesignated group, to be named by the legislature, approve expenditure of appropriated funds.

**1991.** Major reorganizations of state agencies were carried out during the 72<sup>nd</sup> Texas Legislature as a result of recommendations made by the Performance Review Panel. Legislation implementing these recommendations provided for appointment of agency heads by the governor rather than by the legislature. The LWVTX supported



these measures in keeping with its position in support of a cabinet-style executive branch. As a result of these changes, the governor now has significantly more accountability for the actions of agency heads.

## Legislative

1967, 1968, 1969

*The League of Women Voters of Texas supports measures to increase the efficiency and responsiveness of the legislature including:*

- Annual sessions of sufficient length and scope to permit efficient handling of legislative business.
- Adequate compensation for legislators and elimination of salary amounts from the constitution.
- Increased power of the legislators in relation to the power of their presiding officers to include (a) greater voice in determining committee membership, and (b) bills referred to committees of appropriate jurisdiction.

### Explanation: Legislative

League members decided in 1966 to evaluate the organization and functioning of the Texas Legislature and over the next 3 years reached consensus on a number of areas. Through the years, some goals were achieved, and positions have therefore been dropped. For example, conference committees are now limited to reconciling differences between Senate and House bills and are not permitted to add new provisions. Thus the position advocating this practice was dropped at Convention 1985.

### History: Legislative

**1969.** During the legislative session, the League worked for a code of ethics, annual sessions, and realistic pay for legislators.

**1974.** During the Constitutional Convention the League was active in support of revision of the legislative article. Bills pertaining to legislative salaries and/or annual sessions have been introduced in a number of sessions; none have passed.

## Judicial

1960, 1965, 1983, 2001, 2003, 2006, 2009

*The League of Women Voters of Texas supports an effective, independent, qualified, and inclusive judiciary for Texas, which includes:*

- A uniform fiscal policy as part of a single system of centrally administered statewide courts.
- A single system of centrally administered statewide courts with a uniform fiscal policy.
- Assignment of judges according to special training and docket needs.

*The League supports the selection of judges in the following manner:*

- Nomination is by a diverse, representative, nonpartisan commission, with appointment for a specific term or appointment by the governor for a specific term.
- Judges are subject to retention or rejection in an unlimited number of periodic nonpartisan elections.
- This should apply to Texas Supreme Court, the Court of Criminal Appeals, and Courts of Appeals.
- Selection of state district court judges may be by nonpartisan election or by appointment/retention.
- Judicial campaigns should be funded with public money.

### Explanation: Judicial

In 1958, the League adopted nine principles for a good constitution, one of which was "Provisions for justice with a minimum of delay," and in 1959 undertook the initial study of the judicial article as part of its work for general constitutional revision. Consensus was reached in the areas of court structure, court administration, and court financing.

In early 1965, the position on the selection and tenure of appellate judges was adopted. Members again looked at selection of judges in 1982 and, by February 1983, included district judges in the position on judicial selection. The position was amended by Convention in 2001 following review.

Following delegate debate at Convention 1999, the Program Review Committee was assigned review of the judicial position, especially regarding judicial selection, and the following recommendations were adopted at Convention 2001. Since centrally administered statewide courts have been in effect since 1985, the wording in the first bullet was reversed to reflect emphasis on the need for a uniform fiscal policy. (There is still disparity of funding levels among various appellate and district courts.) The PPR committee had suggested dropping the position regarding assignment of judges according to special training and docket needs, but during the program planning process, local Leagues recommended retaining the position since it is used for advocacy at the local level for specially trained judges, such as in family courts.

Delegates at the 2001 Convention, at the PPR committee's recommendation, also voted to drop the position regarding effective removal procedures for judges. The state constitution provides for removal procedures through a State Commission on Judicial Conduct. This provision was added to the constitution in 1965, after the League's initial study/consensus in 1959-60. Thus this bullet has been achieved. Although it is conceivable that the removal process could be thwarted by a legislative effort to cut off funds to the Commission, the LWVTX does not need to retain the position in order to address such a situation. The overarching statement of the judicial position and/or the League principle that "efficient government requires competent personnel" could be used to advocate effective judicial removal procedures.

**Judicial selection.** The 2001 convention approved a restudy of judicial selection. A committee restudied the issue producing a *Facts and Issues* entitled *Judicial Selection in Texas: Nothing's Perfect*. Limited consensus was reached in the fall of 2002 and approved by the LWVTX board in January 2003. That consensus continued to support the appointment of Texas Supreme Court and Courts of Appeals judges. But for local judges, Leagues only agreed that if judges are to be selected by an election, it should be nonpartisan. s

At Statewide Conference in March 2009, a bullet was added to clarify our position on district judges in order to lobby more effectively and to provide flexibility to work with legislators to reform the way judicial offices are selected in Texas. At Convention 2010, delegates voted to add the provision that judicial elections should be funded with public money, although this is covered in our position on Political Campaign Process.

## History: Judicial Selection

**1985.** The legislature passed a constitutional amendment that addressed the League position of centrally administered statewide courts. The League supported this amendment, and voters adopted it.

**1989-95.** Merit selection (or election, as some call it) has been an active issue for the LWVTX during this period. Reform efforts have been spurred and complicated by federal lawsuits challenging the at-large election of district and appellate judges as a violation of the Voting Rights Act because the system dilutes minority votes. The most recent development in this lengthy litigation is Texas' appeal from a U.S. Justice Department finding that countywide partisan election of judges in the major urban areas infringes minority lawyers' right to win seats on the bench under the Voting Rights Act. Using the LWVUS position supporting the Voting Rights Act, the LWVTX has supported single-member judicial districts as part of a merit system plan.

In the 1995 Legislative Session, the League lobbied in support of Senate-passed measures that called for appellate judges to be appointed by the governor with approval by the Senate and subject to retention/rejection elections on a nonpartisan ballot; and for district judges to first run on a nonpartisan ballot and then face retention/rejection elections for the next two terms. The House, however, failed to pass the Senate's reform initiative, instead reporting out of committee a version that included partisan elections. This version did not reach the House floor.

During the 1995-97 interim, the League was represented on the newly created Commission on

Judicial Efficiency. The Commission, appointed and chaired by Texas Supreme Court Justice Tom Phillips, was charged by the legislature with studying various issues related to the state judiciary, including judicial selection. The commission made several recommendations, but their most significant success was their recommendation for the creation of a Judicial Committee on Information Technology, which passed the legislature with funding. The 15-member committee, made up of judges, court personnel, legislators, attorneys, and citizens will gather information for a statewide network and justice information system.

**1997.** The House passed a bill changing appellate judicial selection to nonpartisan elections, an attempt to move the procedure at least one step away from the current partisan election system. The Senate companion bill differed, proposing an appoint/elect/retain system for appellate judges. This bill failed and time did not permit the Senate to take up the House bill.

**2001.** Legislation was introduced, supported by the League, which offered a viable, nonpartisan approach that would have reformed the electoral process for the selection of the chief justice and justices of the Texas Supreme Court, and the judges of the Court of Criminal Appeals. The bills would have required nonpartisan judicial elections of the highest courts in the state. Candidates would have sought certification from the secretary of state to be put on the ballot and would have been required to submit a petition signed by 1,000 registered voters in connection with a request for public financing. Testimony given during the hearings on the legislation raised many issues of concern that surround judicial elections: the necessity for judges to become involved in party politics, to raise large sums of money in order to run, and the perceived influence on the system as a result. Many supported the certification process as opening the doors for increased minority participation, but testified that a selection commission could act as a barrier.

**The League restudied this issue in 2001-03.**

**2003.** Following the adoption of the new judicial selection consensus, the LWVTX supported a number of bills during the 78<sup>th</sup> Session. None of these bills passed, and the lack of legislative support for these bills during the session was a real disappointment. Some bills and joint resolutions (possible constitutional amendments) focused on all of the judiciary, others only on appellate judges. Both appointments, followed by nonpartisan retention elections at the end of their terms, and nonpartisan elections were considered along with terms of office and for public financing of such elections.

In line with the League's new position, there is a great deal of support in Texas for the nonpartisan selection of appellate judges, but less for the selection or appointment of district judges. Opposition to the appointment of district judges was one factor leading to the defeat of introduced bills.

**2005.** Companion bills were introduced in the 79<sup>th</sup> Regular Legislative Session that would provide for the appointment and a nonpartisan election for the retention or rejection of justices and judges. The bill included all appellate courts and all types of district court judges, with appointments made by the governor as currently provided for in the Texas Constitution. No hearing was held for the Senate bill, but the House bill was heard in the House Judiciary Committee. The League presented written testimony to explain the League position that supports nonpartisan election of appellate court judges nominated by a nonpartisan diverse commission. The bill was left pending in committee. The House leadership was not supportive of the issue.

We supported and testified for Senator Duncan's bill that would increase salaries for state and county judges who had not had a salary increase since 1998. This issue had widespread support. However, after passing out of the conference committee, the bill was scuttled in the House over a dispute with an amendment that included increases for indigent defense. Although this item was not on the agenda, Senator Duncan introduced a similar bill in the special session without the indigent defense provision. The League presented written and oral testimony at the Senate State Affairs Committee in favor of the bill. The committee voted in favor of the bill. It was hoped that the issue would be included in the special session.

**2007.** As in the 79<sup>th</sup> Legislative Session, Senator Duncan filed SB 806 with its companion SJR 32 for a constitutional amendment. The enabling bill would provide for a nonpartisan merit selection system of appointment of judges

followed by a retention or rejection election of judges after a specified period of time of service. Identical bills were filed in the House. None of the bills were heard by their respective committees. However, both bills contained a position the League cannot support at this time, the inclusion of state district courts judges. The bills would provide for initial appointments that would be made by the governor as provided in the Texas Constitution during the interim in 2008. The League spoke with the general counsel for Senator Duncan to ask for a filing of a bill in 2009 Legislative Session with modifications that can meet the League position. In April 2007 the LWV/TX, through the assistance of KLRN, produced and televised a program, "Conversation on Judicial Independence."

**2009.** In the 81<sup>st</sup> Legislative Session, Senator Duncan, supported by the League, filed an enabling bill and constitutional amendment that would provide for a nonpartisan appointment/retention system to select appellate judges. This was slightly different from previous sessions. Not included were state district judges. However, the bills were withdrawn. Subsequently, the Senator filed SB 2226 and SJR 44 to provide for partisan judicial elections in the primary followed by a nonpartisan appointment/retention election. The League remained neutral as our position for judicial selection clearly states it be nonpartisan. The bills were not placed on the Senate calendar. In the House, HB 3995 provided for a nonpartisan appointment/retention system. The League presented oral and written testimony. Although the bill was voted out of the House Civil and Jurisprudence Committee, it did not pass out of the Consent Calendars Committee.

Early in the session Chief Justice Wallace Jefferson of the Texas Supreme Court made a strong case for the adoption of an appointment/retention system for judicial selection during his State of the Judiciary speech to the Legislature. Early in the same day, the League participated in a press conference with several other organizations in anticipation of the Chief Justice's speech.

A group to which the League is a collaborator, Clean Elections Texas, supported a bill that would provide for public financing for judicial candidates. Although the League supports public financing of campaigns this measure was not nonpartisan as required by our judicial position. As a result, the League did not support it.

**2011.** In the 82nd Legislative Session, Senator Duncan filed SB 1718, which proposed filling vacancies in appellate judicial offices by appointment, partisan elections for all judicial offices, and nonpartisan elections for retention or rejection of all judicial offices. The League remained neutral as our position for judicial selection clearly states elections be nonpartisan. There was a hearing on this bill in the State Affairs Committee, testimony was taken, but the bill was left pending in committee.

In February, Chief Justice Wallace Jefferson of the Texas Supreme Court urged the Legislature to "send the people a constitutional amendment that would allow judges to be selected on their merit." He also urged "common-sense solutions to the problems that plague partisan election of judges."

**2019:** After nearly a decade of inaction and disinterest, the Legislature woke up to the need to at least examine our state's system of selecting judges. The result was the passage of one of three bills supported by LWV/TX, calling for an interim study of methods of choosing judges. Though not the strongest of the three proposed bills, the new law presents an opportunity to move forward, away from partisan judicial elections toward a fairer system for selecting qualified, impartial judges. The measure calls for appointment of an Interim Commission on Judicial Selection that is tasked with considering the fairness, effectiveness and desirability of electing Texas' judges through partisan elections.

The Commission's study must also consider judicial selection methods proposed or adopted by other states, as well as the merits of using a public member board to nominate or assess the qualifications of candidates for judicial offices, among other specified methods of selecting judges. The Commission must submit a report to the Governor and Legislature by December 31, 2020 that includes specific recommendations for statutory and constitutional changes.

The statute specifies that the Commission include: four members appointed by the governor; four senators appointed by the lieutenant governor (including one senator who is a member of the political party with which the Lt. gov. is affiliated and one senator who is a member of a political party other than the party with which the Lt. gov. is affiliated);

four members of the house of representatives appointed by the speaker of the house of representatives (including one representative who is a member of the political party with which the speaker is affiliated and one representative who is a member of a political party other than the party with which the speaker is affiliated); one member appointed by the chief justice of the Texas Supreme Court; one member appointed by the presiding judge of the Texas Court of Criminal Appeals; and one member appointed by the board of directors of the State Bar of Texas.

The makeup of the Commission will be critical to its deliberations and recommendations. LWVTX, as an affiliate of the Texas Fair Courts Network that supported the new law, suggested suitable and qualified candidates to those appointing Commission members. We were pleased that two members recommended by the Network were appointed: Former Texas Supreme Court Chief Justice Wallace Jefferson (by Chief Justice Hecht, current Chief Justice of the Texas Supreme Court) and former Texas Supreme Court Chief Justice Tom Phillips (by Texas Court of Criminal Appeals Presiding Judge Keller).

The Commission held its first meeting in January 2019 and has been holding monthly meetings, with a hiatus due to the pandemic in April and May. The Fair Courts Network has had a representative in attendance at each Commission meeting. At the Commission's meeting on June 5, 2020 (held via Zoom because of the pandemic), the Texas Fair Courts Network presented testimony, with LWVTX signing on to most of the points made. In addition, LWVTX presented its own testimony, highlighting our Judicial Selection position.

LWVTX applauds the bill creating the Interim Commission and is cautiously optimistic that we will be able to support at least some of its recommendations in accordance with the Judicial Selection position. As always, the "devil will be in the details."

**2021.** At the close of the prior session in 2019, the passage of HB 3040 calling for appointment of an Interim Commission on Judicial Selection presented an opportunity to move forward, away from partisan judicial elections toward a fairer system for selecting qualified, fair and impartial judges. The LWV and other proponents of a fairer system were cautiously optimistic that the Commission (which was tasked with presenting a report and recommendations by December 31, 2020) and the 2021 Legislature would bring about needed changes to the system.

Unfortunately, meaningful reform has not occurred in 2021. The Commission report indicated an even (7-7 with one abstention) split on adoption of an appointive judicial selection system followed by retention election (basically the LWV position) but rejected adoption of a nonpartisan judicial election system. No bills were filed that would have significantly changed the current system. However, two proposed constitutional amendments that favorably "tweak" the system, supported by the League and our coalition partner, Fair Courts Network, have passed the legislature and will be presented to Texas voters for their approval in November:

- SJR 47 would increase the minimum qualifications for judicial offices by increasing the required amount of judicial experience as well as the period during which a person's license to practice law could not have been revoked, suspended or subject to a probated suspension. The report of the Interim Commission on Judicial Selection overwhelmingly recommended (by a vote of 12 yes, 1 no, and 2 abstain) these changes to current law.
- HJR 165 would allow the State Commission on Judicial Conduct (SCJC) to accept complaints or reports, conduct investigations, and take any other action authorized by the Texas Constitution with respect to a candidate for state judicial office in the same manner the commission may take those actions with respect to a person holding such office. HJR 165 would thus level the playing field between candidates for judicial office who are not current officeholders and incumbents by expanding the authority of the SCJC to receive complaints and conduct investigations. Currently, elected judicial officers are held to high standards specified in the Code of Judicial Conduct, whereas their non-judge opponents are not.

Sadly, the zeal of some legislators to restrict voting rights and access also threatened to adversely and unfairly affect judicial selection in Texas: SB 11 would have restructured the Texas Courts of Appeals by consolidating the number of appeals courts districts from 14 to 7, SB 1529 would have created a special appeals court of limited jurisdiction, giving the state undue preference in litigation brought against the state by citizens alleging injustices committed by

the state or its agents - with the judges on this new court elected at-large statewide, HB 1875 would have created special Business Courts at the trial and appellate levels which would have jurisdiction in cases involving complex business law – with the judges on both courts being appointed by the governor.

Fortunately all of these bills, vigorously opposed by LWV and many members and supporters via Action Alerts, died during the regular session, but may be revived in a special session.

## E. Financing State Government

1975, 2003

*The League of Women Voters of Texas supports constitutional and statutory provisions for flexibility within a coordinated finance structure; equitable taxation system that assures adequate revenue; and increased accountability including the following:*

- Removal of provisions relating to dedicated funds, ad valorem tax exemptions, dollar amounts of debt limitations, and other such specific wording from the constitution and making them statutory.
- Budget execution to be a joint responsibility of the executive and legislative branches of state government.
- Application of appropriate fiscal management and business practices to conduct state business.
- An equitable system of taxation that assures adequate revenue, is easily administered; and is consistent with economic, social, and environmental goals.
- Appraisal of taxable property at full market value; state supervision to ensure equitable and uniform appraisal and taxing procedures.

### Explanation: Financing State Government

The League studied state financing as part of its multiyear study of Texas Constitutional Revision, adopting in 1973 a 2-year study, "Financing State Government." The League study first focused on constitutional provisions relating to state finances. League members found that the state's elaborate restrictions on taxing, spending, and borrowing, intended to ensure fiscal prudence, often had quite the opposite effect. Instead they created obstacles to sound fiscal planning, management, and organization, and failed to limit the financial practices they were intended to restrict. An example is the flat prohibition of state debt. Texas' outstanding debt not only exists but also has been on the rise, just as total state spending has risen in recent years. The prohibition has served at times to increase the debt load by forcing the state to resort to more expensive methods of borrowing, such as the issuance of revenue bonds, rather than lower interest rate general obligation bonds. The League agreed that the Constitution should permit the legislature and governor the freedom to develop fiscal policies for the state to meet current needs.

Next, the League study centered on the taxes imposed by the state government. The ability-to-pay approach for new or expanded taxes is preferred, although, in some cases, a tax levied according to the benefit theory would be acceptable as long as it was equitable and certain to be collected. A graduated personal or corporate income tax meets the League criteria for a new tax, but a general sales tax does not. An equitable system of taxation also requires that tax laws be rewritten and enforced so there is certainty of collection at a relatively low cost.

### History: Financing State Government

*Late 1970s-early 1980s.* League members agreed that taxation to encourage desirable economic and social goals (such as preservation of agricultural lands and open space by preferential tax treatment; see Land Use position) is valid provided that there are sufficient safeguards to ensure that the goal sought actually is met by the preferential tax treatment, and that the cost of meeting the desired goal be accurately and truly known so responsible cost-benefit evaluations can be made.

The League worked for major changes in property tax administration to make this tax more equitable and more easily and uniformly enforced. League-supported legislation requiring the establishment of single appraisal districts, appraisal of property at full market value, state supervised reports of taxable values, and training for tax appraisers was enacted in 1979.

**1980s.** Progress toward LWVTX positions on tax reform has come largely as a result of continuing economic crisis in the 1980's and early 1990's. Declining state revenues have led successive legislatures to look for new sources of funds while some legislators sought to ban constitutionally the enactment of a state income tax. The League has urged restructuring of the state's revenue sources, while opposing a constitutional ban on the income tax. In 1987, the enactment of the largest tax increase in Texas history led to the creation of a Select Committee on Tax Equity charged with recommending changes to the state's financial system. The League supported many of the committee's recommendations, including efforts to broaden the tax base by use of expanded business taxes and exploring the eventual necessity for personal and corporate income taxes; however, reforms in the 1989 session were limited in scope and did not address the need for thorough reform.

**1991.** Reform of the state's finance structure was given priority by the LWVTX in 1991 because the projected \$5 billion gap between estimated revenues and needed expenditures indicated that funding would be a major issue. State leaders, in an unusual move, postponed action on funding and budget issues until the first special session in order to await the results of thorough reviews of both expenditures and revenue sources. A Performance Review Panel appointed by the state comptroller carried out an audit of state agencies and held public hearings on how to cut costs of state government, while the Governor's Task Force on Revenue heard from experts and the public on ways to improve the state's revenue position. The LWVTX monitored both proceedings and presented the League's positions to the Governor's Task Force on Revenue.

The solutions ultimately adopted in 1991 for the state's fiscal crisis represented, from the League's point of view, partial progress in some areas while pitfalls were avoided in other areas. There was no movement on a personal income tax, but efforts to pass a constitutional amendment prohibiting it failed, and the sales tax rate was not increased. The corporate franchise tax, while not expanded to include other forms of business organization, was revised to include a tax on earned surplus (similar to an income tax).

The special session also produced the state lottery proposition that was approved by voters. The LWVTX took no position on the lottery as such, but opposed constitutional dedication of lottery revenues and also warned against making any essential state service dependent upon a lottery because such services require revenue sources that are both stable and adequate. The version ultimately approved contained no dedication of revenues.

**1993.** State leaders, facing another fiscal crisis in 1993, took a no-new-taxes stance on the budget. The League, speaking out on the proposed appropriations bill, called for increased funding for public schools and health and human services and reiterated that the state's fiscal crisis can only be resolved by restructuring Texas' tax system. The 73rd Legislature was able to adopt a balanced budget by cutting the level of services, by mandating better fiscal management, and by further shifting of tax burdens to the local level, particularly the burden of public school finance.

Implementation of suggestions set forth in the state comptroller's second performance review helped balance the budget, and some of the adopted recommendations are in accord with the LWVTX positions favoring increased accountability in the state's financial system. Of particular note was the adoption for the first time of a performance-based budget, a format advocated by the League since 1975.

The LWVTX was one of the few groups to testify against the proposed constitutional amendment adopted by voters in November 1993 that prohibits legislative enactment of a personal income tax without a majority vote of the people. This amendment also dedicates at least two thirds of income tax revenues to local school property tax relief and the remaining revenues to education. League opposition was based on our positions that call for a flexible state finance structure and for removal of provisions relating to dedicated funds.

**1995.** Once again, legislators avoided a tax increase. The 6.2% spending increase over the previous state budget is to be financed by growth in state revenue. Yet the need for changes in Texas' tax structure is apparent to the League and to the state's political leaders as well. Governor Bush has pledged an interim study, with special attention to reducing reliance on property taxes.

**1997.** A tax relief bill dominated the session, but the final version bore little resemblance to that introduced by the governor, which had placed a high priority on the issue of reliance on property taxes. Reluctant to tackle the complicated problem of public school finance, legislators produced a last minute compromise bill that used the state's \$1 billion surplus to fund property tax relief. A business tax provision in the original version held promise of broadening the tax base and developing a more equitable system of taxation, a longtime League goal. The League testified before both Senate and House committees, advocating the need for a state income tax in the long run, and a reform of the state sales tax and greater equity in taxes levied on businesses in the short term. Proponents of a state income tax were encouraged by the frequency with which the words "income tax" came up during this session.

The bill that was signed into law also dedicated lottery proceeds to fund education. The League opposes dedicated revenue funds of this type, which tend to make government less flexible and efficient. The League also has concerns about making a state service such as education dependent on a revenue source such as a state surplus, which is neither adequate nor reliable.

**1999.** Due to sizeable income from a tobacco suit settlement and a booming economy, debates regarding financing state government dealt with how and where to appropriate the income. League advocates were present and vocal during specific appropriations discussions. See sections regarding Health Care and Natural Resources.

**2001.** As in 1999, League advocates focused on the appropriations process. During this session, the LWVTX promoted funding for comprehensive health care services for women and children, increased childcare subsidies, Medicaid simplification (which became a large budget issue as the session progressed), implementation of the SB 1 regional water planning process, and public participation in environmental decision making. The League distributed a fact sheet to legislators with information on League budget priorities. State Government financing and the financing of public education will be two of the most important issues that will be examined during the interim.

**2003.** The LWVTX included both Financing State Government and Public School Finance in its periodic program review during the 2001-03 biennium. Minor editorial changes were made to our Financing State Government position but no substantive changes were made. Knowing that the state was facing large deficits and there was a likelihood of significant cuts in state spending, the LWVTX joined with other organizations concerned about adequate funding of state services in the Fair Taxation Coalition under the umbrella of ProTex, a grassroots organizing group. One of the results of the coalition's work is a Fair Taxation Workshop, which can be given to community groups. It received high marks when it was presented at Convention in April and in other venues. The League expects to be giving the workshop throughout the next year.

Although much of the focus of the legislature and the LWVTX was on public finance issues as the state was faced with a \$10 billion deficit for the biennium, lack of agreement or time left most bills relating to public finance neither passed nor considered by the end of the session. The League testified for several bills that would have increased state revenues, and against several which would have further hampered the ability of the legislature to increase state revenues through taxation. The League and a few other members of the Fair Taxation Coalition were frequently the only advocates for increased funding in order to assure adequate state services.

Almost all of the bills we followed, good and bad, did not pass. Only one bill, which affects local property taxes, passed. This law puts teeth into the requirement that businesses render their property for ad valorem tax purposes; it is estimated that it will increase local property taxes significantly.

Two constitutional amendments voted on in September 2004 will impact local property taxes. One freezes school taxes for disabled homeowners, and the other allows counties, cities, towns and junior college districts to freeze other property taxes for persons over 65 and for persons with disabilities.

Governor Perry signed a \$117 billion state budget on June 22. Keeping campaign promises by many legislators, the budget contained no new taxes, although it does include some increases in fees. Although higher in total than the appropriations for last biennium due to anticipated increased federal spending, general revenue spending was reduced by \$2.6 billion.



The new budget will result in decreased services and/or demands for increased funding of many services at the local level. Tuition increases are expected at some public universities and colleges since public institutions were given the power to set their own tuitions. While the eligibility levels for Children's Health Insurance Program, Medicaid, and Temporary Assistance for Needy Families (TANF) were maintained, procedural changes in these programs are expected to reduce or at least not significantly increase caseloads. In addition, for the Children's Health Insurance Program, a number of previously provided benefits, including dental and most mental health benefits, were eliminated. Services to the elderly and mentally ill were also eliminated or reduced in scope, and cuts were made in criminal justice programs including all state funding for the highly respected Criminal Justice Policy Council.

**2005.** Of the 59 bills related to public finance that the League followed, only one (HB 1, the General Appropriations Bill) actually passed, and this was the bill from which the governor line item vetoed all funds related to public education. Bills such as a statewide property tax and indexing of gasoline taxes didn't pass; a lot of bad bills, like greatly increased sales taxes, caps on tax rates and appraisals for example, also didn't pass. However, once the governor called a special session to consider school finance, it appeared that some of the same battles would be fought all over again.

The governor put caps on property tax rates, school funding, and education reform in the call for the special session. He also issued his proposed solution to the school-funding situation. Major provisions included making partnerships owned by corporations subject to the corporate franchise tax; increasing the sales tax by 0.007%; adding certain services to the sales tax base; and increasing the cigarette tax by \$1.00/pack. Presumably to offset the increase in the sales tax that would fall most heavily on the poor, the governor proposed to increase the homestead exemption by \$7,500 to \$22,500 in 2007. When added to vetoed funds from other bills, the governor said that there would be a \$1.9 billion net increase in school funding for the biennium, significantly lower than the \$3 billion the House was aiming for and the up-to \$7 billion cited as necessary by public school support groups. Property taxes would be reduced by 30 cents/\$100 valuation in 2006 and 35 cents/\$100 in 2007. None of these passed the special session.

HB 3 did not pass. It was revenue neutral, and its sole purpose was to replace the property tax with other taxes. HB 4 would reduce the increase in tax rates from 8% to 5% to trigger a rollback election if 10% of the voters petition for one.

**2011.** For the decades since the League started recording, Texas state leadership has struggled to finance the government of a growing population while refusing to raise revenue. The attempt to reconcile the two opposing goals has continued through feast and famine, which this year involved an estimated \$27 billion shortfall. That is, for this biennium, the legislature was short one fourth of the money it needed to simply keep the same level and amount of services it provided in 2010.

The shortfall is the result of the protracted national recession that started in 2007, and of an institutional deficit created in 2006 when property taxes were reduced by one third, and an inadequate business margins tax established to balance the loss of funds. The permanent deficit leaves Texas government \$10 billion per biennium short in needed revenue. Instead of dealing with the problem, state leaders couched the fiscal crisis in terms of towing the financial line. Before the session both the governor and members of the legislature vowed there would be no new taxes. In addition, they decided not to tap the majority of the Rainy Day Fund, a renewable pot of money—estimated to be \$6 billion by the end of this biennium—that was created for just this type of fiscal emergency.

By the end of the special session, the only viable finance bill, SB 1/HB 1, had cut total spending by \$15 billion. To do that, the legislature cut some waste, employed a combination of fiscal tricks involving delayed payment, underestimated future obligations to Medicare and Medicaid, and raised some user fees. The final legislation was \$4.8 billion short of covering projected Medicaid costs and had stripped \$4 billion from public education. This amounts to about \$500 per pupil across the state.

The most ominous move during this session, however, was the breaking of an almost 60-year promise Texas lawmakers have kept, until now, to provide each student in the state an adequate basic education through the

Foundation School Program. It remains for the 2013 legislative session to do the hard work of fiscal reform this session shirked.

**2015.** State budget bills: We submitted detailed remarks to both the House and Senate regarding our views on the proposed budgets—both that of the Senate and that of the House. All budget bills must originate in the House, and the Senate proposes a substitute HB 1.

Additionally, several bills were introduced which we responded to: We opposed HB 31, which decreased the state sales and use tax rate. We opposed this bill because our position states that we support "an equitable taxation system that assures adequate revenue." As we currently do not have the revenue to cover our essential needs for education, health care, transportation and infrastructure, it is illogical to cut taxes for the future. The bill died in the Finance committee. SB 1 reduced the ad valorem taxes by increasing the exemption of \$15,000 for a homestead to \$25,000. We presented testimony on this bill before the House Ways & Means Committee. It passed both Houses and was signed by the governor.

SB 9 limited the rate of growth of appropriations for future years. In our letter to the Budget Conference Committee, not only did we speak to issues which we support, but we also opposed any cap on future budgets, saying "But the most egregious budgetary action would be to put a cap on future budgets which would lower our ability to meet growing needs, much less address needs from past years. We strongly OPPOSE such an action." Fortunately no budget caps passed.

**2017.** The Conference Committee on the General Appropriations Bill (SB 1) was signed by Governor Abbott on May 31. We now have a budget of \$217 billion. The Senate proposal was \$171.7 billion and House proposal was \$218.1 billion. The difficulty is that it is not enough to adequately fund a number of programs, including public education and Medicaid. To reach even this number, however, \$1 billion was taken from the Rainy Day Fund and \$2 billion from the dedicated highway fund.

At this point the biggest loss is education, when the Senate would not accept HB 21 by Representative Huberty—due to the Senate adding school choice (vouchers) to the bill—which has now failed. Our children will feel the burden.

**2019.** According to the May 31 issue of the Texas Tribune, the final biennial budget for the state of Texas was \$250.7 billion, up 15.7% from two years ago. It includes increased spending for public education and property tax cuts. Legislators did not use the Economic Stabilization Fund for the regular budget, but did make a \$6.1 billion withdrawal for the supplemental budget to pay for Hurricane Harvey recovery and infrastructure projects.

It includes \$6.5 billion for school funding and teacher pay, \$5 billion for property tax cuts, \$66.5 billion for Medicaid, \$4.4 billion for mental and behavioral health, \$342 million for early childhood intervention, \$256 million for judicial salaries, \$12.2 million for adult protective services pay raises.

The League issued an Action Alert on April 10 asking all Representatives to vote against HJR 3, a proposed constitutional amendment to increase the state sales tax from 6.25% to 7.25%. The tax would have hit low income Texans the hardest: low-income Texans pay 7.4% of their income to state sales taxes, while the wealthiest pay only 1.6%. Our current sales tax rate is 13th highest in the country, and adding another percent would have made Texas the highest (tied with California). The Alert generated 381 letters to legislators. The resolution passed the House Ways and Means Committee on May 1, but was never voted on by the full House.

## F. Homeowners Association Reform

2012

*The League of Women Voters of Texas supports changes in Texas law governing mandatory homeowner associations that would:*

- Protect against unreasonable foreclosure on homesteads.

- Assure priority of payments so that assessment payments apply first to delinquent dues and then to non-assessment items, such as interest and penalties.
- Reform HOA elections to ensure secret ballots in homeowner elections and safeguards against fraud to assure uniform, honest, and accurate election results.
- Assure that homeowners have access to meetings and records of the homeowner associations.

### Explanation: Homeowners Association Reform

This issue was first proposed as a not-recommended concurrence at Convention 2010 by LWV of the Houston Area. Delegates voted to defer the issue to Convention 2012 pending further consideration by a committee to study the Houston materials, consider bills pertaining to homeowner association reform filed in the 2011 legislature, and the need for statewide advocacy. The board recommended the concurrence in 2012.

### History: Homeowners Association Reform

**2013.** The positions of LWVTX on homeowners associations limited which bills could be analyzed or supported.

HB 35 (Menéndez) was passed. It amended the property code to provide that when an owner owns a lot adjacent to the lot on which his residence is located, the adjacent lot can be sold separately only in its original condition as to be suitable for construction as originally platted. HB 2928 (Sheets) that the League opposed would have circumvented a homeowner's right to a judicial foreclosure as established in the 82<sup>nd</sup> Legislature. It died in committee.

The 82<sup>nd</sup> Legislature in 2011 passed HB 2761, which provided that any vote cast in an election or vote by a property owners' association must be in writing and signed by the member. Immediately thereafter provision was made that electronic votes cast constitute written and signed ballots. The League position argues there is weak protection from fraud with electronic balloting. In 2013 HB 818 (White) that the League opposed would have specifically eliminated the requirement that a ballot must be in writing, signed by the member or that identity of the property owner be confirmed, greatly raising risk of fraud. It did not pass out of the Calendars Committee.

## G. Intestacy (Dying Without a Will)

1985, 1997

*The League of Women Voters of Texas supports equitable intestacy laws including the following provisions:*

- The surviving spouse should inherit all of the community property when the decedent had no children or when the surviving spouse is the parent of all the children of the decedent.
- The surviving spouse should not inherit all of the community property when the decedent is survived by minor children not of the surviving spouse.
- The surviving parent of a minor child should be required to obtain court permission to dispose of the child's property when it is valued at more than \$50,000.

### Explanation & History: Intestacy

Delegates to the 1983 state Convention identified intestacy as needing study. It has not been a legislative priority in recent years. Intestacy was studied as part of the 1995-97 periodic program review. The position reflects current law but was retained and clarified to allow the League to advocate for equitable intestacy laws in the event of a backlash.

## H. Public School Finance

1973, 1981, 1993, 2003

*The League of Women Voters of Texas supports a school finance system that would provide taxpayer equity and an equitable distribution of funds to ensure that all Texas school children receive a high-quality education. Specific measures that we support include:*

- A sufficient level of state support to Texas public schools to ensure that all Texas school children receive a high-quality education.

- A guaranteed tax base yield approach for part of the local enrichment, to mitigate spending disparities resulting from differences in wealth among school districts in Texas; however, the League believes some un-equalized local enrichment should be allowed within a substantially equalized system.
- Equalized state assistance to districts for essential capital outlays.
- Taxpayer equity in the form of state equalization aid to local districts allotted in direct proportion to local tax effort.
- State established minimum local expenditure levels with joint state-local financing (known as the foundation school approach) that includes:
  - Adequate salaries to attract and retain qualified teachers and/or teaching personnel.
  - Adequate funding of the basic allotment, which provides for operations and programs for special categories of students, specifically vocational education, compensatory education, special education, kindergarten, and gifted and talented.
- Maintenance of a weighted approach to distribution of state school finance money to individual student needs.

*The League of Women Voters of Texas opposes:*

- The voucher system as well as choice options that do not promote racial integration and/or equal access to quality education.
- Any state requirement that local districts use state school finance monies to provide local tax relief.

## Explanation: Public School Finance

Our school finance positions are the products of two separate studies undertaken by the LWVTX and two subsequent program reviews. The first study was adopted in 1972, and the resulting consensus led to active League involvement in school finance legislation during regular and special sessions from 1973-79.

Because new issues were raised during these sessions and because League members wished to clarify some positions reached earlier, delegates to Convention 1979 adopted a restudy of the Texas school finance system. The restudy was completed in 1981. In 1992 the LWVTX Periodic Program Review Committee reviewed the public school finance positions and recommended extensive revision. Most of the recommendations involved updating terminology, but the review committee suggested substantive changes in the positions concerning equalization of facilities funding and caps on local enrichment. All of the recommendations were approved at Convention 1993. In 2003 the LWVTX Periodic Program Review Committee again recommended changes in the Position, most notably by adding a section on accountability of charter schools. The recommendations were approved at Convention 2003. In 2004 accountability of charter schools and the four related bullets were removed from the public school finance position. The LWVTX position covers charter schools since they are public schools.

## History: Public School Finance

**1979.** The system of property tax administration, which had been contributing to inequities among school districts, was made more rational by passage of League-supported bills in 1979 requiring one appraisal district per county and by the establishment of the State Property Tax Board. The tax board is responsible for determining the market value of taxable property in each school district, an essential factor in calculating school finance formulas.

**1983-84.** Much attention was focused on school finance and teacher salaries during the 1983 Legislative Session. Because of a tight budget and the unwillingness of some legislators to raise taxes, no substantive changes were made. Following the session, the Select Committee on Public Education, chaired by Ross Perot, was appointed to investigate the financing of education in Texas with a view toward reform of the system in a special legislative session.

The Texas Legislature met in special session during the summer of 1984 to enact many of the recommendations of Select Committee on Public Education, including a complete overhaul of the foundation program. HB 72 changed the foundation program from one based on objects of expenditure (teacher salaries, transportation, operating expenses) to a weighted approach based on various educational programs (regular education, special, vocational, compensatory, and bilingual education). Three significant new programs were mandated: prekindergarten for disadvantaged 4-year-olds, summer bilingual education for 4- and 5-year-olds with limited English, and a class

enrollment cap of 22 in Grades K-4. HB 72 expanded the foundation program level to absorb a greater share of local enrichment.

For 1985, \$900 million in state funds were added and the local share was raised by \$1.1 billion, thereby diverting local tax revenue from enrichment to the local share of the foundation program. While the legislature enacted the largest tax bill in the state's history, local school board trustees enacted the largest school property tax increase ever, raising property tax levies by \$519 million. Increased local tax levies substantially negated the equalization improvement that the legislature tried to achieve.

**1985.** School funding in the lean budget of the 1985 Legislative Session fared comparatively well in the face of gloomy revenue projections. Little significant education legislation passed as the state leadership remained firm in its resolve to avoid a major overhaul of the recent education reforms. The gifted and talented were added as a special population to the foundation program, and the jeopardized optional full-day, full-state-funded kindergarten was retained.

**1987.** During the 1987 Legislative Session, several attempts were made to cut the public school budget because of the revenue shortfall. The League testified in favor of an increase in the level of state aid to ensure that all Texas school children would receive quality education. By the time that the final 1988-89 budget was adopted, public education was not trimmed substantially.

We also testified against a bill that would have mandated the adjustment of public school funding formulas through the appropriations process since a League position speaks to the clear assignment of responsibility in state government, and we believed school funding formulas were the primary concern of the Texas Education Agency and the House Education Committee, not the House Appropriations Committee.

**1989.** In the spring of 1987, Judge Harley Clark declared Texas' school finance system unconstitutional. This decision was overturned by the Court of Appeals and was then appealed to the Texas Supreme Court.

In the meantime, during the 1989 Legislative Session, several attempts were made to add substantial amounts of money to the Foundation School Program in order to offset the Clark decision. However, because there was great reluctance to raise taxes again, only \$450 million in new state money was provided to the public schools although \$360 million was in the form of a guaranteed tax yield system.

Most observers agreed the legislative action was insufficient to rectify any inequities in funding between rich and poor districts. Indeed, in October 1989, the Texas Supreme Court, in Edgewood I, threw out the school finance system.

**1990-91.** In response to the Texas Supreme Court ruling that the school finance system was unconstitutional, the legislature passed SB 1, which was also declared unconstitutional by the high court in the Edgewood II decision in January 1991. The court set a deadline of April 1, 1991, for the legislature to adopt a constitutional system. Thus, the search for an equitable school funding system and the means to fund it dominated the regular session of the 72<sup>nd</sup> Legislature. The LWVTX adopted public school finance as a priority and consistently affirmed the need for adequate as well as equitable funding for the public schools.

The plan ultimately adopted created 188 new taxing districts known as County Education Districts. Funds raised within the County Education Districts were redistributed among school districts within the County Education Districts on the basis of property tax wealth and tax effort.

**1992.** In January the Texas Supreme Court in Edgewood III struck down the County Education District tax system as unconstitutional, holding that this system was in effect an unconstitutional state property tax, and furthermore that the County Education District tax was not a valid local tax since it had not been approved by the voters in each County Education District. The high court set a firm deadline of June 1, 1993, for the legislature to come up with an equitable system that did not violate other sections of the state constitution.

The League was active in the November 1992 special session that was called to find a solution to the school finance dilemma. A proposed plan to switch from the County Education District countywide system to statewide recapture of property taxes, redistributing certain property tax revenues from the wealthiest districts statewide, failed to win the necessary legislative approval to put it on the ballot as a proposed constitutional amendment.

**1993.** With the court-imposed June 1993 deadline looming, the League chose to dedicate significant resources to following and shaping the school finance bill as the 73<sup>rd</sup> Legislature convened in January. The League lobbyist stayed on top of the ever-evolving bill as the state struggled to find a formulation that the court would find constitutional, that the legislature would approve, and that met the state leadership promise to voters of no new taxes.

Voters rejected the constitutional amendment that the legislature, with League support, put on the May 1993 ballot. This proposition, known to some as a "Robin Hood" or "share-the-wealth" plan, would have required a limited redistribution of local property taxes from the wealthiest districts to the neediest districts statewide.

With the defeat of the May 1 proposition and with 1 month before the court-imposed deadline, the legislature passed a school finance plan that gave wealthy districts five choices for sharing property tax revenues with property-poor districts in the state.

In the summer following the 1993 Regular Session, many of the wealthy districts chose, with overwhelming voter approval, the option of transferring funds to the state for redistribution statewide in lieu of risking forced consolidation. At the same time, however, these districts were challenging the new school finance plan in court. The needier districts were also challenging the plan, contending they would have to raise taxes just to stay even financially.

While the League was actively supporting the equitable, limited redistribution of local school taxes to property-poor districts in the 73<sup>rd</sup> Legislature, the League called again for a restructuring of the state tax system. The League noted that the share of school funding continues to decrease while the burden on the local school property tax increases each session. What the League has long advocated to reverse the trend is adequate state revenue from a broad-based, statewide tax, such as the income tax.

**1995.** As the 74<sup>th</sup> Legislature convened, the Texas Supreme Court affirmed the constitutionality of the 1993 school finance plan. Thus, for the first time in several sessions, public school finance was not a priority issue for legislators or the League. Although the League was not active in this area, the legislature enacted and the governor signed SB 1, a rewrite of all of the state's public education laws. Some highlights of the new law include:

- Individual districts are given the option of more local control if they adopt rule charters.
- Minimum teacher salaries were increased.
- Schools will now have "foundation" and "enrichment" curricula.
- In the area of school finance, the basic allotment per student was raised. \$170 million was appropriated for assistance for instructional facilities. Low-wealth districts with acceptable tax efforts may apply for state assistance for construction/improvement of instructional facilities.

*Note.* In affirming the 1993 school finance plan, the Texas Supreme Court emphasized the state's duty to provide all districts with substantially equal access to operations and facilities funding. The court stated that there was no requirement for a separate facilities component in the plan as long as districts are able to meet their operations and facilities needs from available funding. The court warned, however, that the point at which some districts will be unable to meet these needs under the plan is near.

**1997.** As noted in the Financing State Government section of the handbook, a tax relief bill dominated the session, but the legislature was unwilling to tackle real reform of the state's taxation system, particularly the thorny issue of public school finance. The tax bill finally passed by the legislature funded property tax relief for homeowners with the state's \$1 billion surplus. The League expressed concern about this type of funding, taking money away from important services such as public education. In addition, there may be no surplus in the next biennium to compensate for the reduced property tax, imposing an added burden on local school districts. The only significant change in public school finance to come out of this legislature was the dedication of lottery funds for education, a

move that the League strongly opposes. Once again during this session, legislation that would have allocated funds for public education to private schools, via vouchers, was defeated. The League presented testimony and wrote to legislators expressing opposition to such measures.

**1999.** Once again, the issue of private school vouchers took center stage in the arena of public school finance. The LWVTX was a part of the Coalition for Public Schools. We used our grassroots network not only to contact legislators telling why using public funds for private education is bad public policy, but also to contact targeted legislators at crucial times during the session. No voucher-legislation is one of the successes of this session.

**2001.** The LWVTX again worked with the Coalition for Public Schools. This session the issue was charter schools, not vouchers. The Coalition supported an excellent charter schools bill based on an interim study that passed the House. A less desirable bill passed the Senate. However, the compromise bill addressed the issues identified during the interim. These issues include a cap of 215 on open-enrollment charter schools and elimination of the category "at-risk" charter schools; the designation of funds received by charter schools as public funds held in trust for children; increased powers for the commissioner of education over licensing of charter schools; a requirement of at least a high school diploma for all teachers in charter schools; and a requirement for notification of parents about the qualifications of all teachers.

A teachers' health insurance bill also passed. Because there were many advocates on this issue, the LWVTX monitored but was not heavily involved in its passage. Funds in the amount of \$1.24 million were earmarked for health benefits for teachers. Small districts (fewer than 500 workers) are required to join a statewide insurance pool that is also optional with districts up to 1,000 workers. Larger districts must wait until 2005 to join unless the state is ready sooner.

**2003.** Legislators vowed to revamp the way Texas public schools were funded, but the House and Senate couldn't agree on a plan. The House plan would have put a sunset date on Robin Hood and allowed lawmakers to come back during a special session to study the issue. The Senate plan, backed by Lt. Governor Dewhurst, would have cut property taxes while expanding sales taxes and would have repaired the system during the regular session. Neither plan passed during the regular session, but legislators did extend an additional \$1.2 billion to public education using per-student formulas to keep school districts alive until a new system is found. To complicate matters, during the session the courts ruled that the case from property rich schools calling for an end to Robin Hood could be heard. Governor Perry vowed to call a special session, but did not set a date.

House Speaker Craddick appointed a House Select Committee on School Finance, divided into eight subcommittees, which is charged with looking at school finance and the state tax system. While the focus will be primarily on school finance, there could be repercussions across the entire Texas public finance spectrum. A special session of the legislature is expected in late winter or spring, 2004.

In the area of vouchers, which were very much a part of the session, "organized people defeated organized money," according to the Coalition for Public Schools comprised of 38 organizations, including the LWVTX. For the first time, the governor, Lt. governor, speaker of the House, and the chairs of the Public Education Committees in both the House and Senate supported private school vouchers. In addition, prominent state and national individual and organizational proponents testified before legislative committees and/or took leadership roles in the voucher fight.

The voucher and virtual charter school battles started with straight-up bills discussed in public settings. But when those bills failed to pass, skirmishes continued until the final hours of the regular session in less visible negotiations in conference committees and via last-minute floor amendments to other bills. Lawmakers realized it would be fiscally irresponsible to take away funding from cash-strapped public schools to set up a new program to subsidize private and religious schools and home schools. The message from the Coalition for Public Schools members was that Texas taxpayers cannot afford private school vouchers, and that every available dollar must be used to ensure that every public school in every neighborhood is adequately funded so all Texas children can succeed.

**2004.** The governor called a special session on public financing in the spring. The LWVTX partnered with Common Cause, Public Citizen, the Grey Panthers, the Christian Life Commission, Texas Impact, and the Texas Education Crisis Coalition to write and release a joint statement on school finance reform addressed to the legislature and sent to the governor. Through work with other groups and League statements to the Joint Committee on Financing Education and to the Senate Finance Committee, the LWVTX supported the message that reform provided taxpayer equity and adequate funding to ensure that all Texas school children receive a high quality education and recognize that equity and quality are inseparable. (See the Spring 2004 *Texas VOTER*.) The session expired without completion of legislation or constitutional amendments.

**2005.** During the regular session, the legislature did not accomplish their #1 goal: to reform and improve the state's school finance system. By failing to pass a school finance reform bill, the legislature once again let politics shortchange the school children of Texas. Cuts were made during the last session, and the special session that followed failed to provide a solution. This session is the 3<sup>rd</sup> failure to provide meaningful support for the public schools. The leadership team of Governor Perry, Lt. Governor Dewhurst, and Speaker Craddick was unable to reach a compromise on the public school finance/education reform/property tax relief package that was the centerpiece of the 79<sup>th</sup> session of the legislature.

It appeared that the emphasis was more on lowering property taxes than on solving public school finance problems. In addition, state leaders were determined not to raise taxes overall, which limited the money available for schools and cost them support among education groups. During the late days of the session, Senate negotiators put emphasis on seeing that every school district in the state had nearly the same amount of money per student. They were also particularly critical of House efforts to raise the sales tax, saying they hurt low- and middle-income families.

The one success was that again, no voucher legislation was passed. There were several attempts to pass vouchers, both in specific bills about vouchers and as amendments to other bills. One session on the House floor was especially dramatic with close votes and parliamentary maneuvering.

**Special Sessions #1 and #2.** Governor Perry called a special session following the regular session. Public school finance was also back in the courts. The Texas Supreme Court will rule on a district court judge's decision that the state school finance system is unconstitutional in both equity and adequacy. During Special Session #1, the LWVTX issued two Action Alerts asking local Leagues to contact first their house members, then both their senators and representatives, urging them to oppose HB 3 (See Financing State Government). The LWVTX sent a letter to all members of the legislature asking them to vote against the bill when it came out of the conference committee. The LWVTX believed that the bill did not fund the schools more adequately or equitably and believed that the property tax relief and sales tax increases were not equitable to those taxpayers with incomes of \$100,000 and below. Again the legislature had clearly not addressed the dual issues of funding public education and reforming the tax system to pay for that education.

**2006.** Public school finance and education reform was the agenda for the Senate Select Committee on Education Reform & Public School Finance that met biweekly in anticipation of a special session. A special legislative session on public school finance was called early in the spring following the March primaries. The session had to address the subject of the Texas Supreme Court June 1 deadline on school finance that regarded as unconstitutional the current (statewide) property tax structure. State tax reform was the subject of the Governor's Advisory Committee on Tax Reform, chaired by John Sharp. The report and recommendations of the Committee formed the basis for a broad-based business tax reform (supported by the LWVTX) that was adopted by the special session and which served to answer the Texas Supreme Court decision. Schools were able to open on time. It remains to be seen if the business tax and the actions taken by the legislature (much of which concerned lowering the property tax) will form an adequate, dependable source of revenue for the public schools.

**2009.** The surviving public school finance bill, HB 3646, provides \$1.9 billion in new money, largely from federal stimulus dollars. It was allocated in SB 1, the state biennial budget bill. HB 3646 makes changes that improve the way schools are funded and provide teachers with a minimum \$800 pay raise. However, comprehensive reform of



public school finance in Texas looms large. Schools face rising costs and a state funding freeze at 2006 levels. In addition, local revenues are capped at a rate that can be increased only through local elections. The need to change public school funding formulas remains a critical issue for the next session.

**2011.** Public school finance was a critical issue during this session, when legislators faced a \$27 billion shortfall. Impasses over funding for education and health prompted a special session, though other issues were added later. Once again, the legislature failed to address systemic problems with the state's school finance system that is both inequitable and inadequately funded.

SB 1, the fiscal matters bill that passed during the special session, underfunds schools by \$4 billion in the Foundation School Program and by \$1.5 billion in state grants for such programs as full-day prekindergarten, science labs, Student Success Initiative funding for extra help for students at risk of failing state high-stakes tests, educator bonuses, the Communities in Schools dropout prevention program, and advanced-placement incentives. This is the first budget bill in more than 60 years that does not fund new enrollment in Texas public schools, estimated at 80,000 to 90,000 more students each year.

After using \$3.2 billion of the state Rainy Day Fund to address the budget deficit, the legislature refused to spend any of the remaining \$6 billion in the fund for schools. Nor would the legislature tackle the root cause of the school budget crisis, the 2006 tax swap that replaced property tax support for public education with a tax on small and medium business, called the margins tax. It has never resulted in expected revenues.

SB 1 does begin to phase out the target revenue-funding model that was created in 2006 in connection with the margins tax. This model created inequities in how funding is distributed to local districts. While SB 1 repeals target revenue in 2017, it is unclear how it will be further reduced and what future legislatures might do. Another provision of SB 1 allows certain charter schools that qualify to access the Permanent School Fund to guarantee bonds for facilities, a privilege previously authorized only for school districts. Many believe the new provision will put the Permanent School Fund at risk, since charter schools do not have a tax base.

SB 2, passed in special session, appropriates money for the support of government from September 1, 2011, to August 31, 2013. It is a technical bill that avoids having deficits in both public education spending and Medicaid at the same time. It is related to HJR 109, a proposed constitutional amendment, which appeared on the November 2011 ballot as Proposition 6 and passed. It allows SB 2 to appropriate \$150 million each of the next two school years from the Available School Fund to public education. However, these additional funds will be offset by a matching reduction in state general revenue funding. Thus, passage of this amendment will not result in any additional funding for public education.

SB 8, passed in special session, was designed to provide flexibility to school districts to deal with shrinking budgets and personnel cuts. The bill allows districts to cut teacher pay in several ways, repeals the salary floor established in 2009, and changes the 45-day deadline to notify contract staff of nonrenewal to 10 days before the end of the school year. These changes were vigorously opposed by organizations representing teachers, who have been rocked by job cuts and expectations to do more with less.

SB 6, passed in special session, creates a new Instructional Materials Allotment that merges funds for textbooks, electronic textbooks, and technology into one fund. The Instructional Materials Allotment creates a new funding formula that requires the State Board of Education to set an annual distribution from the Permanent School Fund to the Available School Fund to the Instructional Materials Allotment. School districts will have greater flexibility over use of the dollars.

Successfully stopped were a number of proposals including: a provision in SB 8 that would have increased the 22-1 class-size cap in kindergarten through Grade 4; proposals that would have raised or eliminated the current 215 cap on the number of open-enrollment charter schools that may be granted by the State Board of Education; and several voucher schemes that would have drained tax dollars from public schools.

**2013.** After the dramatic cuts to education funding by the 82<sup>nd</sup> Legislature in 2011, the 83<sup>rd</sup> Legislature was under pressure to restore the money. The 2011 cuts had resulted in the elimination of 25,000 faculty and staff jobs, including 11,487 teaching positions. The \$5.4 billion cut amounted to a loss of more than \$500 per pupil. The 83<sup>rd</sup> Legislature responded with HB 10 (Pitts), a supplemental appropriations bill that funded various agencies through August 31, 2013, and included \$317 million from general revenue and \$313 in "recaptured" property tax revenue to the Foundation School Program. This bill passed both houses and went into effect March 10. It was supported by the LWVTX.

The final 2013-15 budget included \$3.4 billion in education funding, but that was only 85% of what was cut in 2011, and still left the per-pupil funding more than \$500 short of the level reached before the recession. It also did not restore the massive cuts to programs such as full-day prekindergarten and the Student Success Initiative, which offered help to students struggling to pass the state exams. Another supplemental budget bill, HB 1025 (Pitts), supported by the LWVTX, would have added \$500 million more for education. It passed both houses, was included in the budget, but was subject to a line-item veto by Governor Perry.

In early 2013, the lawsuit by coalitions of Texas school districts against the state resulted in a ruling that the public school finance system was inadequate and inefficient. However the judge agreed to have a new trial after the legislative session, to take into account changes made by the 83<sup>rd</sup> Legislature. The new trial is scheduled for January 2014.

The cap on charter schools was reset from 215 to 305 (by 2019) in SB 2 (Patrick), opposed by the LWVTX. It passed both houses and was signed by the governor. This bill exempts dropout recovery charters from the cap. On the positive side, the bill gives the Texas Education Agency more authority to close poor performing charter schools.

Vouchers reappeared in the 83<sup>rd</sup> Legislature as "scholarships" for poor and at-risk students, with the funding to come from "donations" of part of an entity's state insurance premium tax or franchise tax. We opposed at least five Senate bills and two House bills, and all failed to pass their respective houses. The bills were by Senators Patrick, Paxton, Williams, and Campbell. The House bills were by Representatives Capriglione and Callegari.

**2015.** This was not the year to consider revamping public school finance. The push in the legislature was to lower taxes, especially property taxes, which mainly fund public schools at the local level. The House wanted to lower the sales tax instead, but the conference committee on the budget decided on the property tax reduction, as well as franchise tax reduction. However the state promises to reimburse districts for lost revenue. The reduction is formed by raising the exemption on the value of the property from \$15,000 to \$25,000. All this will require the passage of a constitutional amendment this fall.

The final budget did give \$1.5 billion to public schools above the \$2.3 billion needed for enrollment growth. This includes \$41 million for math and reading academies, and \$118 million for high-quality prekindergarten programs.

Meanwhile, for the second time in 2 years, State District Judge John Dietz ruled that the Texas school finance system is unconstitutional. His ruling states that Texas fails to provide its schools with sufficient funding and that it distributes its funds among districts unfairly. Even though the 83<sup>rd</sup> Legislature restored 65% of its 2011 cuts, it wasn't enough, and Texas now spends \$600 less per student than it did in 2009 (adjusted for inflation). The state appealed his ruling to the Texas Supreme Court, which will not decide it until next year. House Public Education Chair Jimmie Don Aycok offered a bill, supported by the LWVTX, that would have addressed the problems (HB 1759), but it was pulled after 2<sup>nd</sup> reading so that a long debate would not kill other bills at the midnight deadline.

A few bills addressed vouchers, this time called Education Tuition Grants, which would have allowed businesses to donate part of their taxes to "educational assistance organizations." They would then award the money to students to attend private schools. Only one of these passed the Senate (SB 4), opposed by the LWVTX, but died in the House Ways and Means Committee.

**2017.** The Senate and House had very different legislative priorities when it came to public education. The most critical difference was evident in the way the two bodies approached the need to revise our public school finance system. Two of the most obvious differences included the Senate's determination to use public funds for private and religious school vouchers, which the House steadfastly opposed, and the Senate's efforts to invest sweeping powers in the education commissioner, which the House was only partially successful in curbing.

**An equitable, fully funded school finance system is essential.** Chairman Huberty and the House Committee for Public Education used a collaborative approach, listened to many experts on public education finance and needs, and crafted HB 21 (Huberty) that was a much-needed first step to address persistent flaws in the current system. It would have raised the basic allotment by \$210 per student, provided additional assistance to certain groups of students, simplified and updated transportation funding and the high school allotment, reduced recapture, and created a hardship grant for certain districts. While this commendable effort passed the House, the Senate gutted the funding and tacked on an Education Savings Account voucher amendment before passing it. The House, led by Chairman Huberty, refused to accept the voucher amendment and called for a conference committee. Senators Patrick and Taylor refused to name Senate members to the conference committee and the bill died. It was revived, in part, during the special session, as described below.

**Vouchers are unacceptable.** Several other voucher bills were proposed. Given the LWVTX strong opposition to vouchers, we testified against two (three including the Senate version of HB 21), HB 1335 (Simmons) and SB 3 (L. Taylor) that had traction in committee. We registered against others. Fortunately, none made it through the House. We owe thanks to the strong stand that House Public Education Committee Chair Huberty, Vice Chair Bernal, and committee members took against vouchers with Speaker Straus's backing.

**Accountability measures should be diagnostic and nonpunitive.** Because we support a nonpunitive accountability system, we followed with concern several bills relating to the new A-F ratings schools and districts will be receiving. HB 22 (Huberty)—which in its original form would have delayed implementation of A-F, clarified the ratings methods, and mitigated some of the effects—passed the House, but did not pass the Senate intact. The bill, as ultimately passed by both houses, does delay implementation for schools (to 2019) but not for districts. It does clarify some elements, but it remains largely punitive and, under the Senate's changes, gives the commissioner of education broad authority to make rules and set implementation methods and standards. Those powers were augmented during the Special Session, as described below. Governor Abbott signed HB 22 that took effect September 1, 2017.

An example of other bills related to the A-F rating system is HB 2782 (T. M. Wilson), which would have prevented a bell curve approach to the ratings. It passed in the House and the Senate Committee on Education, but was not heard by the Senate. As it stands, the A-F accountability system oversimplifies the complexity of teaching and learning and has limited usefulness to serious efforts to improve our public schools.

**Students should be well prepared for graduation and success in college and careers.** Our positions on academic standards led us to follow several bills relating to teacher and instructional quality. HB 3759 (Beidermann) would have temporarily allowed districts to ignore a long list of instructional mandates relating to nearly every academic subject. These exemptions had the potential to adversely affect students' performance on examinations required to graduate, and we testified against them. Fortunately, HB 3759 did not make it out of committee.

SB 1278 (L. Taylor) would have allowed field supervisors of teachers-in-training to reduce on-site observations and would allow those same aspiring teachers to be certified even after twice failing the required content examinations, leaving a generation of students with underprepared and unqualified teachers. As we noted, if students who do not pass the end-of-course examinations do not graduate, then their teachers should have passed *their* content exams to certify their competency to teach their subjects. We testified in opposition and, although SB 1278 passed the Senate, it failed in the House Public Education Committee.

HB 1485 (Swanson) would have allowed science teachers to instruct students on their personal beliefs regarding the origins of life, evolution, and climate change under the guise of academic freedom. We argued that teachers are charged with preparing students for graduation under the Texas Essential Knowledge and Skills (TEKS) and for

academic and career success, which require them to know and use the scientific method and understand evidence-based science. HB 1485 was left pending in committee.

SB 463 (Seliger) would extend Individual Graduation Committees (IGCs) through the 2018-19 school year. These committees meet when high school students are in danger of not graduating solely because they have not been able to pass one of the end-of-course exams. We urged support for this bill that would require that the students' teachers, administrators, and parents agree that the student should be allowed to graduate. We had hoped the bill would make Individual Graduation Committees permanent; however, we'll take SB 463 as a step toward that goal. The governor signed the bill June 9, 2017.

HB 1237 (West) creates a dual-credit type arrangement for students taking postsecondary approved technology courses in high school. We testified on this bill, lauding most of its provisions, but questioning elements allowing the commissioner to accept and use private funds to implement the program. The bill passed and took effect September 1, 2017.

HB 515 (VanDeaver) would have simply reduced the number of mandatory state tests—State of Texas Assessments of Academic Readiness (STAAR) and end-of-course—to those federally required by the Every Student Succeeds Act and the No Child Left Behind Act. The bill was widely supported by parents, teachers, and others. However, by the time the Senate approved it (without public comment on the many changes made), only the eighth grade social studies test was eliminated. Among many other changes the Senate made to the bill, the U.S. history test was replaced with a citizenship examination; it would end retesting for those students who fail the fifth and eighth grade reading and math STAAR examinations, instead requiring individual accelerated learning plans to support them in the following year; and it empowers the commissioner to create a high stakes writing portfolio assessment by 2021 to replace the current essay requirement. While we supported the original test reduction bill, we were studying the changes made when the bill died in committee.

**Summary of the 85<sup>th</sup> Texas Legislative Special Session.** Public education bills were again dominated by HB 21 (Huberty). However, much of its potential to begin to improve public school funding was diminished by Senate changes. Senate attempts at including funding for private and religious schools (vouchers) were again defeated in the House.

HB 21, as signed by the governor, transfers \$351 million from the Health and Human Services Commission (HHSC) to the Texas Education Agency (TEA) for the 2018-19 biennium to implement certain provisions, including:

- Additional state funding for charter schools in the amount of \$60 million per year as an entitlement beginning in 2019.
- Increasing the small district (less than 300 square miles) adjustment in increments through 2024 to bring that funding up to that of small districts of 300 or more square miles. This is expected to increase state costs for the Foundation School Program (FSP) by \$41.3 million in 2019 to \$124.9 million by 2022.
- Grants for innovative services to students of autism and dyslexia of up to \$20 million each over the biennium.
- Creating a 2-year grant program providing transition aid for school districts experiencing financial hardship, including the loss of maintenance and operations (M&O) revenue, capped at \$100 million in 2018 and \$50 million in 2019.
- Transferring an additional \$212 million from Health and Human Services Commission to the Teacher Retirement System of Texas (TRS) to reduce the expected increase of \$3,000/year per participant to \$1,500/year in premiums, deductibles and prescription drugs.
- Creating the Texas Commission on Public School Finance with the responsibility to develop and make recommendations for improving the current public school finance system.

SB 7 (Bettencourt) addressed inappropriate relations between school employees and students, increasing criminal penalties and sanctions and adding the possibility of pension revocation. SB 1709 (Menendez) makes cyber bullying of minors a crime. SB 1566 (Kolkhorst) empowers the commissioner of education to dictate policy to locally elected boards that are subject to interventions or sanctions due to accreditation status, unsatisfactory academic

performance, or financial accountability. HB 2087 (Van Deaver) establishes rules governing the use of student data collection and protection and prohibits the sale of student data or use of student data for advertising purposes.

**Issues not addressed.** (a) Funding increases to teacher pay. (b) Funding for fast-growing districts that have reached their tax cap and cannot adequately accommodate their increasing student populations.

**2019.** The drive by state leaders to reduce or control local property taxes (currently funding 62% of public education), to increase teacher pay, to increase or decrease state testing, and several other issues caused serious differences in the House and Senate and sent the most impactful public education refinancing and restructuring bill, HB 3, in decades to a conference committee. The HB 3 conference committee added a few completely new provisions to the bill at the last possible minute, forcing lawmakers to acquiesce due to the overwhelming good the bill could do.

**LWVTX Public Education Actions Summary Stats:**

- Out of 7,324 bills filed, 923 related to public education (including open-enrollment charter schools).
- We registered positions *For*, *Against* or *On* 179 bills, not including those we registered on more than once.
- We wrote and delivered testimony on 10 bills and wrote letters and emails to 18 Senators and Representatives.
- Of the 179 bills we took action on, 35 bills passed both houses. Of those, we opposed just two.
- All but one of the 35 bills passing both the House and the Senate have been signed into law by the Governor; he vetoed HB 455.

***The bills that concerned us most were those on public education funding.***

In its 308 pages, HB 3 restructures how we fund public education, including funding priorities. Some significant actions address:

**All Students:**

- Increases the basic allotment to \$6,160 per student.
- Changes the weighting and designation of economically disadvantaged students to account for five tiers of census blocks, including data on: median household income, educational attainment, home ownership, single parent households.
- Establishes a grant for schools and charters implementing blended learning (using technology) programs.
- Repeals the G/T (gifted and talented) allotment, but requires districts to offer a G/T program.

**Elementary Students:**

- Funds and requires districts to offer full-day pre-K to economically disadvantaged, military dependents, homeless and limited English four-year olds
- Funds 30 half-days of extended (summer) learning for K-5 students.
- Creates reading standards and assessments for K-3.
- Requires the use of a phonics curriculum.
- Requires K-3 teachers and principals to attend literacy training.
- Allows the Commissioner to approve an alternative reading assessment for kindergarten students.

**Secondary Students:**

- Creates a student bonus for achieving certain standards on the SAT, ACT, TSIA or Armed Services exams.
- Requires graduating students to complete the FAFSA (a financial aid form).
- Reimburses college entrance exam costs.

**Teachers and Staff:**

- Requires districts to use 30% of the new revenue to increase salaries for full-time (non-administrative) employees, with 75% of that going to teachers, counselors, librarians and nurses.
- Increases the minimum salary schedule for teachers and full-time librarians and counselors.
- Creates: incentives for highly effective teachers at high-needs campuses, an optional designation of teachers as exemplary, master, or recognized, and a mentor-teacher program allotment.

**Taxes:**

- Reduces school property taxes from \$1/\$100 valuation to \$0.93/\$100.

- Imposes an automatic tax increase cap beginning in 2021 of 2.5% (from the previous 8%). This was justified by the increase in state funding. Opponents are concerned because: increased state funding is not guaranteed from year to year, this removes an important local control element, it restricts district flexibility in responding to student growth and cost increases.
- Reduces recapture (Robin Hood) through various means.

#### **Students in Need:**

- Increases the compensatory funding weights for various needy student groups (dyslexia, dual language, special ed, etc.).
- Requires that 55% of the increase be spent on supplemental services for at-risk, economically disadvantaged and bilingual/LEP students.

#### **Assessment/Accountability:**

- Eliminates the 4<sup>th</sup> and 7<sup>th</sup> grade writing tests.
- Requires school boards to develop plans and set performance goals for: early childhood literacy, math proficiencies, CCR (college, career and military readiness).
- Requires district efficiency audits.

#### **The Commissioner:**

- Increases the Commissioner's responsibilities (some new, others formerly the SBOE's), including: administering the FSP (Foundation School Program), resolving school finance formula issues, certifying census blocks to determine funding levels, rulemaking and funding authority for Special Education, working with a higher ed institution to assess STAAR readability levels.

#### **Other Funding:**

- Increases the NIFA (New Instructional Facility Allotment).
- Creates allotments for: fast-growth districts, P-Tech and New-Tech programs, 7<sup>th</sup> grade CTE, small and mid-sized districts.

**SB 2**, the “no new revenue” bill, which we opposed, was signed June 12.

- This bill sets new, lower limits on property tax increases, affecting city and county governments, water and other special districts, to 3.5%. Opponents are concerned that this bill restricts local control and reduces local governments' ability to respond as needed to growing populations and increasing costs for safety and emergency services, transportation, libraries, etc.
- School districts' tax increases will be limited to 2.5%. School districts noted that, although the state has increased its funding for education this biennium, there is no guarantee that the state's funding will be sufficient nor that it will be renewed.
- The bill does address some tax transparency concerns.

**HJR 3** (and its enabler HB 4621) proposed offsetting lower school district property taxes with increased sales & use taxes. We opposed this because sales taxes are regressive, hurting the least able to pay the most. Fortunately, HJR 3 (and others like it) died in the House.

**HJR 151** - a Constitutional Amendment that will allow the School Land Board (SLB) to double the funding it contributes directly to the Available School Fund (ASF), bypassing the State Board of Education (SBOE). It passed in the November 2019 Constitutional Amendment election.

## **I. Public School Testing and Accountability**

2008, 2020 (See also LWVUS Positions “Education” and “Federal Role in Education” in *Impact On Issues*)

*The League of Women Voters of Texas supports state-mandated **standardized achievement tests** that are used with a state-mandated curriculum as a method to measure individual mastery and proficiency in a subject, and as a diagnostic tool to measure student growth in progress from one year to the next. In addition, the League supports state-mandated tests that are:*

- Developed and reviewed by a broad spectrum of Texas educators who are acknowledged experts in their fields.
- Written with sensitivity to the diversity of the state's population.
- Not used as the sole determination for grade-level advancement or graduation from high school.
- Used to measure end-of-course proficiency for graduation from high school.

- Developed to measure higher-level thinking skills.
- Limited in frequency of test administration, which would also apply to benchmark tests, practice tests, and field tests.

*The League of Women Voters of Texas supports a state-mandated, **standardized curriculum** that is developed with broad input from Texas educators, the public, business groups, and elected and appointed officials. In addition, the League supports a state-mandated curriculum that:*

- Reflects the diversity of the state's population.
- Covers subjects that are included on the standardized tests, as well as those that are not included, to ensure richness and variety.
- Provides the academic rigor necessary for success in postsecondary education and careers.
- Provides students with an education that prepares them to be responsible members in a participatory democracy.

*The League of Women Voters of Texas supports a state-mandated **accountability system** to ensure that districts are teaching the standardized curriculum. In addition, the League supports an accountability system that:*

- Aligns with any federal accountability system to avoid conflicting results.
- Identifies academic achievement and gaps in performance among subgroups of students, based on standardized tests and other indicators (e.g., dropout, attendance, and high school completion rates).
- Is used as a diagnostic method to evaluate the strengths and weaknesses of schools and school districts, but *not* to establish school or school district ratings; *not* to sanction, reconstitute, or close schools; and *not* as a primary factor to appraise and terminate educators.
- Measures a school's growth in academic achievement from one year to the next, rather than as a single-year assessment.
- Places less emphasis on the standardized test and includes additional measurements, such as other types of tests, performance in coursework, and portfolios.
- Directs resources to improve performance but not to reward schools.

*The League of Women Voters of Texas supports **equitable opportunity** for academic achievement for all students. Specifically, the League supports:*

- Universal but not mandatory prekindergarten programs.
- Universal but not mandatory full-day kindergarten programs.
- Early intervention for academically at-risk students.
- Research-based instruction for English learners and other targeted subgroups of students.
- Tutoring and/or remedial classes for students who fail a section or sections of the standardized test.
- Availability of extended school day, Saturday classes, summer school, extended school year, and night courses at various school levels.

*The League of Women Voters of Texas endorses **support for teachers** in the mandated testing environment. Specifically, the League supports:*

- Adequate planning time or class-release time for improving student performance.
- Professional development that is relevant and is supported by research demonstrating improvement in student achievement.
- Reduction in class size, especially for low-performing students, at all grade levels.
- Qualified teacher aides for low-performing campuses.
- Incentives to attract experienced and qualified teachers to low-performing campuses and to subject areas where shortages exist, but not to reward teachers or campuses for improvement in the performance of their students on the standardized test.
- Mentoring for new teachers, with compensation for mentors.

## Explanation: Public School Testing and Accountability

This study was adopted as a not-recommended item at Convention 2006. Titled "Testing K-12 in the Public Schools of Texas," it was intended to educate members on the current uses and demands of the state mandated achievement testing system in Texas. The scope was expanded to include how the testing system and the accountability system are interrelated. A *Facts and Issues: Mandated Achievement Testing in the Public Schools of Texas* was published in the

fall of 2007, and the board approved the new position in January 2008. The section concerning “standardized curriculum” was amended by Convention 2020 to include the statement concerning citizenship education.

## **History: Public School Testing and Accountability**

**2007.** The legislature addressed testing and accountability issues in SB 1031. It replaced the state-mandated standardized test—the Texas Assessment of Knowledge and Skills (TAKS)— with end-of-course testing as a requirement for graduation from high school. The change starts with students entering Grade 9 in the 2011-12 school year. The TAKS is still to be used in Grades 3 to 8. In addition to other changes that were designed to relieve the pressure from testing and provide better preparation for college, the bill created a Joint Select Committee on Public School Accountability. This committee was directed to consider changes in the test-driven accountability system before the 2009 Session, with implementation of any proposed changes scheduled for 2011-12.

**2008.** The League filed testimony in March and May with the State Board of Education (SBOE) concerning revisions to the state curriculum in English/Language Arts and Reading (ELAR) for kindergarten through 12th grade. The League urged support of a state standardized curriculum that is developed with broad input from Texas educators and that addresses the needs of the state’s diverse student population. The League supported the draft curriculum from teacher writing teams, but the SBOE voted 9-6 to approve their own revisions to a late-hour version.

The State Board of Education began considering revisions to the K-12 science curriculum in the fall of 2008. The League filed testimony in November urging support for the draft from the teacher writing teams which embraced the scientific concept of evolution that is widely endorsed by scientists throughout the world and a standardized curriculum that provides the academic rigor students need to succeed in college and careers throughout the nation and the world.

In June the League filed testimony before the Joint Select Committee on Public School Accountability, one of many such hearings held throughout the state. The League called for a fairer and more just system, free of punitive ratings and sanctions, citing positions the League had adopted in the spring of 2008.

**2009.** The League filed testimony with the State Board of Education in January and March concerning proposed revisions to the K-12 science curriculum. Once again, the League supported drafts prepared by educator writing teams. The League opposed language that would weaken instruction in the scientific concept of evolution and the ability of Texas students to compete in a global market. A March 2009 Action Alert urged members to support these positions in individual contacts with the State Board of Education. While the State Board of Education did not adopt “strengths and weaknesses” language concerning the study of evolution, the board approved amendments to require high school students in biology to “analyze and evaluate the sufficiency and insufficiency of common ancestry;” and in earth and space science, to “assess the arguments for and against universal common descent.” As the State Board of Education takes up revisions to the social studies curriculum in the fall of 2009, the League is continuing advocacy supported by previously invoked positions.

The 81<sup>st</sup> Legislature enacted broad changes to the state accountability system in HB 3. Some of the modifications are consistent with League positions: allowing the use of growth models, rather than a single-year assessment, to measure a school’s achievement; improving preparation for college and careers; reducing the focus on student achievement as the prime criterion for promotion in grade 3; providing some relief on the definition of dropouts, which affects ratings; and giving the commissioner of education the option to grant improving schools to be rated as Unacceptable an additional fifth year before they are closed or put under alternative management. However, the League believes that HB 3 did not do enough to relieve punitive sanctions, ratings, personnel changes, and closures, which disproportionately affect urban schools with high populations of low- income students and English learners. The League prefers an accountability system that is used for diagnostic, rather than punitive purposes. Another concern is that the test-driven accountability system has become even more complex and reliant on achievement ratings since HB 3 added 10 new indicators on college readiness.

**2011.** Education issues associated with testing, accountability, and achievement took a back seat to school finance this session. Many changes concerning these issues resulted from HB 3 last session, with some scheduled to be



phased in through 2013. The consensus this session seemed to be that the new system should be allowed to become fully operational before other changes should be made.

HB 2135 is one change that will cut back on assessments for students in Grades 3 and 5 who meet certain requirements. Another change, which was requested by some legislators in the 2011 Session, involves the way accountability ratings are determined by the Texas Education Agency.

Based on a 2006 legislative directive, the agency had developed and adopted in 2009 the Texas Projection Measure (TPM). It estimates whether a student who failed the standardized test during the current school year is likely to pass the test in the next grade level. If so, the student is counted as passing for purposes of the current year's accountability rating.

This session, legislators argued that the Texas Projection Measure artificially increased ratings and gave the public a misleading message about the performance of their school and district. In response, the commissioner of education reverted to the actual passing rates for calculation of the 2010-11 accountability ratings. This system will remain in effect while the state transitions from the Texas Assessment of Knowledge and Skills (TAKS) to new, more rigorous assessments: the State of Texas Assessments of Academic Readiness (STAAR) and end-of-course tests in high school. 2013. HB 5 (Aycock), supported by the League, was the major piece of legislation to deal with testing at the high school level. Both the House and the Senate passed it unanimously. It reduces the end-of-course tests from 15 to five, including English I and II (reading and writing combined), Algebra I, Biology and U.S. History. English III and Algebra II may be used by districts for diagnostic purposes but will not be required for graduation. The new testing regimen will begin in 2013. Schools will also be prohibited from administering more than two benchmark tests per student per subject. We supported this bill based on our position that tests should be limited in frequency of test administration, including benchmark tests, practice tests and field tests.

**2017.** HB 515 (Van Deaver) would have simply reduced the number of mandatory state tests—State of Texas Assessments of Academic Readiness (STAAR) and end-of-course—to those federally required by the Every Student Succeeds Act and the No Child Left Behind Act. The bill was widely supported by parents, teachers, and others. However, by the time the Senate approved it (without public comment on the many changes made), only the eighth grade social studies test was eliminated. Among many other changes the Senate made to the bill, the U.S. history test was replaced with a citizenship examination; it would end retesting for those students who fail the fifth and eighth grade reading and math STAAR examinations, instead requiring individual accelerated learning plans to support them in the following year; and it empowers the commissioner to create a high stakes writing portfolio assessment by 2021 to replace the current essay requirement. While we supported the original test reduction bill, we were studying the changes made when the bill died in committee.

**2019.** *See Report under Public School Finance.*

**2021.** The 87<sup>th</sup> Legislature will be remembered as the session the “culture wars” came to public education in the form of legislation against “critical race theory” (which has never been part of the state’s curriculum) and restrictions on speech and discourse in classrooms.

**HB 3979.** focused on the traditional teachings of American history and government, but in practice will affect other subjects and all grade levels. Teachers are restricted regarding how they can discuss current events and controversial issues. Training for teachers on matters related to race and sex is heavily constrained. This is problematic considering the bill specifies that “no individual should feel discomfort, guilt, anguish, or any other form of psychological distress” and teachers need guidance in order to safely teach our history, health classes, and any subject that illustrates or tells the stories of Americans of color or living in difficult circumstances. It requires that any discussion of controversial issues include “diverse and contending perspectives without giving deference to any one perspective”, raising concerns regarding teaching about slavery, the civil war, civil rights and WWII. It also prohibits awarding a grade or course credit to students who volunteer for any organization that is “engaged in lobbying”, even for non-partisan non-profits like the LWV.

The League testified repeatedly against HB 3979 and issued an Action Alert which resulted in 2,300 emails. However, despite overwhelming testimony against it, the bill passed the House and Senate and was signed by the governor, effective 9/1/21.

**SB 3** was filed in the 1<sup>st</sup> Special Session and re-filed in the 2<sup>nd</sup> to revise some of the requirements of HB 3979. This bill requires a new Social Studies curriculum for K-12 in history and government to emphasize teaching analysis, reasoning, civil discourse and voting. This revision is due by Dec. 31, 2022. However the bill retains the provisions that discussion of controversial issues include “diverse and contending perspectives”, the requirement that no student be made to feel “discomfort”, and the restriction from awarding course credit to students who participate in any “political activism”, including efforts to persuade a legislator. It reiterates requirements from HB 3979 that slavery and racism be taught as “deviations from our founding principles”. It also prohibits any teaching or training in the “1619 Project.” The bill requires the education commissioner to create a civics training program for teachers on guided classroom discussion of current events and media literacy “consistent with the bill’s restrictions on prohibited concepts”.

We testified twice against the bill because of contradictions in it that will make implementation confusing, even impossible, for educators, including the fact that, while it must be implemented in the 2022-2023 school year, teacher training may be delayed until 2025-2026. In addition, important historical concepts such as women’s suffrage, Brown vs. Board of Education, and the 15<sup>th</sup> Amendment, among others, are not included. Nevertheless, the bill passed and the governor signed it on 9/17/21.

Another bill we opposed was **SB 1716**. This bill attempts to make up for education lost to Special Education students during the pandemic. However the solution is to pay certain parents up to \$1,500 to purchase supplemental services and instructional materials. This bill effectively allocates public funds as vouchers, which we oppose. We believe taxpayer money should be allocated to public institutions subject to public review. The bill passed, with some teacher and disability organizations also opposed.

Several of the **bills we supported did pass** in this session, including bills supporting: high school graduation committees (HB 999), financial literacy instruction (HB 1603), enhanced emergency drills (SB 168), and updating bilingual education (SB 2066).

## J. Redistricting

1984, 1999, 2017 (See also LWVUS Position “Redistricting” in *Impact On Issues*)

*The League of Women Voters of Texas supports action to achieve an effective method for drawing nonpartisan boundaries for congressional and state legislative districts through legislative action and constitutional revision.*

*The League supports the formation of an autonomous, independent citizens redistricting commission following the decennial census with the initial responsibility of formulating a redistricting plan, designating boundaries for the U.S. congressional districts and the state House and Senate districts, with the following provisions:*

- Criteria for drawing district boundaries include the following:
  - Districts must be apportioned on the basis of equal population.
  - Districts must be single-member and contiguous.
  - Consideration must be given to ensuring that the districts be compact, that district lines coincide with boundaries of local political subdivisions, and that districts not be drawn to dilute the voting strength of minority populations or drawn with the intent to favor or disfavor a political party or incumbent.
  - Efforts should be made to avoid splitting residential subdivisions and large residential complexes into more than one district.

- Districts must not be apportioned on the basis of numbers of electors, but on total population (a qualified elector is any person eligible to vote in a state election in Texas; federal apportionment law is based on total population).
- The redistricting process must include:
  - Specific timelines for the steps leading to adoption of the redistricting plan.
  - Public hearings on the plan proposed for adoption.

## Explanation: Redistricting

In 1983 the League adopted a "Study of the Congressional and Legislative Redistricting Process in Texas," including assessment of current criteria and evaluation of possible alternatives. The study grew out of a concern for the way redistricting had been accomplished during the 1970s and 1980s when legislative redistricting problems had resulted in prolonged wrangling over district lines. League members asked for the study in order to have a position from which to work before the 1990 census and the next round of redistricting. The position was adopted in the fall of 1984.

League members strongly support the initial use of a commission. But members also provided for an alternative method in the event that the legislature is not willing to use a commission. If a commission is not initially responsible, the legislature should conduct the work of redistricting during a special session of the legislature called for the sole purpose of redistricting. The special session should operate within a short, strict time frame.

During 1997-98 Periodic Program Review, the committee clarified the League position opposing consideration of "communities of interest" as criteria for drawing district boundaries. Communities of interest can include common occupations, industries, and ethnic or religious cultures. Most redistricting authorities agree that this criterion is so broad that it invites problems. Communities of interest are difficult to define and often extend beyond political subdivisions and geographical boundaries. Racial and language minorities can constitute a community of interest that is already protected under the Voting Rights Act. At Convention 2013 delegates voted to remove the term communities of interest from the position. At the LWVTX Statewide Conference 2017 delegates passed an updated position that emphasizes an independent citizens commission to draw district boundaries.

The Redistricting position was amended by delegates to Convention 2020 to add the statement concerning the splitting of residential areas, and to emphasize the concern with nonpartisanship in drawing boundaries.

## History: Redistricting

Action on this study has focused on trying to get legislators interested in reforming the redistricting system during a session in which redistricting is not being done. Efforts thus far have been futile. Reform measures have been introduced in each regular session since 1985 but have not been reported out of committee.

**1990s.** The League testified at redistricting hearings about the criteria we consider essential to a good redistricting plan. The LWVTX monitored redistricting legislation in the 1991 Legislative Session that redrew boundaries based on the new census. Forty-three bills on redistricting were introduced in the 73<sup>rd</sup> Legislature (1993). The League testified in favor of a measure that would have established a commission with initial authority over redistricting. Although none of the bills passed, the number introduced and the interest generated gave hope for progress in the future.

**2001.** None of the redistricting bills passed in the 77<sup>th</sup> Session. The redistricting process remained unchanged. The Legislative Redistricting Board drew up the Senate and House districts, and congressional redistricting was assigned to the courts when the governor did not call a special session. A large number of court suits resulted from redistricting plans after the 1990 census. Districts were not completely finalized until 1997. At this time it is not known whether or not the new plans drawn following the 2000 census will be in place in time for the 2002 election.

The League's major redistricting efforts in the 77<sup>th</sup> Session were directed toward changing the redistricting process. After bills to establish a citizen's commission to draw the initial redistricting plan failed, the League lobbied in favor of SJR 35 (Wentworth et al) to establish a special session devoted exclusively to redistricting. The "League bill"

passed the Senate Redistricting Committee unanimously, passed the full senate with 29 coauthors, but was not successful in the House. Grassroots support provided by local Leagues and League members was a factor in getting the issue of redistricting process reform before the legislators and raising the interest in, and profile of, this important issue.

The League worked to educate members of the legislature on the use of the most accurate census figures available and endorsed the use of statistical sampling as a proven scientific technique that, when properly used, can improve the accuracy and lower the costs of ascertaining the population count. However the legislature chose not to use this method.

**2003.** The League-supported bill establishing a commission with initial authority over redistricting did not receive a committee hearing in the regular session. The League opposed, on the grounds that a valid plan was in place, a House bill that would have redrawn the congressional districts. Over 50 representatives left the state to deny a House quorum and the bill died.

The governor called a special session for the purpose of redrawing congressional districts. Again, the League opposed redrawing the districts and called for a change in the process to establish a commission with initial authority over redistricting. The LWVTX testified at House hearings in Houston, Lubbock, and Dallas, and at Senate hearings in Houston and Dallas. Local Leagues testified in San Antonio and Waco.

A 2<sup>nd</sup> special session was called in July with 11 of the 12 Democratic senators leaving the state just before the session was convened. The new redistricting plan was adopted in the second session and withstood court challenges. The new plan was in effect for the March primary and for the General Election in the fall of 2004.

**2005.** Senator Wentworth again introduced a bill, SB 1404 that would establish a commission with initial authority over redistricting, but this time addressing only congressional districts. While supporting a commission with authority over legislative as well as congressional districts, the League chose to support this bill with testimony, Action Alerts, and other advocacy. The bill passed the Senate 30 to 1, but died in the House without a committee hearing.

**2006.** What follows is from a LWVUS press release:

*League Takes Aim at Partisan Redistricting*

*As a part of its Democracy Agenda, the League of Women Voters has called on the U.S. Supreme Court to overturn the partisan gerrymander imposed on the citizens of Texas in 2003. In an amicus curiae, or "friend of the court" brief, the League of Women Voters of the United States and the League of Women Voters of Texas argue that the Texas legislature's mid census redistricting was unconstitutional because it was carried out solely to achieve partisan advantage. The law firm of Wilmer, Cutler, Pickering, Hale and Dorr LLP prepared the brief on behalf of the League. The Court will hear arguments in the case, LULAC v. Perry, on March 1, 2006.*

*"Partisan gerrymandering undermines the basic principles of representative government," according to Kay J. Maxwell, president of the national League. "The Texas League fought this plan when it was presented, and we are proud to join with them in asking the Court to overturn it. Partisan gerrymandering subverts the democratic system because it allows politicians to choose their voters, rather than vice versa. This turns representative government upside-down," Maxwell said.*

*The Texas mid census redistricting case involves the threshold decision of whether to redistrict at all and not just a decision about how to draw the lines in a redistricting plan. While acknowledging that redistricting policy necessarily has an effect on election outcomes, the League in its brief urges the Court to decide that "there is a stark difference in kind between, on the one hand, relying on neutral considerations that incidentally affect partisan outcomes and, on the other, adopting exclusively partisan criteria for which specific partisan outcomes are the goal." By filing this brief the League of Women Voters continues its long history of fighting against attacks on the basic constitutional right to fair and equal representation guaranteed to all citizens by the Constitution. Leagues have worked vigorously across the country to secure representative redistricting plans in their states after each census and are seeking reforms to assure that the redistricting process is nonpartisan, equitable and open. These are core rights for citizens of a free and democratic nation.*

*The League's Democracy Agenda is an advocacy and public education program to strengthen and renew the basic tenets of American democracy. This effort seeks to protect our electoral processes through election reform and campaign finance reform, to advance our representative government through nonpartisan redistricting, and preserve our constitutional rights by safeguarding civil liberty.*

The Court did not decide in favor of the League position, which was to overturn the plan. It did, however, decide that the plan had a deleterious effect on Hispanic minority districts, and these had to be redrawn. The new districts were in place for the November election.

**2007.** At the beginning of the session Senator Wentworth, a longtime champion of fair redistricting and author of numerous bills supporting the formation of a redistricting committee, spoke. For over three decades the LWVTX has worked in support of an independent redistricting commission to formulate a redistricting plan to draw boundaries for congressional and Texas House and Senate districts. A major hurdle in getting redistricting legislation passed in the 80<sup>th</sup> Session was to get the House Committee on Redistricting to schedule hearings on the redistricting bills and pass them out of committee. Action Alerts were sent to League members to urge early hearings and voting on the bills. The League did receive one of the rare invitations to present testimony to the House Committee on Redistricting. The League expects to continue to support efforts to change the redistricting process. The issue needs to be addressed at a time when redistricting is not being done.

**2009.** The LWVTX board voted to authorize a Redistricting Advocacy Campaign in advance of the Legislative Session, mobilizing local Leagues to work for grassroots support of Senator Wentworth's bill. However the bill did not reach the floor for a vote.

**2011.** The Texas Legislature passed redistricting bills for the U.S. Congress, Texas Senate, Texas House, and the State Board of Education. While these bills have become Texas law, federal law still requires that either the Department of Justice or the D.C. Federal Court preclear them. The State Board of Education map was pre-cleared but the other maps are now before the Federal Courts. Temporary maps were put in place for 2012 while the courts hear the cases before making a final determination. These maps were drawn to maximize the number of seats held by the majority party while skirting the Voting Rights Act. Competitiveness has been significantly reduced in these maps, but of course there is no legal requirement for districts to be competitive. The opportunity for minorities to elect the candidate of their choice even in previously majority- minority districts has been reduced. Bills, including one by Senator Wentworth to improve the way redistricting is done were once again considered but not passed.

**2013.** As the League's 2012-14 biennium began, the federal court in San Antonio hearing challenges to redistricting plans passed by the 2011 Texas Legislature had drawn interim maps so 2012 elections could proceed and was awaiting the D.C. court decision on whether to preclear the legislature's maps. In late August 2012, the D.C. court declined to preclear the maps. The State of Texas appeal to the U.S. Supreme Court was put on hold until the Court decided the Shelby County, Alabama, challenge to the preclearance requirement.

During the regular 2013 Legislative Session, a handful of redistricting bills were filed. Bills filed in both chambers, HB 145 (Strama) and SB 104 (West), would have established a redistricting commission, which the LWVTX has long supported, but were never heard in committee. Senate State Affairs Committee hearings on SB 1524 (Seliger) to adopt as permanent the interim maps drawn by the San Antonio court for 2012 elections revealed strong Democratic opposition, and the bill was left pending in committee. The regular session ended without significant action on redistricting.

Immediately on adjournment of the regular session, Governor Perry called a special session to adopt the court-drawn interim maps as permanent. The Senate's traditional rule requiring two-thirds support for bills to be brought to the floor was not followed during this and subsequent special sessions, which meant bipartisan support was not needed for bills to reach the floor. Both chambers established select redistricting committees to consider adoption of the court's interim maps for both state Senate and House as well as congressional districts.

House and Senate select committees held hearing on the bills in Austin and several field locations.

The LWVTX testified in Austin, and local Leagues testified at hearings in Corpus Christi, Dallas, Houston, and San Antonio, emphasizing the importance of redistricting that is responsive to constituent concerns, reflects diversity, and grants all voters the opportunity for meaningful participation in their democracy.

Both chambers passed bills adopting as permanent the interim maps for congressional and Texas Senate districts as drawn by the court and the interim map for Texas House districts with minor changes to the court-drawn maps (SB 2 (Seliger), SB 4 (Seliger), and SB 3 (Seliger), respectively). Before Governor Perry acted on this legislation, the U.S. Supreme Court announced the Shelby County decision striking down criteria for determining jurisdictions subject to preclearance. With the U.S. Supreme Court decision, Texas could have gone back to the Legislature's 2011 maps, but instead Governor Perry signed the three bills passed by the 2013 1<sup>st</sup> Special Session, permanently adopting the 2012 interim maps drawn by the San Antonio court with minor modifications to the state House map.

Adopting the court-drawn map for state Senate districts resolved the legal challenges to redistricting for that chamber in the San Antonio court. However, challenges under the Constitution and Section 2 of the Voting Rights Act to the state House and congressional maps continue in San Antonio, and the U.S. Department of Justice has joined the proceedings. Plaintiffs have asked that Texas be bailed-in to preclearance under Section 3. Parties are preparing for a trial scheduled for summer 2014 on issues regarding the 2011 maps drawn by the legislature, the court-drawn interim maps for 2012 now adopted by the State of Texas, and the tweaks to the court-drawn House map made by the 2013 special session. A new challenge to state Senate redistricting was filed April 21, 2014, in Austin arguing that districts should be drawn based on eligible voters, not on overall population, and a three-judge panel has been appointed to hear that case.

**2017.** The House Committee on Redistricting never met during the 85<sup>th</sup> Legislative Session.

**2019.** For the first time in 6 years, the House Redistricting Committee met and held organizational hearings on 2/28 and 3/7. The purpose of these hearings was to hear invited testimony from experts in the field, to prepare the committee members for the next round of redistricting. The committee held a hearing on bills on April 4. The Fair Maps Texas Coalition, of which we are a part, worked very hard to get new legislation filed this session.

**Bills that we helped draft:**

[HB 3421](#)- A bill to create an independent redistricting commission for our US Congressional districts. (M. Gonzalez).

[HJR 123](#)- A constitutional amendment that would create an independent redistricting commission for both our state legislative and our US Congressional districts. (Naeve).

[HJR 124](#)- Redistricting Transparency Act. A constitutional amendment that would require the state to hold public hearings around the state AFTER the census data is handed down. It would also require the state to provide online software and data for the public to use to create and submit their own redistricting plans. (Gonzalez).

[HB 2429](#)- The Texas Voting Rights Act. A bill that expands on the existing Voting Rights Act by making it easier for a protected class of citizens to challenge "at-large" election systems in the courts. (Reynolds).

**Other bills that we support:**

[SJR 52](#)- A constitutional amendment that would create an independent redistricting commission for both our state legislative and our US Congressional districts. (Menendez).

[HB 4564](#)- A bill that would modify the criteria used by the Legislature to draw districts. Includes respecting political subdivisions and prohibiting the use of partisan data when drawing new plans. (Y. Davis).

Three of these bills were given a hearing in the House Redistricting Committee. We testified but all were left pending with no vote by the committee. (HB 3421, 4564, and HJR 123). The rest received no committee hearing. However beginning in April, the League of Women Voters of Texas along with partnering organizations, communicated with the House Redistricting Committee regarding the location and organization of public input hearings, to be held before the next round of redistricting in 2021. The League was actively involved with these hearings, holding training sessions for citizens in the cities planned for hearings.

**2021.** The 87<sup>th</sup> Session was the important year for the decennial redistricting for US Congress, Texas Senate and House, and State Board of Education. But due to the covid pandemic the census figures were delayed until August 12. They showed that people of color accounted for 95% of the state's growth, with the Hispanic population accounting for nearly 60% of the population increase. And a large percentage of the state's growth, 44%, took place in the state's

largest counties: Harris, Dallas, Tarrant, Travis, and Bexar. However there was drama when the Governor called a Special Session for Redistricting.

The Texas House of Representatives did not have a quorum due to Democrats leaving the State, so the House could not begin work on new district maps. The Texas Senate began work on their respective maps, however, no new maps could be adopted without the House being present to vote on the proposed bill.

Also, the Governor had vetoed the Legislature's budget. In doing so, the Governor jeopardized the redistricting process by eliminating the salaries of the Texas Legislative Council and legislative staff, who aid the redistricting process. The Legislature is constitutionally mandated to redistrict every 10 years, and since legislators rely on the help of the Texas Legislative Council and legislative staffers to complete this task, funding to the Legislature must be reinstated in order for redistricting to occur. LWVTX filed an amicus brief to challenge of the Governor's veto. Then the Governor allowed the Legislative Budget Board (LBB) to move funding from the State's Criminal Justice budget to fund the Legislature through the end of September.

Maps were finally produced: SB 6 for US House of Representatives SB 4 for Texas Senate districts, HB 1 for the Texas House of Representatives, and SB 7 for State Board of Education. We testified against SB 4, SB 6, and HB 1 on the grounds that the public was not able to participate due to the short time they were available, did not have access to the data used, and all hearings were held in person in Austin. We also questioned the constitutionality of the maps as they had patterns of packing and cracking of black, Latinx, and AAPI communities. All four maps were signed by the governor on October 25, and effective immediately.

Earlier in the 87<sup>th</sup> Session we were active with the Fair Maps Coalition in hearings held around the state by the House Redistricting Committee, helping people prepare testimony and testify. Three House Joint Resolutions filed which would have established a Citizens Redistricting Commission: HJR 59, HJR 121, and HJR 127. We also testified in favor of those bills: they got hearings but all were left pending in committee. We produced an Action Alert to support the bills which produced 10,847 emails to legislators. Another Action Alert when the session began asked for fair and open redistricting and produced 23,002 emails to legislators, prompting the House Redistricting Committee to hold hearings around the state.

We testified against SB 11, a bill which would have vastly restructured the Courts of Appeals, which would have reduced the number from 14 to 7. This bill was conceived by a group called Texans for lawsuit Reform. However the justices were never consulted and many testified against the bill. There were no maps for the public to review and no public input hearings. It was ultimately withdrawn by the author.

Finally the League of Women Voters of Texas joined partners of Fair Maps Texas Action Committee and other individuals in filing a federal lawsuit, Fair Maps Texas Action Committee v. Abbott. This lawsuit challenges new Texas state legislative and Congressional district plans as unconstitutional racial gerrymanders, violating both the Voting Rights Act and the U.S. Constitution. The suit details an inadequate redistricting process lacking transparency, which led to discriminatory voting maps that dilute the political power of communities of color, particularly Black, Latino, and Asian American & Pacific Islander (AAPI) voters.

## K. State-Local Relations

1963, 1965, 1971, 1999

*The League of Women Voters of Texas supports more flexible structures and adequate powers at the local level; comprehensive regional state planning, including regional planning councils with the following provisions:*

- State financial and technical assistance to regional councils.
- Flexible government structures for counties and municipalities, together with legislative and financial powers adequate to provide local services.
- Authorization for cities and counties to combine efforts on regional problems enabling performance of services without overlapping costs and taxation, in preference to single- purpose districts (i.e., transportation districts, municipal utility districts, etc.).
- Regulation of single-purpose districts by the state with provisions for greater accountability.

## Explanation: State-Local Relations

The study of state-local relations, which was begun in 1962, was a logical continuation of the League's study of the Texas Constitution. League members had found many governmental problems that did not conform to an established political jurisdiction. This study included research into constitutional and statutory provisions governing general law cities, home rule cities, and other forms of city government. The League learned in detail about county governments; special districts; how the state administered its services in public education, public health, and water resources; and sources of revenue.

In 1964, comprehensive and regional planning was studied in depth, and the League became interested in councils of government and regional planning councils. In 1971, a reevaluation of councils of government was made with one League from each area doing an evaluation of its own council. The result being that the League continued to support councils of government.

## History: State-Local Relations

During the 1974 Constitutional Convention, the League worked for constitutional revisions that would allow more flexible structures for county and municipal governments.

The League continues to support expanding the authority of county government to carry out urban activities and giving it the option to assume a larger role in meeting countywide needs and problems. Legislation granting counties some form of ordinance-making power has been introduced in several sessions, and the League has supported efforts that meet our positions. At Convention 1985 delegates asked for an explanation of the part of this position dealing with single-purpose districts. Though the recommendation resulted from an interest in municipal utility districts, preliminary research showed that there has been a proliferation of both single and multipurpose districts since the position was adopted.

The Periodic Program Review Committee recommended to Convention 1989 delegates that the State/Local Relations position be dropped. Delegates voted to retain the position. Some local Leagues have used the position extensively in lobbying for combining certain city and county governmental functions and against overlapping services.

In 1999, the Periodic Program Review Committee recommended retention of this position, and added an explanation of "single-purpose districts."

**2009.** The primary focus of the 81st Session related to county authority, often referred to as ordinance authority or land-use management. The LWVTX concurred with county officials and with many property owners that common-sense regulation is overdue. Because Texas counties have no authority to manage growth and development in unincorporated areas, scarce water supplies are endangered and homeowners sometimes discover that a rock crushing plant is planned just over the property line. The League supported bills which called for one or more of the following: *buffer zones* between designated areas for residential, commercial, industrial, and agricultural use; *density limits* which take into account the available natural resources and local infrastructure; and *impact fees* to be paid by developers to offset the increased cost of building additional infrastructure and providing services. At the beginning of the session, the LWVTX published an advocacy paper setting forth and explaining its support for these measures.

In the Hill Country, officials of 15 county governments (Bandera, Blanco, Burnett, Comal, Edwards, Gillespie, Hays, Kendall, Kerr, Kimble, Llano, Mason, Medina, Real, and Uvalde) began working with other interested local groups (including the LWVTX) and Representative Patrick Rose far in advance of the session to gain consensus regarding the need for more authority in these fast-growing, but ecologically fragile areas. HB 3265 provided for a local option vote before authorizing county authority regulations, including setting density limits, establishing set-back lines, and assessing impact fees. A large contingent of county officials from many of these counties came to the Capitol to sign in and/or testify when the bill was presented to the County Affairs Committee, as did the LWVTX and other interested groups and individuals. Representative Rose's bill was approved by the committee, other Hill Country legislators signed on; it was sent to Calendars Committee, where it died.



The Land and Resource Management Committee heard Representative Valinda Bolton's bill, HB 4175, which would have allowed counties with population between 800,000 and 1.3 million to adopt comprehensive land development plans including buffer zones. The bill had broad support from Travis County officials, the LWVTX, and even the local builders association. Because it would apply to unincorporated areas of the most populous counties, it also had the support of several other legislators representing those areas. After stalling for some time in committee, it was sent to Calendars Committee, where it died.

In the Senate, Senator Jeff Wentworth submitted several bills, but didn't present them to committee. Although most activity on this issue addressed regulating growth in the Hill Country and Travis County, some legislation included other areas and issues as well. The only bill that was passed and signed this session was HB 2275 (Raymond) which tweaked the existing regulations in the international border areas.

A bill to regulate billboards along SH 71 by Representative Bolton made it to the governor's desk, but was vetoed there. Several other bills by other legislators that would have expanded county government authority, especially in Central Texas, died in committee. Bills that would have regulated noise in unincorporated county areas, bills relating to county authority in specific geographic areas, and bills which related to county authority near military facilities all died in committee.

The ingrained attitude in Texas toward property rights continues to be defined by developers. The realities of water shortages, a county's need to plan for growth, and the rights of the individual homeowner to be protected from incompatible developments continue to be subordinate to business interests and growth. It is difficult to see that changing in the near future.

**2011.** County land use authority saw no bills voted out of committee. After last session, when a bill made it to the Calendars Committee, the two representatives who most actively supported giving counties the rights to regulate growth in unincorporated areas were defeated. Also failing to garner support were bills regulating new signs and noise in unincorporated areas. (See IV-B. Land Use.)

**2017.** See Section IV-B. Land Use.

**2019.** Our major activity this session began with our opposition to SB 15 (Creighton). This bill would prohibit cities and counties from requiring certain benefits and protections for employees. This relates to any form of employment leave (such as paid sick leave), hiring practices, employment benefits or other terms of employment. This bill would also gut non-discrimination ordinances that now protect more than six million Texans in most major Texas cities. Currently Austin, Dallas, El Paso, Ft. Worth, Plano, and San Antonio have municipal non-discrimination ordinances, and several other cities and counties have such policies for city workers and contractors. We issued an Action Alert (245 responses) and testified against the bill and the bill died in the Senate.

Then the author resubmitted it as four bills, SB 2485, 2486, 2487, and 2488, hoping parts of the bill would pass. Again we issued an Action Alert, "Fight Anti-Local Control Bills," and got 491 responses. All four bills passed the Senate but died in House Calendars. (This issue was covered by Equal Opportunity Issue Chair in this session.)

## II. Administration of Justice

1960s, 1976, 1977, 1978, 1979, 1980, 1987, 2003, 2010, 2019 (See also LWVUS Position "Sentencing Policy" in *Impact On Issues*)

### A. Criminal Justice

*The League of Women Voters of Texas supports an equitable system of criminal justice in Texas with the following provisions:*

Improvements in pretrial justice programs and an adequately state funded public defender system including:

- Availability of night and weekend magistrates.
- Improvements in the training and requirements of law enforcement personnel.

- Revision of the bail bond system to permit counties to serve as bonding agencies and to provide regulation of all commercial bail bond agencies and guidelines for more uniform bail amounts.
- Reform of the bail bond system to require state funded-risk assessment for defendants who are arrested for economic non-violent crimes, and who are unable to pay bail cost, so that they can be released on their own recognizance, subject to monitoring while awaiting pretrial.
- Reinforcement of the requirements for open hearings and the presence of a public defender at the time of a pretrial hearing.
- Elimination of jury sentencing, and revision of the penal code to reduce the disparity of sentences.
- State laws to prohibit wiretapping.
- A state correctional system which would assign highest priority to provision of a broad range of community-based programs and facilities as well as provide technical assistance and funding for locally administered programs.
- Improvements in the parole system.
- A prison system which would provide humane care for all inmates in a secure environment with maximum educational opportunities, adequate health care services, adequate programs to assist all inmates in making the transition from prison to the free world, and compensation to inmates for their labor.

### Explanation: Criminal Justice

League concern with aspects of the justice system in Texas began in 1923 when the League joined other organizations to tackle conditions in the primitive prison system. Results of the committee's work have been lost in the mists of time. During the 1940s and 1950s the League studied and lobbied for the establishment of a family court system for Texas, which was established in 1959. In the early 1960s, several positions supporting an effective judicial structure were included in the League's Texas Constitutional Revision position. These can now be found in the Government section of *Program Perspectives*.

The Convention 1975 adopted a study of both the adult and juvenile justice systems. Divided into five parts, the study took 5 years. Each of these studies resulted in numerous positions from which action at both the state and local levels occurred. Many of our goals have been achieved.

In 1986 Administration of Justice positions underwent periodic program review. Proposals to drop positions that had been achieved and to consolidate others were approved by Convention 1987.

Under the position "Improvements in Pretrial Justice Programs" local Leagues can continue to support a wide variety of specific programs such as pretrial release and pretrial diversion. The bail bond position allows counties to serve as bonding agencies, to regulate commercial bonding agencies, and to establish guidelines for more uniform bail amounts.

Holding county jails to standards set by the State Commission on Jail Standards in the face of potential opposition by county officials or voters is still permissible even though specific support for the state commission has been removed from our position because the commission has been in existence long enough and with adequate funding to operate successfully.

The LWVTX can also take state and local action on further law enforcement personnel training should the need arise in a specific area (see the Domestic Violence position). Convention delegates also agreed to consolidation of the language relating to community corrections programs and probation. The final settlement of the lawsuit against the Texas Department of Corrections (*Ruiz vs. Estelle*) will continue to have an impact on the criminal justice system in Texas for many years to come. We maintain our position in opposition to wiretapping that is still allowed in Texas. The next legislative review will be in 2005.

At the LWVTX 2018 statewide convention a review of the current bail bond system with respect to fairness of practices and the defendant's ability to pay and risk to public safety was passed. The Criminal Justice position was reviewed by the Program Review Committee, and updated by concurrence at a 2019 statewide conference. Two bullets were added under "Improvements in Pretrial Justice Programs."

## History: Criminal Justice

**1991-93.** The 1991 Legislature prepared for a massive revision of the Texas Penal Code by establishing a Punishment Standards Commission. The commission report was issued just before the 1993 Legislature convened. League testimony before the commission related to our position on reducing disparity of sentences. The commission's recommendations addressed this concern by reducing somewhat the range of punishments for first-, second-, and third degree felonies, but the legislature chose to retain the existing ranges.

One recommendation of the commission—the creation of a fourth-degree felony for certain non-violent offenses including possession of small amounts of drugs—was adopted by the legislature. These felonies, now called "state jail" felonies, are to be served in new incarceration facilities called state jails. This new felony category is in accord with the League position advocating less disparity in sentences. A two-year limit was placed on incarceration in a state jail, with the remainder of the sentence, if any, to be served under community supervision. Although recommended for deletion by the Punishment Standards Commission, the section of the Penal Code making homosexual conduct a Class C misdemeanor was retained in the new code.

Because the state had spent nearly \$2 billion of bond funds approved by voters since 1987, primarily for more prisons, the November 1993 ballot asked voters for another \$1 billion, mostly to construct state jails and transfer facilities for relief of the backlog of state prisoners still awaiting transfer in county jails. Small amounts of these bonds are allocated for state juvenile and mental health/mental retardation facilities. The ballot issue passed. Appropriations for community-based corrections increased dramatically between 1989 and 1993 but only modestly for 1994-95. The 1993 Legislature made permanent the treatment of batterers on probation and substantially increased funding for these treatment programs.

**1995.** The legislature lengthened the time that nonviolent state jail felons can be incarcerated.

**2001.** The governor signed the Fair Defense Act. The act, a result of the findings of two studies released during the past year, including one by the Appleseed Project, established the Texas Indigent Defense Council and authorized the development of standards governing the provision of services at trial, on appeal, and in the post-conviction process. The bill also set deadlines for appointment of counsel following arrest. This balanced set of reforms should help bring order and change to the Texas system that has more than 800 different indigent defense systems in more than 800 different criminal courts in its 254 counties. The League presented testimony in support and worked as a member of a fair justice coalition in support of this bill.

**2003.** The Texas Indigent Defense Reform Act (2001) managed to survive the session intact. Serious threats to roll back the progress made in 2001 did not materialize, and there was a significant boost in state funding for indigent defense. One such effort to repeal certain reforms would have delayed the appointment of counsel. This was turned aside. Another challenge, a bill that would have restored to judges the power to conscript attorneys, was also defeated. One disappointment was the failure of a bill directed at improving the competence of attorneys to represent death penalty defendants in habeas corpus proceedings.

**2011.** There are numerous programs in the Criminal Justice system that provide cost-effective mental health and substance abuse treatment services that avoid the significantly higher costs of incarceration and recidivism. While there were some gains in specific programs, there were also cuts in Basic Supervision, Prison Diversion Programs, Community Corrections, Treatment Alternatives to Incarceration, and Special Needs Offenders.

**2019.** Advocacy by LWVTX during the 86<sup>th</sup> Legislature was to support bills relating to bail bond reform, which was supported by some legislators and the governor. There was also extensive media attention and support on this issue. The only bill that gained traction was HB 2020 (Kacal et al). The bill had provisions for a Bail Advisory Committee to make recommendations to the Texas Judicial Council regarding a validated pretrial risk assessment tool which would consider the nature of the offense and ability to pay a bond. The bill passed the House, but missed the deadline for a vote by the Senate as the session ended.

Other bills relating to bail bond reform that failed were HB 465 (White) and companion bills

HB 1323 (Murr) and SB 628 (Whitmire). Both HB 465 and HB 1323 were voted favorably out of committee, but did not come up for a vote by the House. LWVTX provided testimony for HB 465.

**2021.** During the 87<sup>th</sup> legislative session, LWVTX supported bills for police reform, prison reform, and community supervision reform.

**Police reform** received nationwide media attention after the death of George Floyd in 2020. HB 54, (Javier Ambler Act), prohibits police departments from contracting with reality TV shows. HB 929, (Botham Jean Act), requires police officers to keep body cameras activated the entire time in an investigation. HB 3712 and SB 69 prohibit the use of chokeholds by law enforcement. HB 3712 also requires officers to intervene if a fellow officer's use of force is endangering a life, and it requires them to administer first aid when needed. SB 24 requires police departments to review files of people before they hire them to keep officers with a history of misconduct from being passed to other departments. All bills passed and take effect 9/1/21, although HB 54 takes effect immediately.

**Prison reform:** We supported changes to enhance the rehabilitation of prisoners, their humane treatment, and the fairness of the prison system to reflect current research. HB 30 requires that all TDCJ inmates less than 18 years of age (22 if special education) be given a chance to complete their high school education. HB 3606 allows vocational training to be provided to inmates housed in Transfer Units where they may remain for up to two years before being sent to other units. These bills take effect 9/1/21.

However, HB 686, which would require the parole board to take a "second look" at inmates who committed crimes when they were younger than age 17, was **vetoed** by the governor. It would have required them to consider the young age of the person, the results of a comprehensive mental health evaluation, and statements from people who knew the person before the crime as well as from people who would attest to the growth and maturity of the person. The governor stated this bill would conflict with jury instructions.

**Community supervision:** Four times as many people are on community supervision as the number of people in prison, highlighting the need for improvements. HB 385 allows courts to waive, partially waive, or substitute community service for supervision fees if a person lacks the resources to pay them. HB 569 seeks to remove financial barriers to re-entry for people who are released from jail or prison. It allows credit toward fines people owe if they are in jail/prison after the commission of the offense. These bills passed and take effect 9/1/21.

## B. Capital Punishment Reform

2003, 2010, 2013 (See also LWVUS Position "Death Penalty" in *Impact On Issues*)

*For as long as the death penalty is an applicable punishment in Texas, the League of Women Voters of Texas supports reform of the capital punishment system in Texas with the following measures:*

- Establish a moratorium on all executions in Texas while an official study of the capital punishment system is conducted.
- Prohibit the execution of persons with intellectual/developmental disability, the mentally ill, and juveniles under the age of 18 at the time the crime was committed, establishing clear, uniform and clinical standards consistent with accepted professional practice to determine intellectual/developmental disability and mental illness.
- Observe the provisions of the Vienna Convention of 1848 by providing foreign nationals access to consular officials from their native country.
- Provide the options of life imprisonment and life without parole to juries in capital cases.
- Require the Board of Pardons and Paroles to adopt guidelines and substantive criteria upon which to base its clemency recommendations, to hold open meetings and to give explanations for its decisions.

### Explanation: Capital Punishment

The issue of capital punishment has been in the foreground of debate in Texas for many years. The availability of DNA testing, the rising number of inmates found innocent and released from other states' death rows, as well as an increasing number of Texas executions, have made many in Texas question the death penalty and its effectiveness.

A study of Capital Punishment Reform was adopted at Convention 2001. The study compared (a) Outcomes for defendants with court-appointed lawyers to those who hire their own attorneys, (b) costs of execution to the costs of life imprisonment, (c) the potential of wrongful executions and the impact of new technology, and (d) possible sentencing alternatives. A study committee produced *Facts & Issues: Criminal Justice: Capital Punishment* in 2002 that was distributed to League members, public officials, agencies, and other interested groups and individuals. A limited consensus was reached in the fall of 2002 and the state board approved the new position in January 2003.

At the LWVUS Convention 2006, delegates voted to include support for the abolition of the death penalty in their positions. The LWVTX Convention 2010 voted to remove references to capital punishment sentencing from our position in order to bring our position in line with LWVUS.

A program review committee formed in 2012 recommended that several changes be made to the Capital Punishment Reform position. The committee produced a background paper supporting the changes that was distributed to local Leagues, and the changes were approved by concurrence at Convention 2013. The changes included wording changes and reordering of bullet items to clarify that the LWVTX position to support reforms to the capital punishment system does not conflict with the LWVUS position to support abolition of the death penalty, to change the term "mental retardation" to "intellectual/developmental disability" and include a statutory of intellectual/developmental disability for purposes of screening accused murderers, to include both life imprisonment and life without parole as sentencing options, and to require the Board of Pardons and Paroles to adopt guidelines and criteria for its recommendations.

## History: Capital Punishment

**2003.** The beginning of the 78<sup>th</sup> Legislative Session looked very promising as legislators introduced bills that would reform the capital punishment system. The LWVTX supported many of the bills, including those that called for an official study and moratorium, prohibited the execution of the mentally retarded and juveniles, and required foreign nationals to be informed of their consular rights. As the session progressed, it soon became evident that most of these bills would not make it out of committee and none made it to the floor for a vote. The promising beginning of the session proved to be disappointing, even leaving Texas law in noncompliance with the recent U.S. Supreme Court ruling that prohibits the execution of the mentally retarded.

**2005.** The 79<sup>th</sup> Session of the Texas Legislature ended without achieving any real reform to the criminal justice-death penalty system. While bills were introduced that would have achieved reform, most sat out the session in committee. The Life Without Parole bill signed by the governor had changed so dramatically from the original bill that its whole intent changed. The substituted bill added the sentencing option of Life Without Parole, but removed life imprisonment as another option for capital cases, leaving juries with still only two sentencing options. Bills that would have brought Texas into compliance with the Supreme Court ruling that prohibits the execution of the mentally retard were shelved. Another bill, which sought to protect the consular rights of foreign nationals, was also shelved. All in all the session was a disappointing one.

**2007.** HJR 23 (Naishat), supported by the LWVTX, calling for moratorium on the execution of persons convicted of capital offenses. The bill would grant the governor the power to issue an order to prohibit the Department of Criminal Justice from performing executions on or after the effective date until the order is revoked. The bill did not pass.

**2011.** Capital punishment has a mix of wins and losses. With the loss of a life, it is important for the criminal justice system to get it right. For the first time ever, the House Criminal Jurisprudence Committee had a hearing on capital punishment issues. The LWVTX gave testimony in support of a moratorium. The Legislature did well in adopting safeguards against wrongful convictions. HB 215, (Ellis, Gallego) sets standards for police agencies in conducting

eyewitness lineups. SB 122 (Ellis) allows defendants new post conviction access to DNA evidence. HB 417 (Anchia, Ellis) extends compensation eligibility to Anthony Graves, a death-row inmate who was exonerated, but denied his compensation for wrongful conviction.

Lawmakers left important unfinished business, including reforms to record confessions of felony suspects and to ban the offer of leniency in exchange for accomplice testimony in a death penalty case. Lawmakers did not create a special commission to study wrongful convictions and capital punishment.

**2015.** The League of Women Voters of Texas called for a moratorium on all Texas executions while the U.S. Supreme Court considered *Glossip v. Gross*, a case involving Oklahoma's lethal injection procedure. In addition, the League called for an interim study committee of Representatives and Senators to study the issues involving the death penalty, such as: state secrecy in lethal injections, execution of the innocent, the cost of executions, the different standards being applied from one county to another resulting in the death penalty in some cases and not others for the same offense, unfair application of the death penalty to minorities, guarantees to avoid racial prejudice and economically disadvantaged as compared to other people in the population, prosecutors' roll in representing society, victims' family members' assistance, qualified defense attorneys, systems to prevent murders by mentally ill persons and those with intellectual and developmental differences, and other solutions to keep society safe and that reflect the magnificence of the State of Texas.

The proposed interim committee could have brought recommendations for potential reforms to fix the death penalty system before the 2017 legislative session and encourage all Texans to engage in a long overdue debate that the Texas death penalty deserves and to ensure that Texas has the best judicial system in the world. The study committee would move closer to ensuring that mistakes will not be made. There is no ability to correct a mistake when somebody has, in fact, been executed while being innocent, the ultimate injustice. In addition, U.S. Department of Justice review of the death penalty, ordered after the botched Oklahoma execution of Clayton Lockett, was still underway. However, SB 1697 (Huffman) that relates to the confidentiality of certain information regarding procedures and substances used in executions passed into law and was signed by the governor. The League opposed this bill.

No matter what one thinks of the death penalty, League members care about open and transparent government and accountability of government to the citizens of Texas. Legislation should not promote government actions to be hidden, but because of SB 1697 now Texas executions can be without the public being fully informed.

Removing death penalty information about chemicals used in the execution process and procedures from public view undermines open government and creates secrecy in executions. The public has a right to obtain public information and a responsibility to oversee government actions. Transactions affecting the death penalty involve Texas paying a private entity for an item or service using taxpayer money to perform executions; yet the legislature approved withholding the procedure and substances names and provider from the taxpayers. This law allows confidentiality of any person who participates in an execution procedure, including a person who uses supplies or administers a substance during the execution and any person or entity that manufactures, compounds, prescribes, dispenses, or provides a substance or supplies used in an execution.

Transparency is a basic principle of democracy, but the law restricts transparency and access to public information. Since the State of Texas is going to continue to administer the death penalty, it is essential that the public have confidence that the state is performing state killing openly. The League position is abolition of the death penalty. Cutting public access to information will only inhibit public confidence as state killings are carried out.

There is an ongoing lawsuit on "credible threats to the supplier," but several sources and one court have questioned the existence of these threats. In addition, the U.S. Supreme Court ruled on June 29 against three death row inmates who had sought to bar the use of an execution drug they said risked causing excruciating pain. The majority of the justices, in a 5-4 vote, concluded that a disputed drug used to render condemned prisoners unconscious as the first stage in the lethal injection process works sufficiently well that it does not violate the Eighth Amendment

prohibition on cruel and unusual punishment. The court challenge failed because the plaintiffs did not identify an alternative means of execution.

The U.S. has seen a number of botched executions lasting between 20 minutes to 1 hour and 57 minutes with prisoners being seen gasping for air, grimacing and convulsing during executions. Justice Sonia Sotomayor argued that the lethal injection protocol cannot "be trusted to render and keep a condemned inmate unconscious, leaving him open to pain at the later stages." With the passage of SB 1697, the public may not be informed of the drug and the procedure used in Texas executions.

Public oversight is a part of the checks and balances to ensure good government. A 2012 study published by the *British Journal of American Legal Studies* examined 9,000 executions that had taken place in the United States from 1900 to 2010 and found that 270 executions had involved "departures from the protocol of killing someone sentenced to death" and were therefore botched. The researchers found that the lethal injection method of executing Clayton Lockett had a higher botched rate than any other method.

Numerous other bills were filed related to the death penalty that included abolition, but they did not get out of committee. HB 1527 did have a hearing. The League supported HB 53 (McClendon) that relates to the age of criminal responsibility and to certain substantive and procedural matters related to that age. The U.S. Supreme Court has ruled that children under the age of 18 cannot be executed. This bill would have codified that ruling in Texas. The bill was left in Juvenile Justice and Family Issues Committee.

The League supported HB 267 (Miles) which relates to the joint or separate prosecution of a capital felony charged against two or more defendants for a capital felony for which the state seeks the death penalty, and the court shall order severance as to any two or more defendants who are jointly indicted or complained against for a capital felony if the state seeks the death penalty for any one of those defendants. HB 267 addresses the law of parties in criminal cases. The law of parties is a variation of the common law felony murder rule and states that a person can be criminally responsible for the actions of another if he or she aids and abets or conspires with the principal. The bill was left in Criminal Jurisprudence Committee.

The "law of parties" is clearly about conspiracy and organized crime. Four states other than Texas have law of parties statutes, but Texas is the only state that applies it in capital cases, making it the only place in the country where people can face the death penalty even though they did not actually kill the victim.

**2019.** This term three bills were filed to abolish the death penalty (by Reps. Ferrar and Dutton and Senator Lucio). All were never given a hearing in committee. Two bills were filed to make a person ineligible for the death penalty if a pretrial procedure determined the defendant is intellectually disabled. HB 1139 (Thompson et al) actually passed the House and Senate, but died in conference committee. No other bills relating to capital punishment procedures were given a committee hearing, except for HB 3938, relating to considering the views of a close relative in a death penalty case. We testified against this bill on the grounds that it could be abused, and it was left pending in committee.

Facts about the death penalty: Texas has the highest number of executions in the country and ranks fifth highest in the world after China, Iran, Saudi Arabia, and Iraq. Yet death penalty cases and executions have been declining in the U.S. for many years.

Death row exonerations have reached a total of 164 in the U.S. Florida has the most exonerations, and Texas is third in the U.S. with 13. Texas has 232 prisoners on death row, the third highest in the country. Texas has the highest number of executions compared to other states. The South has had the most executions compared to other regions of the country with 1219. Texas and Oklahoma have had 671 executions while the Northeast has had 4 executions. One could argue that being executed depends upon where one lives.

The number of death penalty cases is declining currently throughout the country. The trend started in 1976 with no executions in the U.S. when executions were reinstated. The number of executions rose to 98 in 1999 and has declined to 25 in 2018. The race of the defendants executed is 55.6% for White people, 34.2% for Black people, 8.5%

for Hispanic people, and 1.6% for other races. The race of the victims is 76% White, 15% Black, 7% Hispanic, and 2% other races.

## C. Drug Laws and Policies

2006, 2020 (See also LWVUS Position “Sentencing Policy” in *Impact On Issues*)

*The League of Women Voters of Texas considers substance abuse and drug addiction public health issues.*

The League supports:

- Funding of preventive measures by all levels of government, as well as the private sector.
- Education for drug abuse prevention, including:
  - Educational programs aimed at keeping children from using drugs.
  - Public education programs directed to adults.
- Sterile needle and syringe programs to prevent blood-borne diseases.
- No criminal penalties for cannabis possession when recommended by a physician.
- Laws that include drug education and drug treatment programs as alternatives to incarceration.
- Laws that call for no penalties for possession of small amounts of cannabis.

### Explanation: Drug Laws and Policies

This study was adopted at Convention 2004 as a not-recommended item. The focus was to research the history of drug laws in Texas, and to evaluate current laws and policies governing the sale and use of illegal drugs, including their effects on young people, communities of color, and medical care and public health. Additionally, the League evaluated the social and economic costs of relying on prohibition, law enforcement, and imprisonment to solve problems related to drugs, and considered possible alternatives to current policies. Consensus was completed and adopted by the board in January 2006.

Our position was reworded to include no criminal penalties for drugs when prescribed by a physician or possession of small amounts of cannabis. The amendments were passed by LWVTX Convention 2020.

### History: Drug Laws and Policies

**2011.** Changes in policies related to substance abuse and drug addiction were not a priority during the 82<sup>nd</sup> legislative session. Although bills were supported by the LWVTX and other advocates, the proposed legislation never made it out of committee. HB 117 (Jones-McClendon) contained provisions for prevention and treatment of drug addiction as a public health issue. The bill would have allowed certified community health clinics to offer, along with treatment, needle exchange programs for intravenous drug users to prevent blood-borne diseases. HB 1491 (Naishtat) offered a bill to decriminalize the possession and use of marihuana for medical use when prescribed by a licensed physician.

**2013.** Changes in policies related to possession and use of illegal drugs continue to be a low priority for the state legislature, as proposed bills never made it out of committee. HB 184 (Dutton) would have changed possession of one ounce or less of marihuana or synthetic cannabinoid to a class C misdemeanor. This would have allowed a judge to defer penalties for the defendant who successfully completed a drug awareness and education program approved by the Department of State Health Services. The bill was voted favorably by the Criminal Jurisprudence Committee, but was left pending at the close of the legislative session. SB 90 (Ellis) would have allowed for suspension of the defendant not convicted of a previous similar felony or other felonies to be placed under community supervision that included education and drug treatment. HB 117 (McClendon) is similar to a bill filed as far back as 2007. The bill did make it out of committee and was sent to Calendars Committee April 13, 2013. The aim of the bill was to prevent and reduce the risk of blood-borne disease. The bill would have allowed for a pilot program for anonymous exchange of needles and syringes and offer education on transmission of blood-borne diseases, assist in obtaining substance treatment services, and blood-borne testing services.

**2015.** There was more support by the 84<sup>th</sup> Legislature for medical use of marihuana when prescribed by a licensed physician than in previous legislative sessions. SB 339 (Eltime) passed and was signed by the governor, allowing for



the dispensing of low-THC cannabis by a licensed organization. Though this is a limited victory for allowing the use of marihuana for medical purposes, it will benefit children with intractable epilepsy. Three other bills supported by the LWVTX introduced failed relating to the use of marihuana for medical purposes when prescribed by a licensed physician. One bill HB 892 (Klick/Zerwas/Zedler) was voted favorably out of committee and made it to the general calendar, but did not come up for a floor vote. Bills HB 3785 (Marquez), HB 837 (Naishtat), and SB 1839 (Menendez) were left pending in committee. Testimony supporting HB 837 and HB 3785 was given in a House Public Health Committee hearing by the LWVTX.

Two bill introduced did address lowering the civil penalty for certain amounts of marihuana. Bill HB 507 (Moody) related to reducing the civil penalty for possession of certain amounts of marihuana and gained some traction as it was voted favorably out of committee. The bill allowed the court to waive or reduce civil penalty if the person attends a program that provides education for substance abuse. The LWVTX gave testimony at a hearing by the House Criminal Jurisprudence Committee supporting HB 507. The bill was placed on the general calendar, but did not come up for a vote. A companion bill SB 1417 (Ellis) failed to make out of committee for consideration.

**2017.** The Texas 85<sup>th</sup> Legislative Session started out with a note of optimism and support favoring bills related to drug laws and policies. Two of the four bills tracked by the League did receive hearings and came close to a vote out of the House. Despite the failure for passage of the bills related to drug laws and policies, the show of support is encouraging for passage of similar bills in future legislative sessions.

HB 81 (Moody/Issac/Dutton), supported by the League, was to reduce civil penalties for possession of small amounts of marijuana. The bill was voted favorably out of the committee. The LWVTX provided testimony in favor other the bill. HB 81 received strong support, but missed the deadline for a vote to be sent to the Senate.

HB 2107 (Lucio/White/Simmons/Sheffield), supported by the League, allowed use of medical cannabis when recommended by a licensed medical provider. In late April the bill gained traction when constituents went to the Capitol to meet with legislators, taking personal stories urging support of using cannabis for certain medical conditions. The committee held a hearing, and the LWVTX provided testimony in support. The bill was voted favorably out of committee and coauthored by almost half of the House of Representatives, but failed to be placed on the calendar for a vote.

Companion bills SB 170 and SB 269 languished in their respective committees. The Marijuana Project of Texas, an affiliate of the League, served as a reference and provided information on the status on the bills related to use of medical marijuana and a reduction of penalties for small amounts of marijuana.

**2019.** There was increased support among state legislators for access and use of marihuana for medical use and to reduce the penalties for possession of small amounts of marihuana.

HB 3703 (Klick et al) passed, was signed by the governor and will become law. The bill allows for medical use of low THC cannabis, 0.5 percent, when prescribed by any qualified physician. Use is limited to patients with a diagnosis of epilepsy, multiple sclerosis, spasticity, amyotrophic lateral sclerosis, incurable neurodegenerative disease, terminal cancer and autism. Despite the disappointment in limiting the medical use of cannabis, this bill may benefit individuals by having access to an alternative treatment.

Other bills relating to medical use of marihuana, supported by LWVTX, were HB 209 (Reynolds), and SB 90 (Menendez). Neither got out of committee.

HB 63 (Moody), to reduce penalties for possession of a small amount marihuana, failed. The bill passed the House, but although there was support by most members of the Senate for passage, the bill was blocked by the leadership to bring the bill forward for a vote. Passage of this bill would have reduced the penalty for possession of one ounce of marihuana to a class C misdemeanor, same as a traffic ticket.

Other bills reducing penalties, supported by LWVTX, were HB 335 (Dutton), HB 371 (Allen) HB 753 (Wu), HB 1206 (Cole), and HB 2518 (Toth). All these bills received hearings in the Criminal Jurisprudence Committee, but only HB 335 was voted favorably out of committee. It missed the deadline for a vote by the House.

2021. Only one bill, HB 1535, was passed related to drug laws and policies, but a number of bills were filed related to medical use and penalty reduction for possession of a small amount of cannabis. HB 1535 expands the compassionate use of low-THC cannabis from .5 percent to 1.0 percent. It includes a provision to establish an approved Institutional Review Board (IRB) to conduct research studies to evaluate and approve use of low-THC to treat epilepsy, cancer, seizure disorder multiple sclerosis, spasticity, amyotrophic lateral sclerosis, autism, incurable neurodegenerative disease and post-traumatic stress disorder. The research programs must be affiliated with a medical school and accredited by the Association for Accreditation of Human Research Protection Programs. Other bills related to medical use of cannabis supported by LWV-TX were assigned to committee, but failed to receive a hearing.

Three House bills to decriminalize the possession of small amounts of cannabis all failed passage. HB 441 passed the House but was not assigned to a Senate committee. HB 3772 and HB 99 were voted favorably by the Jurisprudence Committee, but missed the calendar vote in the House.

## D. Immigration

1996, 2021 (See also LWVUS Position "Immigration" in *Impact On Issues*)

*The League of Women Voters of Texas recognizes that immigrants bring diversity and enrichment to our state. The humane and ethical treatment of immigrants at our borders is an essential part of our country's rule of law and the development of new residents and citizens.*

The League supports the following:

- If children and adults are detained pending an immigration hearing, families are not separated, and children should remain with parents or guardians.
- The facility should provide medical care, a healthy diet, and sanitary living conditions.
- All immigrants, whether they are children or adults, should be provided with an attorney prior to appearing in Immigration court. Legal representation is vital to ensure due process of the law.
- Racial profiling should not be used to stop or hold immigrants or residents due to their appearance, speaking a language other than English, nor should there be an assumption of criminality concerning these issues.

*The League of Women Voters of Texas recognizes that cultural diversity is a source of strength.*

*The League of Women Voters of Texas supports economic assistance to those areas of the state disproportionately impacted by immigration. This funding should come primarily from federal, state, and private sources such as corporations, churches, businesses, and foundations. Local assistance is also appropriate.*

The League believes that the state should:

- Encourage and fund English as a second language and other assimilation subjects for adult immigrants.
- Encourage bilingual information signs in public places where needed.
- Require and fund international symbols for all traffic signs.

The League believes the state should support local agencies and groups working with the immigrant population. State support is absolutely necessary for:

- Language fluency for children.
- Emergency health care (including obstetrical delivery).

Additionally, the state should support:

- Language fluency education for adults.
- Administration of criminal justice programs.
- Assimilation programs.
- Housing programs.
- Job training and placement for immigrants.

The League believes that the state should provide additional assistance to school districts heavily impacted by immigration for:

- Staff training.
- Instructional materials.
- Salaries for special skills teachers and aides.
- Facility construction.
- Curriculum development.

The League supports the establishment and utilization of an electronic system to verify immigration status. This system should include measures that will protect privacy and ensure accuracy. The system should be made available to:

- Employers.
- Social service providers.
- Housing agencies.
- Criminal justice system.

The League supports the mandated compilation of statistics regarding immigrants' use of state services.

### Explanation: Immigration

Reflecting a widespread interest in the subject, the LWVTX board recommended and delegates to Convention 1995 voted to study immigration issues in Texas. A study committee produced *Facts & Issues: Immigration, An American Paradox*, which was distributed to League members, government officials and agencies, and other interested groups and individuals. Consensus was reached in the fall of 1996, and the state board approved the new position in November of that year. See the LWVUS Immigration Update 2008 at the end of this publication.

### History: Immigration

**1997.** Because immigration is largely regulated by federal law, few bills relating to immigration were introduced during the 75<sup>th</sup> Legislature, and no League action was taken. However, one of the League's legislative priorities in 1997, fair and adequate funding and delivery of vital state services in the era of block grants, encompassed the needs of all low-income persons, immigrants as well as nonimmigrants.

**2001.** Changes in federal law in 1996 and partial restoration of federal food stamps in 1998 still left many legal immigrants in Texas ineligible for food assistance. The League supported legislation to alleviate these hardships by requiring the Texas Department of Human Services to develop and implement a food assistance program.

**2007.** The immigration issue generated much sound and fury during the 80<sup>th</sup> Legislative session, but none of three bills supported by the LWVTX passed. HB 28 (Berman) would have excluded state services to children born in this state to parents who are not citizens or nationals of the U.S., and who have entered the U.S. without inspection and authorization of an immigration officer. The bill died in committee. HRC 11 (Solomon) would have directed the office of the Attorney General of Texas to pursue all available remedies to demand the enforcement of all existing federal immigration laws and to recover any money owed Texas by the federal government for costs incurred by the state in dealing with illegal immigration. SB 151 (Shapleigh) would have prohibited discrimination relating to immigration status or nationality of a person needing or receiving emergency medical care.

**2009.** The 81st Texas Legislature did provide a few minor affirmative measures such as allowing children to be absent from school if they are involved in an immigration court hearing and providing services and protection to victims of human trafficking. However, of the more than 100 immigration bills filed, more than 60 were anti-immigrant. One questionable bill that did pass was a measure that would provide deportation for those convicted of a misdemeanor involving family violence. According to the Progressive States Network, the anti-immigration movement failed in most states, and Texas was rated as a somewhat integrated state.

**2011.** The 82<sup>nd</sup> Session saw several proposed bills regarding immigration. The main thrust behind each was to implement the governor's objective to enable all law enforcement agencies across the state to verify the legal status of anyone legally detained. This included increased use of the federal electronic verification system. The LWVTX opposed all of the proposed immigration bills, basically because immigration is a federal issue. The LWVTX supports

federal laws providing an efficient, expeditious system for legal entry into the U.S. None of the proposed bills were successful in the regular session.

**2017.** The 85<sup>th</sup> Legislative Session has been the most divisive session in recent history for immigration with the passage of SB 4 overshadowing the issue. SB 4 aims to outlaw "sanctuary cities" by requiring local police to cooperate with federal immigration authorities and allowing police to inquire about the immigration status of people they lawfully detain. Law enforcement from across the state provided testimony arguing that the law would make our state unsafe and that cities and counties were unable to bear the additional cost of enforcing the law.

Witnesses testified that the law would bring fear into our communities, making people fearful of contacting police, the fear of police profiling in a state that has a large Hispanic community, and the fear that families would be torn apart. The Senate and House both passed this bill, which the governor signed.

The passage of this bill has spurred numerous lawsuits from municipalities across the state from El Cenito (a small border town) to San Antonio (a large metropolitan city) and civil rights organizations. The legislation has spurred many protests in the state and at the Capitol. It has created an environment of fear and contempt that culminated in a near fight in the House.

The only real immigration bright spot this session was that the House let SB 1018, dubbed the "Baby jail" bill die in committee. The Senate bill would have given the Texas Department of Family and Protective Services the ability to license detention centers as day care centers.

**2019.** Of all the bills we followed and supported, only three bills were given a hearing, and they all were left pending (State Affairs, April 17).

HB 35 (Romero, Jr.) would provide conditional driver's permits and conditional instruction permits to residents who are ineligible to have a Social Security number. The ability to be licensed to drive in the state would ensure that drivers met the requirements of taking and passing driver tests and be required to have insurance. This would ensure that our streets would be safer due to having licensed and insured drivers on our roadways.

HB 652 (Neave) would remove the requirement that officials cooperate with Federal immigration officers in the event of an incident occurring in a domestic violence shelter or a church. It would ensure those who are seeking help would not be threatened by the possibility of being deported.

HB 2266 (Anchia) would essentially do away with SB 4. SB 4 became law in 2017 after being hotly debated in the State Senate and was overwhelmingly opposed by law enforcement, local public officials and private citizens who feared that the new law would lead to police profiling, victims unwilling to call the police and public officials who did not want their law enforcement to become an arm of ICE.

It is disappointing that these important bills, dealing with how the state addresses children, domestic violence victims, the sanctuary of churches, hospitals and domestic violence centers, were left unaddressed. Other bills that dealt with the detention of children were not given a hearing (HB 3664, HB 4141, HB 1765). Two bills that would have repealed in-state tuition for undocumented students who arrived here as children, which we would have opposed, also were not given a hearing.

A review/update of the Immigration position was submitted during Program Planning and voted by the delegates to Convention 2020. The position was updated in 2021.

## E. Juvenile Justice

1977, 1994, 2018

*The League of Women Voters of Texas supports an effective state juvenile justice system and programs and policies to prevent juvenile violence and crime. We support the following:*

- An adequate level of state funding for the juvenile justice system and for addressing the problem of juvenile crime; in allocating state funds for these purposes, highest priority should be given to prevention, followed by intervention and then corrections; funding responsibility should be shared by city and county governments, school districts, and private sources.
- Juveniles are those under the age of 18 at the time of the offense.
- Rehabilitation as the main goal of the juvenile justice system, with every juvenile committed to the Texas Youth Commission having access to adequate and appropriate rehabilitation services and programs.
- Coordination of information and services between social service agencies and the juvenile justice system.
- Adequate access to juvenile records by law enforcement agencies.
- The minimum age for adult certification of juvenile offenders should not be lower than 15.
- Strict regulation of possession of firearms by juveniles; adults who furnish illegal firearms to juveniles should be held criminally liable.

If boot camps are used as a correctional measure, they should:

- Feature careful preplacement screening.
- Be limited to nonviolent offenders.
- Provide for parental involvement when appropriate.
- Include programs that build self-esteem.
- Be nonabusive.
- Emphasize rehabilitation.
- Provide meaningful tasks for the juveniles.
- Provide for follow-up.

Cultural bias in the juvenile justice system should be addressed through:

- Review and revision of juvenile justice system policies and practices that may have a discriminatory effect.
- Increased access to competent legal counsel.
- Early access to prevention/intervention programs.
- Cultural awareness training for juvenile justice professionals.

A comprehensive juvenile violence and delinquency prevention strategy should include, but not be limited to:

- Self-esteem enhancement/development.
- Classes in parenting skills/family relations.
- Quality childcare programs.
- Opportunities for healthy bonding with an individual or group.
- Classes in alternatives to violence as a means of resolving disputes.
- Drug education programs.
- Sexuality education.
- Gang prevention programs.

The state should require schools to provide alternative education programs for students with severe behavioral problems. The state should encourage schools to:

- Teach alternatives to violence.
- Provide alternative education programs for truants and other at-risk students.

## Explanation: Juvenile Justice

Delegates to Convention 1993 voted to restudy the juvenile justice system in Texas and to look into the problem of juvenile violence as well. *Facts & Issues: Juvenile Violence and the Juvenile Justice System in Texas*, was produced by the study committee and circulated to all members, selected government officials and agencies, and other interested groups and individuals. Consensus was reached in the fall of 1994, and the state board approved the new position in November of that year. The current position replaces the former juvenile justice position that had been adopted in 1977. In January 2018 the LWVTX board voted to amend the position by adding a definition that "juveniles are those less than 18 years old at the time of the offense" (to align with the U.S. Supreme Court ruling *Roper v. Simmons*, 543 U.S. 551, 2005) and delete that "juvenile offenders under age 10 may be referred to the juvenile justice system."

## History: Juvenile Justice

**1995.** During the 1995 Legislative Session, juvenile violence and the juvenile justice system was a priority issue for the LWVTX. An advocacy paper, "Juvenile Crime: Strategies to Stem the Rising Tide," was published and circulated to all legislators and other elected and appointed officials, as well as to interested members. The League's interest in juvenile crime proved most timely. Legislators and the governor, as well as many other citizens statewide, shared the conviction that this pervasive problem must be addressed with fresh initiatives.

League-supported portions of the enacted bill include: first offender program to allow nonfelony juvenile offenders to be processed outside the juvenile court; early intervention services for juveniles as young as seven; a progressive sanctions model (though not fully funded) that ensures juveniles face uniformly consistent consequences that correspond to the seriousness of their offenses; funds for additional probation officers and for construction of post adjudication intermediate sanction facilities. The League also lobbied successfully for a new law that limits children's access to readily dischargeable firearms. Although a League-supported measure geared to prevention programs in early childhood failed passage, several prevention programs were successfully attached to other bills.

**2007.** SB103, a comprehensive reform bill for the Texas Youth Commission (TYC) was signed by the governor and became law. Major points of the bill are:

- Only children committing felonies may be sentenced to a TYC facility.
- Establishes a feasibility study of a regional structure for TYC with smaller, local facilities conforming to needs of an area.
- Establishes the office of Executive Commissioner and Advisory Board for TYC.
- Establishes authority of a state auditor to review financial transactions of Commission an internal audit procedure, reporting to legislative committees.
- Provides for criminal background checks for potential TYC employees.
- Allows advocacy and support groups to provide on-site services at TYC facilities.
- Establishes the Office of Inspector General to investigate fraud.
- Establishes the Office of Ombudsman to evaluate services to youth and review complaints.
- Restrict placement of minors under 15 years to dorms for youths 16 years and younger.
- Develops and distributes a Parents Bill of Rights.
- Assigns a caseworker to each child committed to a TYC facility.
- Establishment of a zero-tolerance policy regarding of sexual abuse of inmates.
- Allows equal access to TYC facilities for female officers.
- Will offer rehabilitation programs recommended by the adjudicating judge.

## F. Spousal Sexual Assault

1982, 1987, 2010

*The League of Women Voters of Texas supports Texas laws that provide that sexual intercourse or deviant sexual intercourse with one's spouse without the consent of that spouse is a criminal offense punishable on the same basis as rape or sexual abuse of any other person.*

### Explanation: Spousal Sexual Assault

A study of spousal rape was adopted in 1981 and the position was adopted in 1982. The spousal rape position was studied by the 1995-97 Periodic Program Review Committee, which modified the original position to reflect a law passed in 1993 that eliminated marital rape exemptions. Although the original position has been achieved, it was retained to allow the League to advocate against possible future attempts to reinstate the old law. Retaining the position also allows local Leagues to support police department and district attorney efforts to prosecute accused rapists diligently, regardless of the marital status of the parties. Convention 2003 requested that the LWVTX develop a publication with updated information on this position. At Convention 2010 delegates voted to change the position name to Spousal Sexual Assault to conform to language in the current criminal code and statutes.

## History: Spousal Sexual Assault

1980s. The LWVTX supported successful bills making sexual assault of a spouse illegal where the married persons lived apart or had filed for divorce. New laws were enacted, defining crimes of sexual assault committed by a spouse. These measures required a showing of bodily injury or threat of bodily injury for criminal prosecution against a spouse.

**1994.** The 73<sup>rd</sup> Session of the Texas Legislature passed a law mandating that all sexual assault victims be treated equally and eliminating all marital rape exemptions.

**2004.** Written information for members about the League position on spousal rape and the status of current law regarding the subject appeared in the Spring 2004 *Texas VOTER*.

## G. Trafficking of Persons

2014 (See also LWVUS Position “Human Trafficking” in *Impact On Issues*)

*The League of Women Voters of Texas is opposed to all forms of domestic and international human trafficking of adults and children, including sex trafficking and labor trafficking. We consider human trafficking to be a form of modern-day slavery and support measures to prevent the use of force, fraud or coercion to exploit a person for sexual or labor purposes, to prosecute traffickers and to protect victims.*

Federal, state and local governments should collaborate to fund and implement effective strategies for prosecution, including but not limited to:

- Enact and enforce effective laws against traffickers.
- Require human trafficking training for law enforcement officers and prosecutors.
- Maintain and share reliable trafficking data among all levels of government and with nongovernmental organizations (NGOs).
- Put convicted sex traffickers of children on the National Sex Offender Registry list.
- Enforce civil and criminal penalties against persons who knowingly buy services provided as a result of human trafficking, or buy services from a minor, including mandated awareness training.
- Enact and enforce laws at the appropriate level to shut down businesses that engage in or allow human trafficking.
- Divert victims of human trafficking into justice and rescue programs that provide access to services such as counseling and job training.
- Assume all minors are victims, no proof of coercion required.

Federal, state and local governments, in cooperation with nongovernmental agencies, should fund and provide essential services to and remedies for victims and survivors, including but not limited to:

- Legal aid, translations and other court-related services.
- Services to shelter victims from their traffickers and help them return to a normal life, such as housing, medical, counseling, job training.
- Ability to sue the trafficker for civil damages.
- Defined roles for child welfare system and juvenile justice system in assisting trafficked minors.
- Guardianship, protective custody and safe houses for trafficked minors when home situation would put the minor at risk.

Federal, state and local governments, in cooperation with nongovernmental agencies, should fund and provide education and awareness programs on human trafficking in our communities and schools, including but not limited to:

- Training to identify and assist victims or potential victims of human trafficking, for all persons who might come into contact with them, such as medical professionals, law enforcement and prosecution personnel, educators at all levels, mental health professionals, city health inspectors, hotel owners and others.
- Internet safety education for youth, parents and teachers.
- Services and outreach for homeless, throwaway youth and other at-risk populations.

### Explanation: Trafficking of Persons

A study of Human Trafficking in Texas was adopted at Convention 2012. A study committee produced *Facts & Issues: Human Trafficking in Texas*, and local Leagues held consensus meetings in the fall of 2013. The LWVTX board adopted the new position in 2014 based on local League consensus. In 2020, the LWVTX board updated the name to *Trafficking of Persons*.

### History: Trafficking of Persons

**2017.** In several ways we made progress in this Legislative Session for awareness of and laws to address human trafficking in Texas. We have three bills that passed both the House and Senate unanimously, thus bipartisan support.

Bills signed by the governor.

- A law that requires successful completing of a training course in recognition and prevention of human trafficking by applicants for a commercial drivers license.



- A law relating to the development of instructional material for public schools on the prevention of sexual abuse and sex trafficking.
- A law with recommendations to improve the Office of Attorney General Human Trafficking Taskforce.

Bills not passed.

- A bill to mandate signs required to be posted in the restrooms of sexually oriented businesses with the National Human Trafficking Hotline phone number and text number. (We will seek to have such warning and information signs in all public restrooms, particularly in restaurants, bars, airports, public sports facilities, etc.)
- A bill related to continuing education requirements regarding human trafficking for cosmetology license holders and establishments.
- A bill related to judicial proceedings on a petition to set aside a conviction or an order of expunction of criminal history record information for certain victims of trafficking of persons or compelling prostitution who are convicted of prostitution.
- A bill to require registration as a sex offender of certain defendants convicted of the offense of continuous trafficking of persons.

**2019.** At least three bills related to trafficking of persons passed the legislature and were sent to the Governor. One bill, HB 72 (Nelson), establishes the Human Trafficking Prevention Coordinating Council in the office of the Attorney General, to develop and implement a five-year plan for preventing human trafficking in the state, and to submit the plan to the legislature. Another bill, SB 1219 (Avarado), requires the of signs regarding services and assistance for victims in transportation hubs such as airports, train stations, bus stops, rest stops, etc. Both were signed by the governor. Senator Alvarado asked for our help on this bill, so I asked a trafficking survivor to testify at the House committee hearing.

A third bill passed but was vetoed. HB 3078 (Thompson) would have established a review panel under the Board of Pardons and Paroles, which would have considered clemency applications from persons who committed offenses under duress or coercion as a result of being a victim of human trafficking or family violence. The governor's veto statement said that this bill would "add a thick layer of bureaucracy...and is not the way to help victims of human trafficking."

One other bill, HB 467 (Hernandez), relating to sexual assault and domestic violence training for Cosmetology license holders, passed the House but did not get a hearing in the Senate.

In January 2020 the LWVTX board voted to change the name of the position to Trafficking of Persons, in response to a request by the Issue Chair.

## H. Payday & Auto Title Loans in Texas

2013

*The League of Women Voters of Texas supports policies, legislation, and programs that enable a small dollar loan market that maintains access to affordable credit while safeguarding consumers. Payday and auto title loan businesses should be regulated so that they function both as a consumer service and a successful business.*

The League believes that a loan is affordable if the borrower can repay the loan and cover basic expenses without borrowing again or obtaining money from another source. Local governments should be able to regulate payday and auto title lending within their jurisdictions in order to achieve a viable small dollar loan market that provides consumer access to affordable credit and safeguards against predatory lending. Criminal charges and penalties for payday and auto title loans in default should continue to be explicitly prohibited by Texas law. The League supports:

- Consumer credit regulations that increase restrictions on short-term loans and require lenders to offer affordable loans,
- Financial education measures that increase the ability of consumers to successfully use small dollar loan financial products, and

- State and private funding of measures to prevent long-term debt by borrowers in need of immediate cash.

### Explanation: Payday & Auto Title Loans in Texas

Delegates to Convention 2014 adopted a study, "Payday and Auto Title Loans in Texas," reflecting intense scrutiny of payday and auto title loans at all levels of government and widespread discussion in the community and media that made it a compelling public policy issue. The study focused on current regulations of payday and auto title lenders in Texas, the accessibility and impact of these loans in the community, and options for small dollar loans for persons in need of immediate cash. A committee comprised of six League members from across the state conducted the study and produced *Facts & Issues: Payday & Auto Title Loans in Texas*. The report was published on the state League website and distributed electronically to League members. Print copies were provided to Texas state office holders, major donor, and other interested groups and individuals. Following numerous public forums and League consensus meetings across the state during fall 2015, a consensus was reached based on analysis of individual League consensus reports. The LWVTX Board of Directors adopted the new position January 2016.

### History: Payday & Auto Title Loans in Texas

**2017.** During the regular session of the 85<sup>th</sup> Texas Legislature, a few payday and auto title lending bills made it out of committee in both chambers, but none made it to the floor. However, Representative Craddick offered an amendment to SB 2065 what would enact the unified payday/auto title ordinance at the state level (a model local ordinance originated by the Texas Municipal League). However Representative Capriglione offered an amendment to the amendment that would preempt local payday/auto title lending ordinances. While we have heard that a few legislators were confused with the vote, the vote shows us the stance of most representatives on this issue. In the end, the bill failed, and the local ordinances stayed intact.

*Note.* As of January 2018, 41 cities have enacted "business regulations" over payday lenders that are similar to the example ordinance available from the Texas Municipal League. Also sixteen cities have enacted land use regulations related to payday and auto title lending.

**2019.** During the 86<sup>th</sup> legislative session, there were multiple efforts (through both filed bills and amendments proposed from the floor) to eliminate the uniform payday and auto-title lending ordinance which has been adopted by 44 Texas cities. SB 1209, HB 3899, and HB 2847 would have preempted the payday and auto-title lending ordinance, yet these bills either did not pass or advocates were able to work with the bill author to explicitly exclude the payday and auto-title loan ordinance.

Additionally, HB 1442, passed and renewed the Office of Consumer Credit Commissioner – which is the state agency that oversees the regulation of Credit Access Businesses (CAB or payday and auto-title lenders). This bill also extended the OCC's authorization to include online lending, which is a win.

**2021.** Our top priority this session was to uphold current protections for consumers by supporting local payday and auto title loan ordinances (adopted in 46 Texas cities) and maintaining existing rate and fee caps for consumer loans. The House Pensions, Investments & Financial Services Committee gave a hearing to consumer loan bills, but unfortunately no meaningful bills were voted out of Committee. Throughout the session, advocates stopped bills and potential amendments which would have pre-empted local ordinances, and would have included payday and auto-title loan ordinances. Thankfully, none of these passed.

## III. Social Policy/Human Resources

### A. Child Abuse & Neglect

1990, 1995, 2009 (See also LWVUS position "Early Intervention for Children At Risk in *Impact On Issues*)

*The League of Women Voters of Texas supports the development and implementation of adequate legislation, policies, services, and programs to protect children from abuse and neglect. Measures the League supports include, but are not limited to the following:*

- Adequate funding from governmental and private sources to provide appropriately trained staff and uniform statewide availability and accessibility of effective services and programs.
- Provision by the responsible state and local agencies for varied and sufficient services to ensure the protection of children.
- Development and implementation of programs to prevent child abuse and neglect.
- Mandatory, uniform, and ongoing training in recognizing and reporting physical and behavioral indicators of child abuse and neglect for persons responsible for the safety and welfare of children, such as law enforcement officers, judges and probation officers, educators, child-care givers, and medical personnel.
- Availability and enforcement of measures, including protective orders, for the removal of the abuser from home when appropriate.
- Stringent correctional measures for persons who abuse or neglect children, including mandatory specialized treatment and counseling as well as appropriate enhancements for repeated offenses.

### Explanation: Child Abuse & Neglect

Delegates at Convention 1989 adopted a novel plan regarding this issue. After the LWV of the Houston Area completed a local study of child abuse and neglect and adopted its local position, the LWVTX board narrowed the scope of the position statement so that it was appropriate for a statewide concurrence process. The narrowed position statement and a publication (*Focus*) adapted and edited by the LWVTX board from LWV of the Houston Area *Facts & Issues* was subsequently made available to participating members statewide. After careful evaluation of resulting concurrence data, the LWVTX board adopted the state League position in June 1990.

During the Periodic Program Review process in 1993-95, wording changes that enhance format consistency and reflect changed circumstances were suggested by the Periodic Program Review Committee and received final approval at the 1995 Convention. A substantive addition to the position was also approved: support for stringent correctional measures for persons who abuse or neglect children, including mandatory specialized treatment and counseling, as well as enhancement for repeated offenses. The reworded position is set forth above. In Statewide Conference 2009 delegates voted to drop our position's limitation to abuse "in their families and homes" so that we could support bills that would reform the Texas Youth Commission.

### History: Child Abuse & Neglect

**1990-95.** During this period, the League supported its child abuse and neglect positions through membership in the Texas Council on Family Violence. In 1995 we supported a measure that rededicated monies paid to the Children's Trust Fund of Texas directly into the agency's operating funds, thus establishing an improved, more direct method for the Children's Trust Fund of Texas to provide funds to communities for local abuse prevention programs.

**1999.** During the legislative session, funding to Child Protective Services (CPS) was increased significantly. Foster care received a 7% increase. Two hundred-twenty new CPS staff that had been authorized by was augmented by an additional 160 caseworkers in order to lower caseloads and to improve the effectiveness of child abuse investigations.

**2003.** During this legislative session Child Protective Services was reorganized and will continue to be impacted as the result of a huge human services reconsolidation law. Several prevention programs lost funding in the Texas Department of Protective and Regulatory Services, including Big Brothers/Big Sisters, Healthy Families, Family Outreach, and the Children's Trust Fund.

**2005.** Although the LWVTX did not set a priority for this issue, reform of Child Protective Services was an important aspect of this session for legislators. The omnibus bill relating to child abuse, as passed and signed by the governor, decreases worker case loads, strengthens ties between Child Protective Services and law enforcement, and provides other protections for children. A last minute attempt to ban gay foster parenting was ultimately unsuccessful. The bill does institute privatization of services for children over the next 6 years, beginning with one region. In the budget battles, Child Protective Services received a 12% increase in funding (state and federal), which will be used to reduce caseloads.

**2009.** Three bills supported by the League were passed and signed by Governor Perry. SB 1646 (Van de Putte) created a Council of Children and Families. SB 2080 (Uresti) created a Task Force whose task would be to form a strategy for reducing child abuse and neglect and improving child welfare, including providing assistance for adoptive parents and foster care parents. HB 1041 (Parker) related to school districts policies on addressing sexual abuse and established a state agency to reduce child abuse and neglect and to improve child welfare. In addition, the overall budget of CPS received a 8.1% increase over 2008-09 general revenue expenditures including funding for an additional 118.6 Family Based Safety Services Staff to increase face-to-face contact with children and their parents, therapy for abused children, treatment and other services for parents/families, an increase in foster care services, and funds to strengthen services to youth transitioning from foster care.

**2011.** There was some success in this area with the passage of six bills supported by the LWVTX. These included bills by Senators Nelson, Uresti, and West that related to the operation of child protective services and the foster care system, mental health services for children in foster care, and the establishment of a task force to study the relationship between domestic violence and child abuse. Also school districts are required to expand their policies to include all types of abuse and to require training of new staff.

**2013.** With the passage of two bills supported by the LWVTX, progress was made on recognition and reporting of child abuse and penalties for not reporting it: SB 939 (West) related to training to recognize child abuse in schools and reporting it. HB 1205 (Parker, Raymond, Zerwas, Fallon) related to the offense of failure to report abuse or neglect of a child in schools or institutes of higher learning.

Other bills also supported by the LWVTX passed: SB 44 (Zaffirini, West) provided mental health services in certain child abuse or neglect cases. SB 66 (Nelson) related to studying the causes of and made recommendations for reducing child fatalities, including those from abuse or neglect. SB 245 (West) related to eligibility of children's advocacy centers to provide services for children and family members in cases of child abuse and neglect. SB 1758 (Uresti) established a task force to examine hiring and management practices of the Department of Family and Protective Services. HB 1228 (Dukes) related to consideration by the court of sex abuse and conduct that constitutes sexual assault in certain suits affecting the parent-child relationship.

**2017.** Overall the 85<sup>th</sup> Texas Legislature has been a very productive session for child protection with significant investments made in the Child Protective Services workforce to reduce turnover, increases in foster care rates to address capacity, some prevention funding, and support for children who age out of foster care. Several major bills that the League supported made it through the process. A recap of some of the bills tracked follows.

**2019.** The 86<sup>th</sup> Texas Legislature lost the previous session's focus on the Texas Department of Family and Protective Service and child protection. Fortunately, a few bills were passed that continue to improve services provided to abused children.

Now schools, courts and colleges are required to consider the child's situation when disciplining or in the civil/criminal court system. The Texas Children's Commission must develop guidelines for judges for greater uniformity in handling CPS cases involving children with mental illness and the placement and termination of parental rights. Texas will provide additional services for foster youth who age out of the system to encourage success as a young adult. And lawmakers will have better data on foster youth in the juvenile justice system, with specific reporting requirements to enable development and implementation of programs to prevent foster youth from entering the criminal justice system.

Lawmakers recognized the importance of stability in a child's life by strengthening the possibility of kinship placement. Now, the Department and Courts may consider as a caregiver a person who has a longstanding and significant relationship with the child's family. Courts are required to ask the child and the parent(s) about the identity of someone who may be considered as a caregiver in lieu of placement in the foster system. Children will also be heard, as judges must ask them about relationships in their lives at each permanency hearing. And Courts are now required to educate kinship caregivers of ways to receive additional resources to help them provide for the placed children.

Pregnant and parenting foster youth were not forgotten and will receive information about ways to keep their own child(ren) safe and promote healthy attachment, child development, and maternal health if they cannot or do not participate in Project Helping through Intervention and Prevention (HIP) (a voluntary program).

Schools will have more responsibilities as well to help abused children through mandatory training for public school employees to address prevention of sexual abuse, sex trafficking and other maltreatment of children. Additional trauma-informed approaches will be integrated into schools, but more needs to be done to prevent Adverse Childhood Experiences ("ACE") and develop services to assist children to heal. H.B. 4183, which did not pass, would have implemented a statewide collaborative effort for communities and resources to address ACE.

Funding is always an issue for the state when providing protection for children. This lack of focus of lawmakers included feeble attempts to meet the upcoming federal Family First Prevention Act funding deadlines. Fortunately, S.B. 355 passed which calls for the Department to develop a strategic plan for implementing previous programs in order to comply with FFPA.

The League issued six Action Alerts on Medicaid expansion and additional months of Medicaid coverage for children. These alerts were among the most popular with our members and supporters, generating more than 13,500 emails to legislators. However only one of the bills, HB 744 giving 12 months of Medicaid coverage for new mothers, passed the House but was not voted on by the Senate.

**2021.** Two key issues—racial disparity and foster care reform—should have garnered more action from the 87<sup>th</sup> Texas Legislature. This session, while passing some good bills, left many opportunities in committee.

A prime example are SB 75 and HB 155 (identical bills) which LWVTX supported. These bills never received public hearings. Sponsors attempted to address the continuous need to collect information regarding the racial disparities in child welfare cases handled by the Texas Department of Family and Protective Services. The Department acknowledges racial disparities (unequal or different opportunities provided to a group in comparison to another group) and disproportionality continues in the system.

Prior to the start of the legislative session, federal court monitors found the Texas foster care system was still dangerous to children and a federal judge held lawmakers in contempt for repeated failure to protect children in foster care. The pandemic only increased the risk of neglect and abuse. After monitoring the bills that did pass during this session, it appears legislators are putting great faith in private residential programs which could be problematic in the future.

With the Family First Prevention Services Act (FFPSA) funding, Texas has the opportunity to prevent children from entering foster care. SB 1575, supported by LWVTX, becomes law on September 1, 2021. It not only codifies the judicial review of placements under FFPSA, the bill includes a required study of "best practice" for residential treatment center placements.

SB 1628, supported by LWVTX, would have created a Foster Care Ombudsman to hear complaints from foster care providers and be independent of DFPS. SB 1628 made it through the Senate and House committees but did not receive a vote in the House.

LWVTX supported HB 566 which will become law on September 1, 2021. Lawmakers recognized that the most prevalent inadequacy in the child welfare system is the lack of education for recognizing and distinguishing the behaviors that children exhibit due to trauma. Attorneys involved in DFPS cases will now be required to complete a training program on trauma-informed care and the effect of trauma on children in the conservatorship of the DFPS.

Unfortunately, the legislature once again failed to advance strategic plans regarding adverse childhood experiences ("ACE") so DFPS can improve the effectiveness and delivery of prevention and early intervention services. LWVTX continues to support this ongoing effort to acknowledge and learn about the effects of ACE on children and adults. HB 3493 was placed on the General State Calendar but failed to pass.

LWVTX also supported the vision of SB 1079. This bill required DPS to publish monthly reports regarding the child welfare system in an effort to assist local communities and agencies to minimize neglect and abuse of children in

foster care. While SB 1079 made it through both the Senate and House committees, it did not receive a vote on the House floor.

## B. Child Support Enforcement

1983, 1987, 1997

*The League of Women Voters of Texas supports equitable and efficient means of enforcing court orders for child support.*

### Explanation: Child Support Enforcement

The LWVTX adopted this position in 1983, after member study and concurrence. The League lobbied statewide in support of a proposition amending the Texas constitution to provide garnishment of wages for enforcement of court orders for child support. After passage of the proposition in November 1983, the League dropped the position at Convention 1985, believing its goal had been achieved. However enforcement of court orders for child support payments continued to be a significant statewide problem, and delegates voted to reactivate the position at Convention 1987.

### History: Child Support Enforcement

**1991-93:** In the 1991 and 1993 Legislative Sessions, League efforts contributed to passage of bills to bring Texas into compliance with federal guidelines for income withholding, to improve insurance protection for children, and to facilitate procedures for establishing paternity.

An especially important 1993 bill provides the requisite authorization for Texas to develop and implement procedures to enforce child support obligations under the provisions of the federal Child Support Recovery Act of 1992, the "Deadbeat Parents Act". The federal law provides for interstate enforcement of child support orders and makes it a federal offense with a criminal penalty to willfully fail to pay past due support obligations for a child residing in another state.

**1995.** Passage of a measure providing for suspension of professional and recreational licenses for those delinquent in paying child support was another victory for the League and other proponents of effective means of enforcing support orders. Despite recent progress, much more remains to be accomplished under this position. Children in single-parent households still comprise the fastest category of persons living in poverty in Texas today. Many live in poverty because only one parent sustains them, while court orders for their support are ignored and unenforced. The Periodic Program Review Committee studied the Child Support Enforcement position in the 1995-97 biennium. Despite recent more stringent enforcement legislation, the committee recognized that in this area the law is far from perfect and recommended no change in this position.

## C. Early Childhood

1990, 1995, 2009 (See also LWVUS position "Child Care" in *Impact On Issues*)

*The League of Women Voters of Texas supports policies, legislation, and programs that address the needs of all Texas children and families for accessible, affordable, and quality childcare.*

The League believes that all children in childcare are entitled to a safe, nurturing environment and developmentally appropriate activities. Caring for children is a societal as well as a family responsibility and the state should play a role in meeting childcare needs. The League supports the development, adoption, and implementation of a comprehensive state childcare policy that includes, but is not limited to:

- Programs designed to provide an adequate supply of accessible childcare.
- Access to information that will help families recognize and choose quality childcare.
- A provision for parental choice in the selection of subsidized childcare.
- Programs designed to make childcare affordable to all.
- Consistent and reliable funding, administered efficiently, and used effectively.
- Financial support from a variety of sources including federal grants and matching funds, state funds, local government funds, employer contributions, fees for service, private philanthropy.

- Minimum standards, effectively enforced, for childcare services.
- Measures to promote quality childcare.
- Coordination of childcare programs, services, and funding.
- Encouragement of cooperation among groups and agencies.
- A state model-employer program that makes quality, affordable childcare available to state employees.

### Explanation: Childcare/Early Childhood

At Convention 1989 delegates adopted a study of Childcare in Texas. The scope of the study included programs, services, availability, standards, enforcement, policies, and affordability. A *Facts and Issues: Childcare in Texas: The Roles and Responsibilities of the State* was produced by the study committee and widely circulated to members, childcare advocacy groups, and legislators. Consensus was reached in the fall of 1990, with 28 local Leagues participating.

The childcare position underwent Periodic Program Review during 1993-95. Several editing changes that clarify meaning were recommended by the Periodic Program Review Committee and approved by the membership. The reworded position is set forth above. A recommendation by the Periodic Program Review Committee for a substantive addition to the position (support of measures to override local restrictions on the location of childcare facilities, including family day homes) was rejected by the membership. The name was changed by state board vote in October 2009 to Early Childhood to reflect the prevailing title used in the industry.

### History: Childcare/Early Childhood

**1985.** Action to strengthen and expand the state role in childcare programs was taken in support of legislation enabling the Texas Employment Commission to provide public and private employees information and technical assistance regarding childcare. The LWVTX also supported the successful legislation which allows counties to provide childcare services for employees and jurors and to set fees for those programs. Also see Childcare/Early Childhood under State Program.

**1991.** Childcare was a League priority for the 72<sup>nd</sup> Legislature and was a very active issue because of developments at the federal and state levels. The passage of federal block grant legislation during 1990 made significant new funding available to the state for childcare, necessitating substantial policy development and planning by the state. In response, the interim Childcare Task Force of the House Health and Human Services Committee produced comprehensive recommendations addressing policy, planning, quality, and regulation, as well as measures to make childcare affordable and available. The task force recommendations were introduced as a package of bills, most of which the League was able to support. The League worked closely during the session with other childcare advocates through the Childcare Working Group for passage of these bills. Thanks to strong legislative leadership in both the House and Senate and coordinated advocacy, most of the legislation passed.

This legislation included a resolution setting forth a clear position for the State of Texas on the importance of childcare and specific requirements to make childcare affordable and available. Other legislation set guidelines for the implementation of federal and state childcare programs and established an advisory committee to assist in developing policies for the use of state and federal funds for childcare. A League representative was appointed to this committee. Another successful bill related to standards, licensing, and coordination of prekindergarten programs.

Several bills the League supported failed to pass because they required additional state funding. These included bills relating to training of childcare providers and reimbursement of start-up costs incurred by childcare providers, and one mandating a cost-of-care study.

**1993.** Due to fiscal restraints, few new initiatives for children succeeded in the 73<sup>rd</sup> Legislature. Most legislation that did pass was of a regulatory or technical nature. Many health and human services programs were underfunded in the 1994-95 budget. A childcare program that enables low income families to pursue employment or be employed in order to remain off welfare was cut by \$8 million, affecting 6000 children. The federal matching funds were diverted

to serve 4-year-olds in communities that have prekindergarten programs, thereby subverting the intent of the program.

**1994-95.** During the legislative interim, the Texas Board of Regulatory Services adopted stricter minimum standards for childcare facilities. The League lobbied in favor of the new standards, contacting board members to urge their support. Unfortunately, the victory was short-lived. The 74<sup>th</sup> Legislature rolled back key provisions of the new standards, including child/adult ratios, square footage requirements, and group sizes. Prior to future changes to the minimum standards, an independent cost/benefit economic impact study must be completed and sent to the legislature. But implementation of the rolled-back standards was delayed until September 1997. This delay gave advocates for young children, including the League, the opportunity to educate legislators about the components of quality childcare.

**1997.** Early in the session many of the recently strengthened Childcare Minimum Standards were lost to a compromise between childcare advocates and legislators, but a number of positive childcare bills were eventually passed. Childcare professionals and advocates will be able to use an appropriation of \$34.9 million from general revenue funds to qualify for matching federal funds for childcare expenditures being spent, or that can be spent, in their communities. Other bills that passed provide childcare training to local workforce boards, establish pilot programs offering childcare training to welfare recipients, and mandate a childcare representative on local workforce boards. Family home providers are now required to register with the Department of Protective and Regulatory Services, pay annual fees, and obey state regulations. Other legislation provides guarantees for small and medium loans for childcare businesses and nonprofit centers that provide childcare services, establishes the Interagency Council on Early Childhood Intervention, and provides school-based childcare for latch key kids. The League produced an advocacy paper, "Quality Childcare for Texas Children: A Sound Investment in the Future."

**1999.** The LWVTX followed several childcare bills and the following measures were successfully passed. A childcare resource and referral network will be developed to provide a periodically updated listing of childcare providers, including hours of operation and cost, for each county. Professional childcare training scholarships and student loan repayment assistance will be offered to childcare workers. Additional training on shaken baby syndrome, sudden infant death syndrome, and early childhood brain development will be required for childcare providers. The LWVTX supported these bills in order to strengthen the quality or affordability of childcare in Texas.

**2001.** The focus of the LWVTX and other child advocates was on adequate funding to ensure that no children in working poor families are removed from childcare in the next biennium. There was a slight increase in funding for childcare, but it doesn't appear to be sufficient. Only through the reallocation of some unexpended federal Childcare Development Funds was the state's waiting list of approximately 40,000 children as of January 1, 2001, reduced.

**2003.** During the 78<sup>th</sup> Session, quality initiatives for childcare services were reduced through budget cuts. However, legislation passed which requires coordination of early childhood programs and establishes two groups to address the issue of quality early care programs. Even though the need for childcare continues to expand, due to the state budget shortfall, fewer children will receive subsidized childcare in 2004-5. The newly organized Texas Early Childhood Education Coalition, composed of childcare advocates, holds promise for successful future collective action.

**2005.** Two of the childcare bills that the LWVTX supported were signed into law. Approximately 50 early care and education bills were filed this session. SB 23 expands the Texas Early Education Model (TEEM), an integrated model of service delivery of early care and education programs (prekindergarten, childcare, Head Start) to increase full day, full-year quality preschool services. HB 2808 contained an amendment that provided for the appointment of a blue-ribbon commission to study early childhood education and development resource needs, financing options to secure adequate funding, as well as identifying barriers to the integration of preschool delivery systems.



Although the Legislative Budget Board, not a blue-ribbon commission, is designated to conduct the study in HB 2808, it does provide an opportunity for advocates to work with leadership on the Legislative Budget Board during the interim. The Legislative Budget Board will conduct a performance review and develop a report to:

- Study the resource needs of high-quality early childhood care and education programs.
- Recommend options for additional funding.
- Develop a plan to implement in phases, full-day preschool programs for at-risk children and to expand the eligibility for early care and education programs.

Promoting quality initiatives and improving access to preschool programs remain as goals on the unfinished League childcare agenda.

**2007.** Mixed results were accomplished by the 80<sup>th</sup> Legislature with emphasis on state oversight of childcare facilities and staff. Additional funding for residential (foster care) licensing was obtained, but no new funding for day care licensing. Proposed cuts to public prekindergarten programs were also avoided.

SB 50 (Zaffarini), a comprehensive, cooperative and interdisciplinary approach to improve all facets of childcare, prekindergarten and training of early childhood professionals; stalled in the House and did not pass. However funding for many of the provisions in SB 50 was included in the budget: prekindergarten services through the Texas Early Education Model, improve reimbursement rates paid to childcare participants in Texas Rising Star Certification Program, and funding towards creation of regional development partnership projects to improve the recruitment, retention, and quality of professionals working with young children. A portion of the bill that required school districts to report Texas Primary Reading Inventory scores in the school readiness certification system to the State Center for Early Childhood Development was amended onto SB 1871 (Zaffarini) which passed.

SB 758 (Nelson) allows children in the foster care system eligibility for prekindergarten, ensuring that children who have been sexually abused, physically assaulted, and/or neglected have a leg up before kindergarten, and to remain eligible for public prekindergarten after leaving foster care. HB 199 (Madden) addresses the critical first year of a child's life by establishing a residential infant and parenting program for mothers in prison.

The Texas Workforce Commission adopted new background check rules for relatives who are compensated by the state for providing childcare in the home. HB 1385 (Villeareal) created a separate level of regulation for small businesses that offer childcare on their premises for employees. This bill also included exemptions from childcare regulation to some rural private schools and religious education programs.

**2009.** Update of the program title from Childcare to Early Childhood was approved by the LWVTX Board of Directors to help better describe the topics in this area of advocacy. The early education movement in Texas this year has grown to be so strong that its only critics are those who opposed any public investment, no matter how solid the research. Since many bills filed for have to do with early childhood education we also act under the LWVUS position on Early Intervention for Children at Risk, adopted in 1994. See the section on National Program action at the end of this publication for action under this position.

Also SB 572 (Shapiro), "Jacob's Law," mandates 2 hours of annual training hours specifically related to the safe transport of children under the age of nine; SB 1646 (Van de Putte) establishes a Council on Children and Families to identify methods to ensure children and youth receive appropriate assessment, diagnoses, and intervention services; HB 136 (Villarreal) requires school districts to notify parents of prekindergarten eligibility; HB 1240 (Villarreal) requires infant care information to be provided to parents.

Following the legislative session, Texas Childcare Licensing Division initiated a review of the current minimum standards for center-based and home-based day care operations. The review process will further evaluate childcare licensing regulations, addressing expired legislative initiatives, regarding the training provider qualifications and minimum training hour changes for childcare employees/operators facilities.

**2011.** Ten out of 23 bills supported by the LWVTX were signed into law, with eight taking effect September 1, 2011. Legislation focused on safety and staff training, specifically increasing childcare provider training hours, specifying

qualifications for those providing childcare training, and allowing the Texas Rising Star childcare centers to use comptroller purchasing discount programs. Licensed childcare homes will also receive additional fire safety inspections annually by local government, with other safety violations reported directly to childcare licensing. Licensure improvements and government-sponsored databases will provide data indicating childcare providers who meet minimum standards. Those centers meeting higher quality rating systems standards will also be identifiable for the first time from a state website. (See Child Health Insurance Program under Health Care for Those of Lesser Means.)

**2013.** Seventeen of the 44 bills were signed into law with only \$40 million earmarked specifically for supplemental prekindergarten funding. With nearly \$300 million cut from prekindergarten programs during the 82<sup>nd</sup> Legislative Session, successful bills were low fiscal impact and dealt with early childhood program quality, earlier identification of children with disabilities, Early Childhood Intervention caseload growth, and childcare regulation enforcement concentrating on child health and safety of all children.

The advocacy goals since 2005 for quality initiatives and improving access to preschool programs were largely accomplished this session with the success of HB 376 (Strama et al.), SB 50 (Zaffirini) and SB 430 (Nelson). HB 376 prioritized quality components in the Texas Workforce Commission childcare subsidy system with quality programs receiving additional and incremental reimbursement rates. It also provided technical assistance to improve childcare centers, required childcare quality initiatives for local workforce development boards, and created the establishment of an appointed Texas Rising Star Program Review Work Group to continuously improve the quality of education/care for children on Texas Workforce Commission childcare subsidies. HB 376 was the result of a statewide work group collaboration, with the LWVTX participating, spending 4 years to create legislation prioritizing quality care for children on federally-funded Texas Workforce Commission childcare subsidies and resolving the extremely low reimbursement rates providers receive.

SB 50 expanded the composition of the Texas Children's Policy Council adding representation for at-risk and special needs children. SB 430 requires the Department of Family and Protective Services to verify the unavailability of community day care before day-care assistance or services are specified to be provided by foster parents.

The successful Texas Early Childhood Education Coalition consolidated with Texans Care for Children to better serve advocates on priority and crossover issues. Texas early childhood program funding continues to be a concern; local entities are creatively funding pilot projects to gain increased child access to local prekindergarten programs.

**2015.** Only four of 52 filed bills were signed into law this session with three focusing on childcare records/inspection transparency and one on prekindergarten. With prekindergarten identified as one of the governor's emergency legislative issues, HB 4 was earmarked the governor's prekindergarten bill. It passed providing a small bump in funding for public school prekindergarten programs that meet new requirements. It does not include class size limits or other quality provisions, but it takes a first step that future legislatures can build on. HB 4 provides an additional \$130 million via grants for the 2016-17 biennium for high quality prekindergarten programs to currently eligible 4-year-old students without explicitly funding or requiring full-day programs. HB 4 does change the Education Code requiring the Texas Education Agency or school districts to do the following:

- Attempt to maintain a ratio of not less than one teacher or one teacher's aide for each 11 students.
- Prekindergarten teachers are certified teachers and have a Child Development Associates Degree or certain other additional early childhood qualifications.
- The Texas Education Agency Commissioner to develop a prekindergarten teacher training course
- Permit partnerships between school districts and private providers.
- High-quality prekindergarten programs measure the progress of students in meeting recommended learning outcomes.
- Opt into the new high-quality programs to create family engagement plans.
- High-quality programs use a curriculum that meets the Texas Education Agency Prekindergarten Guidelines.
- Report to the Texas Education Agency class sizes, teaching ratios, the type and results of assessments used, and the curriculum used for all district prekindergarten programs.

The Early Childhood Intervention program has experienced growth in the proportion of enrolled children who have more complex needs, such as a medical diagnosis or a delay in multiple areas. Much of this change stems from budget cuts in 2011, which led the Department of Assistive and Rehabilitative Services (DARS) to narrow the eligibility criteria for Early Childhood Intervention and keep children with less acute needs out of the program. The Department of Assistive and Rehabilitative Services requested \$14 million in additional General Revenue for the 2016-17 biennium. The Legislature opted to cut pediatric therapy service rates and partially fund this budget request with \$3.8 million in general revenue funding and \$5.9 million in all funds (a combination of state and federal funding). This funding was estimated to allow the program to provide an average of 2.75 monthly service hours, rather than the 2.78 that the Department of Assistive and Rehabilitative Services hoped to reach by 2016 and the 2.88 it hoped to reach by 2017. This represents a \$2.5 million decrease in all funds from expenditures during the 2014-15 biennium, despite an anticipated increase in the number of children served and hours of service provided. The Early Childhood Intervention program is expected to serve a monthly average of 26,753 children in 2016 and 27,170 in 2017. Another unknown is the state agency consolidation impact of transferring the Department of Assistive and Rehabilitative Services functions to the Health and Human Services Commission.

**2017.** Numerous cross-agency bills were proposed with only three bills overcoming political stalemate: (a) HB 2039 created an early childhood teacher certification to teach students prekindergarten through Grade 3. (b) HB 674 limits out-of-school suspensions for students in grades prekindergarten through 2<sup>nd</sup> grade and permits school districts to implement positive behavior management strategies. (c) HB 357 expands prekindergarten eligibility to include children of seriously injured or fallen first responders.

The legislature cut appropriations for prekindergarten, eliminating the funding for the high-quality 2015 grant program. Instead, legislators passed a budget rider simply directing all school districts to comply with the grant program quality standards using a portion of the Foundation School Program kindergarten entitlement, totaling \$236 million statewide for a high-quality prekindergarten program. Educators recognize the need for high standards, but the enforceability of the rider is in question. The best way to drive improvements is through high standards coupled with additional funding to support additional district investments in quality teachers, full-day options, reduced class size, or other improvements. And legislators failed to improve:

- Transitional Temporary Assistance for Needy Families (TANF) services.
- Nutrition standards in childcare.
- A review of the Texas Workforce Commission subsidized childcare program.
- A staff/child ratio and group size incident reporting of licenses childcare study.
- Licensed before- and after-school programs promoting healthy eating and physical activity.
- A task force to coordinate the multiple agency study of parent engagement/education programs provided.

**2019.** See Early Intervention for Children At Risk. The focus is on child health bills.

## D. Domestic Violence

1985, 1986, 1997, 2008 (See also LWVUS position "Violence Prevention" in *Impact On Issues*)

*The League of Women Voters of Texas supports adequately funded state and local programs that work to eliminate the incidence of domestic violence and to alleviate its effects.*

*The League also supports appropriate penalties for offenders, easy access to protective orders, improved enforcement and administrative procedures for criminal justice professionals who deal with domestic violence, financial compensation to victims, and improved accessibility to services dealing with domestic violence. The League supports state funding for seed money, capital funds, and operating costs for the following:*

- Local and regional residential centers for victims.
- Nonresidential support services.
- Counseling programs for all affected members of the family or household.
- Mandatory treatment and counseling programs for offenders to correct abusive behavior.

- Mandatory specialized training for peace officers, prosecutors, judges and court personnel, and parole and probation officers.
- Expanded training in police academies to deal with domestic violence.
- Public information about domestic violence.

*In order to provide appropriate penalties for domestic violence offenders, the League supports:*

- Enhanced enforcement of present assault statutes and imposition of penalties intended by the law.
- Penalties for injury to any victim of domestic violence equivalent to the penalties for injury to a child or an elderly person.
- Adoption by prosecutors of a "no drop" policy so that a victim's request for dismissal will be denied if charges have already been filed.
- Criminal prosecution of those who violate temporary restraining orders in domestic violence cases.

*The League supports efforts to make it easy for domestic violence victims to obtain protective orders by:*

- Requiring that prosecuting attorneys file all applications for protective orders upon receipt.
- Providing applications and easy-to-follow instructions for filing protective orders without representation by an attorney.

*To enable criminal justice professionals to deal effectively with domestic violence cases, the League supports:*

- Requiring specialized training for police officers, prosecutors, judges and court personnel, and parole and probation officers.
- Establishing crisis or domestic violence teams.
- Mandating arrest without a warrant when there is probable cause.
- Establishing and providing adequate funding for a central Protective Orders Registry. *The League supports mandatory specialized treatment and counseling of abusers to correct their behavior.*

*To work to eliminate the incidence of domestic violence and to make services more accessible to victims, the League supports the use of financial compensation, including payment by abusers for medical and legal expenses, counseling, and living expenses incurred by victims as a result of abuse.*

## Explanation: Domestic Violence

Delegates at Convention 1983 chose domestic violence for statewide study, and members adopted a position regarding domestic violence in 1985. The first domestic violence position called for adequate state and local funding for programs to reduce the incidence of domestic violence and alleviate its effects. Because the League position was limited to support of adequate funding, the LWVTX advocates were unable to act on domestic violence bills that went beyond funding during the 1985 session. To remedy that situation, a second domestic violence study focusing on the legal system was selected by delegates at Convention 1985. The current, expanded domestic violence position statement was adopted in June 1986.

As a result of legislation enacted in 1995, the 1994-97 Periodic Program Review Committee eliminated several provisions dealing with protective orders and added one concerning creation of, and funding for, a central Protective Orders Registry. Convention 2006 recommended that the position should not read "reduce" domestic violence, but "eliminate" it. Revised wording was put forward as an item of concurrence in Program Planning, fall 2007, agreed to unanimously, and adopted by the state board in January 2008.

## History: Domestic Violence

**1987-89.** In the 1987 and 1989 Legislative Sessions, the LWVTX supported successful bills to reduce the cost and improve the accessibility of protective orders to victims of family violence and to tighten their enforcement. In the 1989 Session, League efforts included strong support for a successful omnibus protective order bill and a bill providing for the incremental upgrading of offense classification and punishment for subsequently occurring acts of domestic violence. Funding was secured with passage of Lt. Governor Hobby's Anti-Crime Plan.

**1991-93.** The LWVTX supported its domestic violence position through membership in the Texas Council on Family Violence. An important achievement of the 1993 Session was passage of the so-called "stalking" bill that provides a means for victims to report an individual's harassment before actually experiencing physical injury, thus giving the law enforcement system the ability to protect potential victims of domestic violence.

**1995.** With League support, the 74<sup>th</sup> Session of the Texas Legislature amended the Code of Penal Procedure to create a legal exception to the spousal adverse testimony privilege. The Senate Interim Committee on Domestic Violence had strongly recommended creation of the exception to prevent perpetrators of family violence from hiding behind the shield of "spousal privilege," thus escaping successful prosecution and conviction. Another significant measure enacted during this session created a statewide central registry for protective orders through the Texas Department of Public Safety.

**1997.** A strengthened anti-stalking bill was passed early in the session, followed by several proactive bills to assist survivors of domestic violence. One measure authorizes the Department of Human Services to develop procedures to assist family violence survivors who are welfare recipients, while another bill will use a small increase in court-filing fees to provide basic legal services to the indigent, many of whom are battered women and children. Two bills that would have made it more difficult for women to escape abusive marriages were defeated. A bill that would have authorized the creation and distribution to all public schools of an antiviolence curriculum did not get out of committee.

**1999.** Advocates scored significant victories during the 76<sup>th</sup> Legislature. There were significant increases in appropriations to the Department of Human Services Family Violence Program and to Battering Intervention and Prevention Programs. Legislation passed making it more difficult for batterers to obtain custody and/or visitation of children.

**2001.** The League supported a bill, signed by the governor, which provides that as of September 1, 2001, it is illegal in Texas for those under final protective order for family violence and those convicted of family violence crimes to possess guns.

**2019.** The 86<sup>th</sup> Legislative Session passed several bills which LWVTX supported to assist law enforcement with prosecution of domestic violence and sexual assault cases. The Lavina Masters Act mandates that rape kits must be tested at a lab within 90 days after it receives the evidence. If the evidence has not been tested by a forensic lab, the statute of limitations (the timeframe in which a case must be presented to a Grand Jury) for sexual assault cases is tolled. Rape kits cannot be destroyed by the state for 40 years after receipt or until the statute of limitations runs, whichever is later. And Rachel's Law, allows district attorneys to file continuous family violence charges against an offender if the act takes place in more than one county.

Lawmakers gave law enforcement more tools to investigate domestic violence cases. The passage of S.B. 586 increases mandatory law enforcement training hours regarding sexual assault, child abuse and family violence to ensure that the training includes the use of best practices and trauma-informed techniques to effectively recognize, document, and investigate these types of cases.

Texas will now have a Protective Order Registry. This centralized internet-based registry will track applications for protective orders and protective orders issued in this state. A portion of the registry will also be set up for restricted use by law enforcement to help protect victims of domestic violence. The public will be able to access limited information about issued protective orders at no cost.

Financial abuse—a previously overlooked form of domestic violence--was proactively addressed in this session. Two bills that LWVTX supported through testimony and Action Alerts will now be law. S.B. 234 gives victims of family violence a right to vacate and avoid residential lease liability while S.B. 2697 is the first law to address coercive debt, providing a legal remedy for persons victimized by financial crimes (identity theft, credit card fraud, etc.).

**2021.** The high note on the domestic violence issue during the 87th legislative session was an increase in funding for services to assist survivors of domestic violence. These funds will help reduce capacity in shelters and provide more options for legal assistance and housing. On the legal front, survivors did not see transformative victories in this session. Although women and their protection were major talking points for legislation regarding guns, few bills actually passed to help survivors.

One bill that did pass is SB 798. LWVTX supported this bill which was signed by the Governor and will take effect September 1, 2021. Now survivors of domestic violence and dating violence as well as children of a survivor can obtain a certified copy of a birth certificate and state-issued ID at no cost. While this new law seems minor, it will have a positive impact on survivors who are often handicapped by limited financial resources. Identification is crucial for survivors of domestic violence to start their new lives outside of shelters.

LWVTX continues to support all efforts to prevent domestic abuse in dating relationships from legally obtaining firearms (the “Boyfriend Loophole”). Although assigned committees, both SB 283 and HB 210 (identical bills) were never scheduled for public hearing.

This legislative session unfortunately denied the opportunity through HCR 59 for a joint interim study regarding domestic violence. The resolution supported by LWVTX outlined the effects of domestic violence on adults in all areas of their lives as well as the damage caused to children who are directly victimized or witness domestic violence. HCR 59 was considered in public hearing but left pending in committee.

## E. Equal Opportunity/Income Assistance

1970, 1995, 2020 (See also Equality of Opportunity under National Program.)

*The League of Women Voters of Texas supports legislation and administrative action to achieve equal rights for all persons, regardless of their race, color, gender, gender identity, gender expression, religion, national origin, age, sexual orientation, veteran and military status, familial status, or disability, to combat discrimination and poverty, and to provide equal access to housing, employment, and quality education in Texas.*

*Specific measures that we support include:*

- Access for all persons to free public education that provides equal opportunity for all.
- Removal of the ceiling on income assistance (welfare) spending from the state constitution.
- Provision by the state of supportive services, such as health care, childcare, family planning, legal aid, and job training for income assistance (welfare) recipients.
- An effective human relations commission for Texas that includes such features as:
  - Permanent independent status.
  - Investigative and legal enforcement powers that go beyond the conciliation process.
  - An adequate budget funded independently of the governor’s office.
  - Equitable representation of racial, religious, and ethnic groups.
  - An adequately sized staff trained in human relations work.

### Explanation: Equal Opportunity/Income Assistance

In the fall of 1970, local Leagues in Texas studied income assistance under a national program item, with the state League adding two consensus questions to the list of national consensus questions. The basis for action at the state level was thus increased by the resulting positions on state income assistance and state supportive services.

League members have supported establishment of a human relations commission for many years and, in 1970, identified those elements that comprise an effective commission. League members believe that such a commission should publicize its existence and help communities form their own commissions. Other programs which members support include these: enforcement of fair housing laws, enforcement of minimum building codes, expansion of vocational education opportunities, expansion of counseling services, and combating discrimination in employment. The legislature created the Texas Human Rights Commission in 1983. However, this commission currently addresses only employment discrimination, not the other program needs identified in our position.

This position underwent Periodic Program Review in the 1993-95 biennium. Several wording changes that update the statement to reflect changed policies and circumstances were suggested by the Periodic Program Review Committee and approved by delegates at Convention 1995. The updated position is printed above.

Our position was amended by delegates to Convention 2020 to enlarge and explain the definition of those who deserve equal rights in Texas. Wording from the LWVUS position was used as a guide.

## History: Equal Opportunity/Income Assistance

**1980s.** The League has been very active in the support of adequate benefit levels for the Texas Aid to Families with Dependent Children (AFDC) program, described previously in the state program section on Equal Opportunity/Income Assistance.

**1983.** The League opposed state workfare legislation that would have required work for Aid to Families with Dependent Children adult recipients. The proposed bills did not clearly define nor fund training, education, work opportunities, or essential support services such as childcare, medical care, or transportation for participants.

**1987.** The state League testified that state funding for the administration of the Texas Food Stamp Program was inadequate to serve those persons eligible for food stamps and that federal and state requirements for the processing and issuing of food stamps were not being met in many areas of the state. In subsequent sessions, the LWVTX has worked with the People First! Coalition to increase state funding for human service programs mandated by the federal government.

1971-87. During this period, the League focused on the removal of Texas constitutional limits on state spending for income assistance and on raising Aid to Families with Dependent Children (AFDC) benefits. Because attempts to remove the ceiling on income assistance benefits were repeatedly defeated, the League supported the politically feasible action of raising the constitutional ceiling. There was both legislative and public support for a ceiling of 1% of the annual state budget, and the 1982 ballot measure designating that ceiling was approved by the voters. Raising AFDC grants remained a legislative priority in 1985 as the League lobbied for a benefit of \$60 or more per AFDC recipient. The AFDC benefit was raised from \$53 to \$57 per month for the 1985-87 biennium.

**1985.** During the 1985 Texas Legislative Session, the LWVTX lobbied in support of measures that would have established state studies in the area of comparable worth and pay equity as a means of eliminating sex-based wage discrimination and alleviating the growing feminization of poverty. The League lobbied for an interim legislative study of affordable housing in Texas and supported legislation which would allow the Texas Department of Human Services to collect information on teenage pregnancy in Texas and to serve as a clearinghouse for such data.

**1987-93.** The state fiscal crisis and the major threat of budget cuts caused the League and other human services advocates to work in the 70<sup>th</sup> Legislature to maintain the level of services in the 1987-89 biennium rather than lobbying for much needed increases. The LWVTX joined the statewide coalition People First! that successfully urged the legislature to address the basic needs of people first in state budget priorities, and that supported state revenue restructure and enhancement to provide adequate funding for essential state services. In the 1989, 1991, and 1993 Sessions the League again worked with People First! to maintain funding levels.

**1995.** A bill restructuring welfare in Texas was signed into law. Some of its provisions include: a needs assessment must be done for all Aid to Families with Dependent Children (AFDC) recipients; support services such as education, child care, and transportation assistance will be provided subject to availability of funds; a recipient must be a U.S. citizen or legal immigrant and a citizen of the state; and a recipient must sign a responsibility agreement that includes cooperating in efforts to check the child's paternity, taking the child for regular checkups and immunizations, and education/work agreements among other commitments.

**1999.** Legislative activity continued to deal with welfare reform in Texas. The LWVTX actively lobbied to protect support services to Texans receiving Temporary Aid for Needy Families (TANF). Some successes were legislation that allows (a) TANF recipients to keep more of their earned income, (b) removes barriers to finding and keeping jobs, and (c) funds additional child care for low-income families. A success was preventing the monthly TANF benefit from being reduced; it will remain at 17% of the federal poverty level.

**2001.** The League goal during this legislative session was to support bills that would remove many of the barriers in the present system for Temporary Assistance for Needy Families and obtaining food stamps. Results were mixed. Successful legislation will provide hardship exceptions for Temporary Assistance for Needy Families time limits,

phone application and recertification for food stamps, a required interagency plan for coordinated services for hard-to-employ clients, and aid for distribution of fresh produce from farmers to food banks. The governor vetoed bills that would have extended transitional services for certain Temporary Assistance for Needy Families clients and another that would have eased work requirements for certain clients. We have expressed concern that the current budgetary practice of using Temporary Assistance for Needy Families funds for other state needs will continue to put pressure on the program designed to effectively meet the needs of needy families, especially in welfare-to-work services.

**2002-03.** During the interim between the 77<sup>th</sup> and 78<sup>th</sup> Legislature, the Sunset Advisory Commission reviewed the operations of the Texas Workforce Commission, that was established in 1995 during welfare restructuring to merge all employment and training programs into a single, locally-controlled workforce system. The Sunset Commission made several recommendations to make the Texas Workforce Commission more accountable. The LWVTX submitted comments on particular recommendations, stating that the Texas Workforce Commission would benefit from more input from the public, local workforce boards, and childcare experts before formulating policies to be carried out by local workforce boards. The general intent of accountability and additional input for the Texas Workforce Commission was adopted in the final legislation.

Budget cuts were the name of the game in the legislative session. The number of families eligible for Temporary Aid to Needy Families will be reduced by lowering the asset test, lowering the vehicle value limit, and enforcing full termination of assistance to a family for any infraction of the Personal Responsibility Agreement. Budget priorities indicated that lawmakers were more interested in reducing numbers of recipients, rather than removing barriers to employment.

**2005.** Priority: Support for work development programs, including training for living wage jobs. Unfortunately, no legislation was passed out of committee to improve training for higher wage jobs. The Skills Development Fund, the Texas Workforce training program, was actually cut by nearly 60%. Funds were shifted to the Texas Enterprise Fund, a program to give incentives to businesses moving to Texas.

**2017.** Though equal opportunity wasn't a primary focus of the LWVTX this session, the rest of the nation was watching closely to see what would happen in regard to "lavatory" legislation and all the bathroom bills that had been filed. It's a mixed bag of the good, the bad, and the ugly.

**The good:** A record-setting 40 pro-lesbian-gay-bisexual-transgender-queer (LGBTQ) bills were filed by legislators this session. Even better: Three of them were actually voted out of committee but died in Calendar Committee.

- HB 1848: Although marriage equality is legal in the U.S., it is still technically illegal to engage in homosexual conduct in Texas. HB 1848 sought to repeal that.
- HB 225: Would have ensured that LGBTQ Texans were not discriminated against in employment.
- HB 192: Nondiscrimination for LGBTQ Texans in housing.
- Still, it is historic insofar as Texas has never passed a pro-LGBTQ bill this far in the process.

**The bad:** Twenty-four anti-LGBTQ bills were filed this session, more than any state legislature in the history of the U.S. Twenty-three of them either died or failed. But one (HB 3859) was signed into law by Governor Abbott.

HB 3859 allows child welfare agencies to discriminate against follow Texans based on "sincerely held religious beliefs." This hurts our foster care system because gay couples could be denied the ability to adopt a child. Gay or transgender children could be denied important child welfare services due to their sexual orientation or gender identity. Children who have been victims of sexual assault may also be denied emergency contraception, all in the name of religious refusal. Supporters of the bill claimed that any person who is denied services by a religious organization could still be served by a state agency, but the bill lays out no clear direction in how to track who is being left behind and what their status is. And considering that LGBTQ youth experience abuse and homelessness at disproportionately higher rates than their straight or cisgender peers, the LWVTX is extremely concerned about their access to safe and supportive care.



**Special session.** We helped defeat five attempts in the special session that would have explicitly discriminated against LGBTQ Texans. Knowing that Governor Abbott made privacy (code for transgender bathroom bills) one of his legislative priorities during the special session made it that much more difficult to defeat, but together we *did* defeat all five bills: SB 3, SB 6, SB 91, HB 46, and HB 1362, plus an unsuccessful last ditch effort by some legislators to add bathroom language to HB 21, a school finance bill.

**2019.** Our major activity this session began with our opposition to SB 15 (Creighton). This bill would prohibit cities and counties from requiring certain benefits and protections for employees. This relates to any form of employment leave (such as paid sick leave), hiring practices, employment benefits or other terms of employment. This bill would also gut non-discrimination ordinances that now protect more than six million Texans in most major Texas cities. Currently Austin, Dallas, El Paso, Ft. Worth, Plano, and San Antonio have municipal non-discrimination ordinances, and several other cities and counties have such policies for city workers and contractors. We issued an Action Alert (245 responses) and testified against the bill and the bill died in the Senate.

Then the author resubmitted it as four bills, SB 2485, 2486, 2487, and 2488, hoping parts of the bill would pass. Again we issued an Action Alert, "Fight Anti-Local Control Bills," and got 491 responses. All four bills passed the Senate but died in House Calendars.

The other bill we fought was SB 17, the "License to Discriminate" bill (Bettencourt), which said a holder of a state professional license could deny services on the basis of "sincerely held religious beliefs (except medical professionals). We testified against it and issued an Action Alert which got 245 responses. The bill passed the Senate but died without a hearing in House State Affairs.

**2021.** During the regular session of the 87<sup>th</sup> Legislature we put out four Action Alerts to stop harmful bills. The first was to support Rep. Wu's concurrent resolution to stop Asian-American hate crimes, and resulted in 808 emails to legislators.

Then came the big issue of the session: several bills which targeted transgender youth. We asked members to oppose SB 29, which would prohibit them from participating in UIL sports. This bill passed the Senate, but did not receive a vote in the House. It produced 1542 emails. Then it got worse: HB 1399 would prohibit a physician from prescribing any drugs or hormones to a transgender child, and prohibit the physician from carrying liability insurance for these procedures, and SB 1646 would classify their parents as child abusers. Both bills were stopped in the House Calendars committee after 19,346 emails were received from our Action Alert.

Four more discriminatory Senate bills nearly reached the House floor but were also stopped in Calendars in May: SB 29, 1311, 1646, and 247. These would have classified transgender health care as child abuse, revoke the medical license of any doctor who performed transgender care, and allow any lawyer to refuse service to anyone without losing their license. Our Action Alert resulted in 23,565 emails and stopped the bills from reaching the House floor.

But the fight was not over. In the 1<sup>st</sup> and 2<sup>nd</sup> Special Sessions, at least seven more bills were filed. We reactivated our Action Alert against SB 3 and 27, and HB 10, 24, 25, and 84, and testified twice on SB 2 and HB 25. In the 3<sup>rd</sup> Special Session SB 2 passed, prohibiting transgender youth from participating in UIL sports. The law took effect January 18, 2022.

## F. Health Care for Those of Lesser Means/Child Health Care

1986, 1995, 2009, 2010 (See also LWVUS position "Health Care" in *Impact On Issues*)

*The League of Women Voters of Texas supports a basic level of health care for the medically indigent.*

The League believes that all persons whose incomes fall below the federal poverty guidelines are most at risk of medical indigence and should be eligible for basic health care services. Special attention should be given to children of low-income families and to persons of low income who are elderly, pregnant, or mentally ill.

It is the responsibility of individuals to pay for their own health care to the best of their ability. For those unable to pay, health care services and programs for the medically indigent are the responsibility of various levels of government.

The League of Women Voters of Texas believes the following services constitute the basic level of health care for the medically indigent:

- Maternal and child care
- Emergency care
- Primary care
- Preventive care
- Care for the mentally ill
- Care for catastrophic illness
- Nutrition
- Substance abuse treatment
- Health education
- Long-term care
- Care for persons with disabilities

The League believes that all health care facilities, both public and private, have a responsibility to serve the medically indigent and should be accessible to those in need.

To improve health outcomes in the state of Texas, the League of Women Voters of Texas believes that Medicaid expansion, as permitted under the Affordable Care Act of 2010, should be approved and implemented by the state of Texas.

### Explanation: Health Care for Those of Lesser Means/Child Health Care

League delegates to Convention 1985 adopted a study of Health Care for the Medically Indigent, which focused on eligibility, providers, funding, services, alternatives, and the role of state government. The LWVUS health care position, adopted in 1993, also calls for a basic level of quality health care that is affordable to all residents. (For more information on the LWVUS Health Care position and on relevant LWVTX advocacy efforts, see Social Policy section of National Program at the end of this publication.

The Health Care for the Medically Indigent position was reviewed during the 1993-95 Periodic Program Review process. The Periodic Program Review Committee recommended an editorial change and a substantive change in wording; the recommended substantive change was deletion of a phrase that listed several government levels as being responsible for indigent health care services. The committee rationale was that the listing was not all-inclusive and that the phrase, "various levels of government," without specifying which levels, would give Leagues more options for local advocacy efforts. The Periodic Program Review Committee recommendations were approved, and the updated position is printed above.

This position was amended to add a statement supporting Medicaid expansion in Texas, and was passed unanimously by delegates to LWVTX Convention 2020.

**See also Early Intervention for Children At Risk (LWVUS positions)**

### History: Health Care for Those of Lesser Means/Child Health Care

**1980s.** During the 70<sup>th</sup> Legislature, a budget crisis meant no additional funding for health care programs. The League supported continuation of current levels of state funding passed in 1985.

**1988-89.** Two active interim committees examined the expansion of Medicaid and alternative funding methods for health care. In July 1988, the board of the Texas Department of Human Services approved expansion of Medicaid coverage to pregnant women and to children up to age 2 years who are eligible. Important gains for expansion of Medicaid were realized during the 71<sup>st</sup> Legislature in 1989. Because Medicaid for pregnant women was no longer tied to Aid for Dependent Children (AFDC) guidelines, up to 22,000 pregnant women and 50,000 more children became eligible for health care benefits under Medicaid. Income eligibility for this special population was set at 130% of the federal poverty guideline. The income eligibility cap for nursing home care was raised to the maximum

federal level, allowing Medicaid benefits that increase access to care for a greater number of elderly, disabled persons.

**1990-92.** The League monitored the Governor's Health Care Policy Task Force and presented written testimony in support of major portions of the draft recommendations. The final report was released in January 1993, calling for universal access to health care and, as a first step toward that goal, creation of health care coverage for all children and pregnant women.

**1993.** In 1993, following adoption of the LWVUS position, health care was selected as a priority issue for the 73<sup>rd</sup> Legislative Session. An advocacy paper, "Health Care in Texas: Condition: Critical; Rx: Major Surgery," was written and distributed to all House and Senate members and to local Leagues throughout the state. According to the advocacy paper, the goals for the LWVTX in the session were to establish a health care system that covered all pregnant women, create an immunization program that pays for vaccine for all children whose families cannot afford this care, and to reform health insurance by making it available to everyone at a reasonable cost; thus creating a uniform, mandatory package of basic health care benefits, and eliminating deductibles and copayments for a variety of preventive health screenings.

League testimony was delivered in both houses supporting the creation of an immunization program that met our established goal. Several variations of the bill were filed and ultimately combined. In cooperation with other organizations, the League worked successfully behind the scenes to remove language from the bill that was onerous and punitive to poor children and their families. The bill was signed into law at a ceremony attended by League representatives.

The League also worked in support of a bill that passed addressing small employer access to health insurance by increasing the availability of insurance to employers of 3 to 50 people. While the measure calls for voluntary employer participation, several factors may encourage small employers to join the system. The law allows for the creation of purchasing cooperatives, establishes the nonprofit Texas Health Benefits Purchasing Cooperative, requires insurers to use a modified community rating rather than an experience rating system, and stipulates a basic package of health care services that must be offered to employers who select the plan. Insurance carriers electing to offer the benefit plans set forth in the legislation must agree to accept all employers regardless of prior claim experience and to renew the employer's health benefit plan.

The League supported successful legislation aimed at expanding health services in medically underserved areas. Support was also given to measures that failed, including creation of a cost containment council and limitations on a physician's ability to refer patients to a facility in which the physician or a family member has a significant ownership interest.

**1995.** The LWVTX published an advocacy paper, "Medicaid Reform: To Solve a Crisis," which was circulated to legislators and other interested officials, groups, and individuals. The paper called for implementation of the following cost-saving steps to ensure the availability of health services for the indigent: streamlining of administrative processes, emphasis on preventative and primary care, expansion of managed care options for Medicaid recipients, and creation of incentives for expansion of community services by public and private providers.

The 74<sup>th</sup> Legislature enacted legislation that dramatically alters how the state delivers and funds medical care to the indigent. In effect, the Medicaid program has been converted into a managed health care system that places new emphasis on prevention. The legislation also mandates pooling local and state health care monies used to provide indigent health care in order to maximize access to federal matching funds.

**1997.** Five League-supported bills on health care were signed into law. The Texas Healthy Kids Corporation will provide low-cost health insurance for children of parents who cannot afford insurance but make too much money to qualify for Medicaid. Another bill directs the Texas Department of Health to provide rules for lead abatement, a serious health hazard faced disproportionately by children in the lower socioeconomic level, while an omnibus nursing home act established procedures and penalties for noncompliance of existing laws and regulations.

Legislation was enacted requiring health plans that provide maternity benefits to also include coverage of inpatient care for a mother and her newborn in a health care facility for a minimum of 48 hours, and, consistent with the League position on Medicaid reform, a new law provides increased penalties for Medicaid fraud.

**1997-99.** In the fall of 1997, following passage of enabling federal legislation, The LWVTX became actively involved in a coalition of child health advocacy groups calling for a Children's Health Insurance Program for Texas. Throughout the legislative interim, the coalition, including LWVTX representatives, worked with agency staff to help shape the legislation that was ultimately introduced. Named one of the priority issues for the LWVTX, the Children's Health Insurance Program received grassroots advocacy from local Leagues, including travel to the capitol for the Children's Health Insurance Program Advocacy Day. We achieved passage of all our goals: a health insurance plan that will provide primary and preventive care to low-income, uninsured children who are not eligible for Medicaid. The plan will maximize the use of federal matching dollars, provide family-friendly enrollment, provide appropriate benefits for children, and support working parents.

In addition to the Children's Health Insurance Program, health care in general was an active issue for the LWVTX. Nine League-supported bills on health care became effective September 1, 1999. School districts may establish school-based student health centers. Legislation was enacted that sets forth the standards and procedures for the delivery of indigent health care. Another bill provides for state assistance to counties that spend at least 10% of county general revenue to provide health care services to residents through a hospital. Permanent funds were established for certain public health items. The elderly should benefit from a bill that provides for required immunizations for nursing home residents. Consistent with the League position on Medicaid reform and cost containment, a bill streamlines the administration and delivery of federally funded Medicaid programs supporting long-term care, while another stipulates that contracts must be in effect for insurers to reimburse providers. Legislation directs state agencies to study and make strategic plans concerning the delivery of long-term care and other health services. While female genital mutilation was prohibited, the 75<sup>th</sup> Legislature did not add the budget line item for women's health for which the League had actively lobbied. The Campaign for Women's Health will regroup during the interim and work for a more favorable outcome in 2001.

**2001.** During the 77<sup>th</sup> session the LWVTX continued its active participation in the Children's Health Insurance Program coalition working towards simplification of the Medicaid application and recertification procedures to become comparable to those of the Children's Health Insurance Program. We were largely successful in obtaining more simplified forms and processes, phased-in continuous eligibility, age 6 to 19 years, by 2002, and 1-year continuous eligibility no later than June 2003. We were unable to obtain elimination of the assets test for Medicaid, although the extensive documentation formerly required has been dropped. In addition, the governor signed a bill requiring a pilot study and, if successful, a pilot project to allow portability of Medicaid benefits for migrant children. The governor vetoed a bill that would have allowed Texas to exercise its option under federal law to provide Medicaid benefits to otherwise-eligible legal immigrants after they have been in the U.S. for 5 years. It is not clear that there is adequate funding for either Medicaid or the Children's Health Insurance Program. Since Medicaid is an entitlement program, the legislature must fund any shortfalls. However, Children's Health Insurance Program is not an entitlement program and is already exploring options for restricting or reducing services if a budgetary shortfall materializes.

The League was also active in the area of women's health care. Medicaid can now cover uninsured women under the age of 65 who have breast cancer. However, the governor vetoed a bill for a Medicaid waiver for women's health and family planning. The waiver would have saved the state \$300 million over the next 4 years and provided family planning services and preventive health care to an additional one million uninsured Texas women. The legislature did not pass legislation that would have allowed application for a Medicaid waiver to provide for comprehensive health care for women.

**2003.** During the 78<sup>th</sup> Session the Medicaid Waiver failed again. A bill, which would have called for the state to apply for the Medicaid Waiver for Women's Health, was heard in House Human Services Committee and died in committee. The bill would have established a demonstration project through the application of an 1115 Medicaid

Waiver to expand women's health care services for women 18 years and older with an income at or below 185% of the federal poverty level. During the appropriations process prenatal health care services were also reduced.

**2007.** Due to lots of hard work by members of the Children's Health Insurance Program coalition and by a number of committed legislators, HB 109 passed, restoring much of what had been lost in 2003. The bill is to be fully implemented by September 1, 2008. About the law:

- Section 1: Allows deduction of certain childcare expenses when determining if a family's income qualifies for the Children's Health Insurance Program.
- Section 2: Restores language from the original Children's Health Insurance Program law requiring a community-based outreach program, including contracts with community-based organizations.
- Section 3: Increases the asset limit authorized in 2003 for children and families at 150% to 200% of the federal poverty level from \$5,000 to \$10,000.
- Section 4: Requires that the Children's Health Insurance Program use some method to verify the reported incomes of Children's Health Insurance Program applicants.
- Section 5: Provided an eligibility period of 12 months for children in families with incomes at or below 185% of the federal poverty level. Children in families at 185% of the federal poverty level are to have their income reviewed every 6 months. The Department of Health and Human Services must notify parents at least 30 days prior to ending coverage if a child is found ineligible due to income reviews under one of the 6 month reviews.
- Section 6: The 90-day delay in coverage is eliminated to allow for uninsured children to be eligible for the Children's Health Insurance Program.

**2009.** The Community Based Alternatives program received additional \$15 million (\$3.7 million for FY 2010, \$11.3 million for FY 2011) to fund an additional 430 slots by the end of FY 2010, and 861 slots by the end of FY 2011. In addition, \$58.5 million all funds (\$28.8 million for FY 2010, \$29.7 for FY 2011) was appropriated to fund an \$.80 per hour wage increase for attendants as a result of the July 2009 minimum wage increase. Also, the reimbursement rate for nursing homes was increased by 3%.

The Legislature wants the state to promote the importance of having health insurance and educate the public on purchasing and the availability of health insurance. They directed the Health and Human Services Commission to cost effectively process claims for all health care services by the same system. Also, they outlined streamlining initiatives in applying for Medicaid waiver programs and called for long-term care consumer information to be provided on the Internet.

**2011. Children's Health Insurance Program.** Much of the legislation impacting health care for the children of Texas was contained within the budget and a massive health efficiency bill. These measures changed and expanded multiple times during the regular and special sessions. The bill, as finally passed and signed, included beneficial provisions that could undermine the wellbeing of those qualifying for either Children's Medicaid or the Children's Health Insurance Program.

Budget discussions focused on proposed provider rate cuts of 10% to those delivering health care to Medicaid and Children's Health Insurance Program patients, in spite of Texas' already low reimbursement rates and recent cuts. In the end, payments to children's hospitals and primary care physicians treating children were spared the large cuts made to other hospitals and providers.

Multiple proposals targeting greater health care efficiency evolved into SB 7 (Nelson), which passed during the special session. On the positive side, SB 7 included strategies for improved quality of care provided to Children's Health Insurance Program and Medicaid recipients. It also called for shifting from the traditional system of payment for services to payment rewarding better health outcomes. Negatively, the final bill carried provisions designed to give the State of Texas more control over health care programs. A health care compact, if ultimately approved by the U.S. Congress, would turn all federal health funding coming to Texas for Medicaid and the Children's Health Insurance Program, as well as Medicare and other programs, into a single large block grant to the state. A waiver of federal law would radically restructure Medicaid in the state. If either the block grant or the waiver were to take

effect, children and other vulnerable populations would lose much in the way of protection currently guaranteed under federal law.

Most individual bills designed to either improve or restrict Children's Medicaid and the Children's Health Insurance Program died in the regular session. Unfortunately, an attempt to extend Children's Medicaid eligibility to a 12-month continuous period, thus allowing many qualified children to retain access to health insurance, made little headway.

**Other issues.** With a \$27 billion shortfall, Medicaid and education were big targets for cuts in the 82<sup>nd</sup> Legislative Session. Maintaining existing reimbursement rates was a priority for many groups, including the League. Because of strong advocacy, Medicaid reimbursement rates for nursing homes and community based alternative care were maintained at 2010 rates. Hospice got a 2% cut. Everyone on a Medicaid waiver got his or her funding cut 10%. Direct health care will not be cut as it is deemed nonnegotiable. Negotiable expenses such as home modifications will make up the 10%. Providers got cuts in administration costs.

During the special session, "secession legislation" passed seeking a health care compact, a partnership with other states to take control of Medicaid and Medicare, and legislation asking the Obama administration for a waiver to operate Medicaid as Texas sees fit. Both are unlikely to happen under the Obama administration. Legislation passed to protect patient advocacy activities by nurses and certain other persons, providing an administrative penalty for denying right to advocate.

**2013.** The most significant health care considerations for the 83<sup>rd</sup> Legislature were related to implementation of the Patient Protection and Affordable Care Act. Other measures concerning Children's Medicaid and Children's Health Insurance Program were focused mainly in three areas: expansion, efficiency, and funding.

Legislators filed only a few bills designed to expand access to publicly funded insurance for deserving children. Proposed measures called for opening the Children's Health Insurance Program to families with somewhat greater assets or increasing the time to a full year before families must reapply for Children's Medicaid. Expansion efforts all died without consideration by the full legislative body.

Massive bills intended to make health care delivery more efficient did become law. Some features of the bills could ultimately benefit children, such as extending managed care to a wider range of medical situations and providing incentives for quality care. Other features could have a negative impact, such as limitations on the criteria for expanding Medicaid eligibility.

Lawmakers rectified some of the deliberate underfunding of Medicaid and the Children's Health Insurance Program from the previous session just in time to meet current needs. The budget for 2014-15 provided for an 11% increase in the number of children in Medicaid, but it projected a drop in the number of children in the Children's Health Insurance Program due to Affordable Care Act implementation. When adjusted for inflation and population growth, overall health-related funding (including immunizations, Children with Special Health Care Needs, education on tobacco and abstinence, and a number of other programs, in addition to Children's Medicaid and the Children's Health Insurance Program, saw a per-child decrease.

**2015.** The most significant health care issue, Medicaid expansion, was completely ignored by the 84<sup>th</sup> Legislature. There was no consideration or deliberation on any Medicaid expansion laws in Texas.

The Appropriations Committee did have one meeting to consider the possible loss of the federal 1115 Waiver money. No actions were taken. The cost of uncompensated care in Texas is partially paid for by the Affordable Care Act 1115 Waiver. The 1115 Waiver was meant to be a temporary solution to uncompensated care while the Affordable Care Act was ramping up. Now the federal Center for Medicare and Medicaid Services is threatening to cut the 1115 waiver to encourage Texas to participate fully in the Affordable Care Act and allow more citizens access to health insurance.

Meanwhile the Children's Health Insurance Program continues to be an available insurance program for Texas. With the Affordable Care Act more children qualified for Medicaid. Rider 50 to the Texas budget was added at the last minute. The rider removed \$350 million for therapy services for children with special health care needs.

**2019.** We have been following several important bills which could have improved access to health care services for women and children in Texas. Unfortunately, despite vigorous advocacy by individuals and organizations committed to maternal and child health, only one of these bills passed and was signed by the Governor.

Efforts were made this session to expand Medicaid coverage in Texas under the Affordable Care Act. This would have required an amendment to the Texas Constitution as well as enabling legislation. The House failed to pass the bill providing for the constitutional amendment, and the Senate failed to take up the issue.

**Medicaid Medical Transportation (HB 25):** This bill authorizes a pilot program to allow medical transportation program services to a child if the child is younger than 13 years of age and if the child's mother is: a recipient of Medicaid during a pregnancy; using medical transportation program services to travel to and from a covered health care service related to the pregnancy, including postpartum care; regardless of whether the child is also a recipient of Medicaid. Without this bill, a mother may not be able to take her newborn baby with her when she goes for post-partum care. Although this may seem like a small improvement, it would enable a mother to receive essential care to maintain her own health, and the mother's health is key to the well-being of the child. This bill was passed by both the House and Senate and was signed by Governor Abbott.

**Bills Which Did Not Pass:** The Texas Senate failed to take up the maternal health coverage bill (HB 744), which would have addressed the high maternal mortality rate in Texas by extending Medicaid coverage for pregnant women to 12 months post-partum. The Texas Senate also let the provisions of the Child Health Coverage bill (HB 342) die; these provisions were included as an amendment to SB 1105 and would have reduced the onerous administrative paperwork that is now required to keep a child on Medicaid for 12 months. A bill to provide contraception with parental consent for CHIP recipients (HB 800) and a bill to prevent insurance plans from switching enrollees off medications that are working (HB 2099) also died in Senate committees. Finally, the Texas House voted down an amendment to implement Medicaid expansion, and the Texas Senate did not discuss the issue.

Yes, this has been a disappointing year for children and pregnant women in Texas who need access to health care services. The legislative session is over, but the problem has not gone away. In the coming months, we will be watching for opportunities to improve access and care by other means. We will also be looking to 2021, our next opportunity to improve child health by legislative action.

**2021.** For action on Medicaid expansion in Texas, see report under Early Intervention for Children at Risk (LWVUS).

## G. Health Care System for Older Texans

2001

*The League of Women Voters of Texas supports a comprehensive health care system for older Texans that ensures a seamless continuum of quality care.*

Access to health care should include:

- Statewide and local information and referral networks which provide clear, correct, and consistent information about publicly funded health care programs and eligibility requirements.
- Development of programs to provide adequate and affordable transportation for clients and health care providers.

Health care for older adults should include:

- Integration of health care services, including developing an individual health care plan and providing a continuum of services, such as health care screening, prevention services, acute care, long-term care, and hospice care.
- A variety of long-term care services and alternative housing options in sufficient quantities to provide the level of care appropriate for each individual.
- Options that include home and community-based services, in addition to institutional care.

- Programs that address limitations to access in rural and other medically underserved areas for dentistry, hearing and vision services, mental health services, and long-term care.
- Innovative programs that use waivers and blending of funds to customize services to fit individual and community needs.
- Access to prescription drugs which is not limited by the ability of an individual to pay for them.

Actions to achieve high quality health care should include:

- Adoption and strict enforcement of high standards for all long-term care services for older Texans.
- Programs to improve the training, pay, benefits, and retention of personnel engaged in planning, regulation, and delivery of care.
- Policies that promote training in geriatrics at all levels of medical and nursing education
- Coordination of benefits from Medicare, Medicaid, and other publicly funded programs in order to serve individuals who are eligible for more than one program.
- Sufficient funding to support comprehensive, high quality health care for older adults.

### Explanation: Health Care System for Older Texans

Reflecting a widespread interest in issues surrounding health care, delegates to Convention 1999 approved the Continuum of Health Care for Older Adults study. Focused on health care options for older adults, the study examined existing laws and regulations relating to health care for older adults, a wide range of health care options for indigent and non indigent older adults at varying states in their lives, and accessibility to available health care options including the financial implications of these options. A study committee produced *Facts & Issues: A Continuum of Care: Health Issues for Older Adult* (2000), which was distributed to League members, public officials and agencies, and other interested groups and individuals. Consensus was reached in the fall of 2000, and the state board approved the new position in November of that year.

### History: Health Care System for Older Texans

**2001.** The League followed a large number of bills related to long-term care, nursing homes, and related areas. Many of the bills passed and indicate that Texas is taking health care more seriously than in the past. Bills related to pharmaceuticals will allow more information about pharmaceutical assistance programs, bulk purchasing of prescription drugs, and a state prescription program for certain Medicare beneficiaries. Other bills would allow for dental services to some recipients of medical assistance, require health maintenance organizations to provide periodic health evaluations, establish a medical assistance buy-in pilot program for certain people with disabilities, and establish a program of all-inclusive care for the elderly. Other bills that passed will improve case management for Medicaid recipients and improve services through telemedicine.

Other bills that passed will improve health care in rural areas, further protect nursing home residents, and provide an opportunity for nursing homes to purchase liability insurance from the Texas Liability Insurance Underwriting Association as well as allowing the state to make grants to nursing homes that demonstrate best practices. A temporary measure to rescue nursing homes as a result of the current crisis in liability insurance also passed. This law includes means to insure quality of care with an early warning and amelioration process and a quality assurance fee (or bed tax) for nursing homes in order to increase nursing home reimbursement rates.

**2003.** The 78<sup>th</sup> Legislative Session was faced with a budget crisis that resulted in decreased funding of health care for the elderly and disabled. Community care programs were reduced. Medical services for the elderly on Medicaid will no longer cover counseling, podiatric and chiropractor care, eyeglasses, hearing aids, and other optional benefits. The personal needs allowance for those on nursing home Medicaid was also reduced although legislation was proposed in the first special session to reverse this.

Texas Health and Human Services is being reorganized and a state agency created called the Department of Disability and Aging will be responsible for programs that were originally under the Department of Aging. Whether these changes will be more efficient is yet to be seen. The budget crisis drove the legislative session, and hence this was not a good session for the advancement of care for the elderly.



**2005.** The major concern for the 79<sup>th</sup> Legislative Session was funding of programs and the hope that cuts from the 78<sup>th</sup> Session would be restored. Funding to provide eyeglasses, hearing aids, mental health services, and podiatry benefits for adult Medicaid clients was restored. The 79<sup>th</sup> Session budget provides funds to increase enrollment in a number of non entitlement community care and health programs that had been reduced in the previous session. The budget assumes lower caseloads for Medicaid and cost per client and includes funding to reduce waiting lists. There is some anticipated cost savings from greater management care for the aged, blind and disabled Medicaid clients. Proposed change to Medicaid Managed Care was most controversial. Some compromises were made and some models will be implemented in the Dallas area.

Long-term care programs now reside in the Department of Aging and Disability Services. Most Department of Aging and Disability Services are through Medicaid. Nursing facility rates were not restored nor increased, and there is a possibility of a nursing home deficit. At the last minute, the governor vetoed a quality assurance fee, a type of bed tax on nursing homes that would have provided funds for rate restorations and increases to nursing home facilities. Consequently this leaves Department of Aging and Disability Services without state funding for nursing home rate restorations or updates and without basic operating funds. Medicaid provider rates were not increased nor restored to previous rates, but remain at the 2003 rates. In addition the personal needs allowance remains at the 2003 level.

**2007.** The 80<sup>th</sup> Legislature passed no major legislation for senior health care. The personal needs allowance for nursing home Medicaid recipients was increased to \$60/month. A bill was passed to establish the creation of nursing home family councils. Legislation was passed to make long term care insurances for Medicaid consistent with federal law under the Deficit Reduction Act of 2005.

**2013.** The debate over Medicaid overshadowed much of the session. Sweeping changes were proposed relating to how the state administers the program. Some of the changes came from studying the changes to Medicare in the Affordable Care Act. Many of the changes are expected to improve the quality of care and cost effectiveness of the Medicaid program and to combat fraud.

SB 7 and SB 8, by Senator Jane Nelson, contained some of the largest changes to the way the state administers Medicaid. SB 7 redesigns long-term and acute-care services for the elderly, who are among the most costly services provided by Medicaid, and allows Medicaid managed care to cover services provided in nursing homes. SB 8 bars providers who have been found guilty of Medicaid fraud in Texas or elsewhere from participating in the Texas program. Legislators turned down Medicaid expansion and the \$90 billion it would provide over 10 years.

Medicaid reimbursement for many services did increase. For example, nursing home reimbursement increased 2% the first year and 4% in the second year. Attendant care salaries were increased \$.50 in 2013 and \$.50 more in 2014. Legislation passed to establish a reuse program for durable medical equipment provided to recipients under the Medicaid program.

**2021.** We issued an Action Alert in support of two bills which would make it easier for seniors to simplify certification for SNAP benefits and removing the outdated vehicle asset test. SB 224 passed both houses and was signed into law. HB 1230, regarding the removal of the vehicle asset was left pending in committee. The Action Alert resulted in 1102 letter to legislators.

Action of Medicaid expansion can be found under Early Intervention for Children At Risk (LWVUS positions).

## H. Post-Divorce Payments

1982, 1997

*The League of Women Voters of Texas supports changes in Texas laws that would enable a court to award adequate post-divorce payments to a spouse when appropriate.*

### History: Post-Divorce Payments

**1995.** A bill enacted in the 1995 Legislative Session removed the stigma of notoriety from Texas as the only state in the U.S. that did not allow its courts the option of ordering post-divorce (alimony) payments. The new law gives courts discretion to order alimony payments for an ex-spouse who is unable to support her or himself, if the couple has been married at least 10 years. In each previous legislative session dating back to 1982, similar, League-supported measures were passed by the Texas Senate but died in the House. Although the 1995 legislature enacted a law awarding postdivorce payments (spousal maintenance or alimony), the new law is very limited. Consequently, the 1995-97 Periodic Program Review Committee added the word "adequate" and urged retention of the position.

## I. Services for People With Behavioral Health Disorders

1988 (See also LWVUS position "Health Care" in *Impact On Issues*)

*The League of Women Voters of Texas supports the right of all persons who have behavioral health disorders to have access to services designed to help them reach and maintain an optimal level of functioning in the least restrictive environment.*

The League believes that state government should ensure that the following services are accessible to persons with behavioral health disorders:

- Residential services
- Nonresidential services
- Continuity of care services
- Outreach to those who cannot or will not seek assistance
- Programs for special populations

The League supports these actions to improve the number and quality of services available for people with behavioral health disorders:

- Provide incentives for community-based residential programs.
- Implement measures to encourage public and private funding of long-term rehabilitative care.
- Provide technical assistance to, and regulation of, housing providers, such as room and board homes that house patients with behavioral health disorders.
- Implement measures to prevent discrimination and encourage community acceptance of residents with behavioral health disorders, including community education about serious behavioral health disorders.
- Supplement federal Supplemental Security Income (SSI) payments for mentally disabled persons.
- Allocate state funds to local mental health authorities according to need for services and performance level and quality.
- Provide incentives for local mental health authorities to develop residential services for persons who are most difficult to place.
- Increase the number of physicians who receive training in the public system for behavioral health disorders.
- Expand academic and research opportunities in the public system for behavioral health disorders.
- Require continuing education and in service training for mental health professionals and direct care staff in the public system for behavioral health disorders.
- Provide higher salaries and benefits as required to attract and retain qualified personnel in the public health system for behavioral disorders.

The League supports funding of services for persons who have behavioral health disorders by:

- State government.
- State government through participation in federal programs.
- City, county and other local governments.
- Private insurance.
- Individuals to the best of their ability.

The federal government is currently the major funding source for research on behavioral health disorders. The League supports sharing the responsibility for financing research on the prevention, causes, treatment, and need for treatment of those with behavioral health disorders with state government and the private sector.

## Explanation: Services for People With Behavioral Health Disorders

League delegates to Convention 1987 adopted a new study of the state mental health and mental retardation system, with emphasis on persons who are seriously mentally ill. There was excellent participation in the study with 75% of local Leagues responding. The consensus indicated strong support for access to a range of high-quality services by Texans with serious mental illness and public education regarding serious mental illness to combat stigma and discrimination against persons who suffer from it. The position on services for the seriously mentally ill was adopted in November 1988.

## **History: Services for People With Behavioral Health Disorders**

**1989.** League efforts focused primarily on increasing the Texas Department of Mental Health and Mental Retardation budget in order to initiate programs for youths and to expand services to rural areas. Although the final budget was an expansion over previous levels, it primarily reflected the increased cost of providing current service levels and some court-mandated reforms for hospitalized clients. A small amount of funding was designated for programs for children and youth. The League also opposed several discriminatory bills, which ultimately died. These bills would have significantly reduced access to housing, within residential areas, for disabled persons including the mentally ill.

**1990-93.** During the 1990 interim, the LWVTX testified before a hearing of the Senate Health and Human Services Committee to reiterate our support for private board and care homes operated in a responsible fashion. The 1991 Legislative Session produced successful legislation clarifying the regulatory and licensing procedures for board and care homes and outlining a bill of rights for residents and providers. Although not active on this specific issue in the 73rd Legislature, the League worked to maintain funding levels for human services programs, including those for the mentally ill.

**1994-95.** During the legislative interim, the LWVTX presented testimony to an advisory task force of the Texas Department of Mental Health and Mental Retardation charged with delineating authority/provider roles. The League objected to the proposed separation of local authority from local providers, noting the need for the authority and provider to be one entity at the local level to ensure accessibility, continuity, and flexibility of assistance to those in need of services.

**2005.** The legislative priority for the 2005 Session was to work to influence the legislature to maintain or increase the current funding level for services for the seriously mentally ill, when appropriate, combining efforts in coalition with other organizations. We appreciate being able to work with the Mental Health Association of Texas, and in particular, the Mental Health Association of Greater Dallas.

The final budget bill included the following mental health items: \$20 million added statewide for adult community mental health, \$3 million added statewide for children's community mental health, \$15 million added statewide to increase state psychiatric hospital bed capacity, \$3.3million added for full restoration of Children's Health Insurance Program mental health benefit, \$44 million added for restoration of Medicaid adult psychological counseling benefit, and \$195 million for the NorthSTAR program.

The following mental health related bills were signed by the governor: (a) HB 224 (Corte): Prevents a minor from discharging him or herself or refusing psychoactive medication under specified conditions, and (b) SB 1473 (Lindsay)/HB 2524 (Coleman): required that all law enforcement officers, veterans as well as cadets, receive training on de-escalation and crisis intervention techniques for dealing with persons with mental impairments. HB 2572 (Truitt), authorizing a local mental health and mental retardation authority to determine whether to provide services directly or to contract with another organization to provide service, was vetoed.

**2007.** The LWVTX worked to influence the legislature to maintain or increase the current funding level for services for the seriously mentally ill. A request by the Department of State Health Services for \$82 million in new dollars for mental health crisis services was full funded. The additional funding will allow the state to open six new psychiatric emergency observation sites, provide children's outpatient and crisis stabilization for 87,000 people, and to train and certify 340 community center staff to respond to crisis calls. In addition, funding provided for state mental health facilities totaled \$634 million, a \$14.6 million increase to maintain the 2007 caseloads.

Legislation for parity to require health insurance plans to cover treatment for serious mental health disorders advocated by the LWVTX did not make it through the process. However SB 568 (Ellis), which mirrored pending federal legislation, and HB 510 (Fabree) made it through respective chambers. The features of both pieces of parity legislation were attached to HB 1919 relating to health insurance coverage for individuals with brain injury, however at the last minute these were stripped from the bill in conference committee.

**2011.** The League monitored legislation affecting mental health and substance abuse services throughout the legislative session and encouraged members through the *Legislative Newsletter* to contact their congressional representatives serving on the relevant committees and when budget considerations came to the floor of both houses in support of League positions. In light of current language being used to describe mental health and substance abuse issues, it was recommended and adopted that the issue title be changed to "Services for People with Behavioral Health Disorders."

Although the Texas Legislature generally maintained 2010-11 levels of funding for mental health in the Department of State Health Services budget, this must be understood in the context that Texas is at the bottom of all 50 states in per capita spending for public mental health services. While community-based services for children were increased by almost \$21 million, community-based services for adults were decreased by over \$11 million, and substance abuse treatment services were decreased by over \$29 million. Substance abuse treatment services are critical because of the large number of people with mental illnesses who have co-occurring substance abuse disorders.

**2013.** While Texas continued to be at the bottom of all 50 states in per capita spending for public mental health and substance abuse services, the legislature did provide an additional \$350 million for the biennium. This significant increase was in large measure motivated by several tragic mass shootings of people attending a political event, people at a movie, and children and teachers in an elementary school. Young people with histories of mental illness conducted the three shootings.

Some 70 bills related to mental health were filed and the LWVTX monitored and advocated for those related to our positions. In addition to our highest priority for increased funding, the most significant bills passed include the following: (a) authorization of a study of the mental health workforce shortage, (b) facilitation of best practices in hospital emergency rooms for Screening, Brief Intervention and Referral to Treatment in cases of injuries from substance use/abuse, (c) authorization of a study of the need statewide for forensic and civil hospital beds, (d) expansion of the number of mental illnesses eligible for treatment (previous law limited coverage to major depression, bipolar disorder, and schizophrenia), and (e) funding for mental health first aid training statewide, (f) integration of mental health with the rest of the health care system in the Medicaid program (g) provision of improved mental health awareness and suicide prevention training for public school educators and staff, and (h) clarification of judicial authority to court-ordered outpatient treatment for people with mental illness.

**2017.** Congratulations to the 85<sup>th</sup> Texas Legislature! There were many, many good bills supporting behavioral health introduced this session, 41 of which the League actively supported. Of these, 22 were finally passed.

Of the \$1 billion appropriate from the Rainy Day Fund, \$300 million will be dedicated to state-run mental hospitals for new construction, significant repairs, and increased capacity. Also appropriated were \$62.7 million to eliminate projected waiting lists for community mental health services for adults and children, \$37.5 million for a new mental health jail diversion program, and \$160 million for deferred maintenance at state schools and hospitals.

Under the leadership of Chairman Four Price, the House Select Committee on Mental Health passed four significant bills: HB 10, HB 13, HB 1486, and HB 3083. Their provisions include: (a) an ombudsman position for behavioral health access to care, (b) a mental health and substance use disorder parity work group to coordinate state and federal rules and statutes about benefits for these disorders, (c) requirement for the Health and Human Services Commission to establish a matching grant program for the purpose of supporting community mental health programs and provide services and treatment to individuals experiencing illness, (d) a provision in Tex. Gov. Code requiring the Health and Human Services Commission to adopt rules on the training and certification of peer

specialists for mental health, and (e) a chemical dependency counselor for those who are eligible to receive repayment assistance on college loans.

**House bills supported by the LWVTX that passed** include

an annual mental health screening under Texas health Steps program for children aged 12-18 years, mental health services for first responders, workman's comp for fire fighters and peace officers who develop PTSD, maternal depression screening.

**Senate bills supported by the LWVTX that passed** include intervention for veterans, psychiatric rehabilitation services to children and their families, requires the Texas Veterans Commission to create a veterans suicide prevention plan, post investigation psychological counseling for a grand juror in a grand jury investigation, clarifies the definition of psychology and therefore prevents those who are not licensed by the Medical Board from claiming to be psychologists.

**2019.** Here is a breakdown of major behavioral health bills that passed and have been signed by the governor:

**School Behavioral Health/School Climate**

- HB 18 (Price) - Relating to consideration of the mental health of public school students in training requirements for certain school employees, curriculum requirements, counseling programs, educational programs, state and regional programs and services, and health care services for students and to mental health first aid program training and reporting regarding local mental health authority and school district personnel.
- HB 19 (Price) - Relating to mental health and substance use resources for certain school districts.
- SB 11 (Bonnen) - Relating to policies, procedures, and measures for school safety and mental health promotion in public schools; making an appropriation.
- SB 504 (Seliger) - Relating to the inclusion of certain information in postsecondary education and career counseling academies developed for certain school counselors and other postsecondary advisors employed by a school district.

**Foster Care, Trauma, and Behavioral Health**

- HB 53 (Minjarez) - Relating to the transitional living services program for certain youth in foster care.
- HB 72 (White) - Relating to the continuation of Medicaid benefits provided to certain children adopted from the conservatorship of the Department of Family and Protective Services.
- HB 475 (Howard) - Relating to information for foster children who are pregnant or minor parents.
- SB 355 (West) - Relating to developing a strategic plan to ensure the provision of prevention and early intervention services complies with federal law.

**Maternal Behavioral Health**

- HB 253 (Farrar) - Relating to a strategic plan to address postpartum depression.
- SB 750 (Kolkhorst) - Relating to maternal and newborn health care and the quality of services provided to women in this state under certain health care programs.

**Criminal Justice and Behavioral Health**

- HB 601 (Price) - Relating to procedures and reporting requirements regarding criminal defendants who are or may be persons with a mental illness or an intellectual disability.
- HB 1342 (Leach) - Relating to the consequences of a criminal conviction on a person's eligibility for an occupational license.
- SB 652 (Zaffirini) - Relating to the delivery of certain mental health information regarding a defendant transferred from a county to the custody of the Texas Department of Criminal Justice, the commitment of certain defendants for competency restoration, and the use of telepsychiatry in determining whether a defendant is manifestly dangerous before commitment.

**Substance Abuse**

- HB 4298 (Murr) - Relating to the licensing of satellite offices of outpatient chemical dependency care facilities.

- SB 340 (Huffman) - Relating to the creation of a grant program to assist law enforcement agencies with the purchase of opioid antagonists.
- SB 436 (Nelson) - Relating to state-wide initiatives to improve maternal and newborn health for women with opioid use disorder.
- SB 1564 (West) - Relating to access to medication-assisted treatment for opioid use disorder under Medicaid.

#### **Telehealth Services**

- HB 3345 (Price) - Relating to health benefit coverage provided by certain health benefit plans for telemedicine medical services and telehealth services.
- HB 4455 (Miller) - Relating to the provision of mental health services through a telemedicine medical service or telehealth service.
- SB 71 (Nelson) - Relating to the establishment of a statewide telehealth center for sexual assault forensic medical examination.

#### **Other bills to address behavioral health**

- HB 1590 (Howard) - Relating to the establishment of the Office for Sexual Assault Survivor Assistance within the criminal justice division of the governor's office.
- HB 1735 (Howard) - Relating to sexual harassment, sexual assault, dating violence, and stalking at public and private postsecondary educational institutions; providing an administrative penalty.
- HB 2813 (Price) - Relating to the state-wide behavioral health coordinating council.
- SB 37 (Zaffirini) - Relating to the abolition of student loan default or breach of a student loan repayment or scholarship contract as a ground for nonrenewal or other disciplinary action in relation to a professional or occupational license.

## **J. Transportation**

2006 See also LWVUS position "Transportation" in Impact On Issues)

*The League of Women Voters of Texas supports a transportation system to move people and goods that includes a variety of transportation modes, with emphasis on increased transportation services and other viable alternatives; that is efficient, convenient, and cost effective; that services all segments of the population and diverse geographic needs; that minimizes the harmful effects on the environment, is integrated with land use, and is supported by extensive public education.*

Planning for transportation projects should be accomplished by:

- Cooperation and coordination among agencies and different levels of government.
- Timely, informed citizen input in the planning process.
- Selection of projects based on needs assessment.
- Analyses of alternate routes and modes.
- Analysis of environmental impact.
- Measures to provide public transportation to groups who do not have or cannot drive a private auto (elderly, disabled, youth, low-income).
- Policies encouraging the integration of various modes of transportation to promote seamless systems.

Transportation and land use planning should include the following strategies in order to influence travel behavior:

- Parking fees
- Taxes
- Tolls
- Alternatives to single occupancy vehicle travel (high occupancy vehicle lanes, cars/van pools, bicycle lanes, etc.)
- Flexible lanes for high traffic times
- Land use policies to encourage mixed use development coordinated with public transportation

Construction, maintenance and/or expansion projects should be funded through:

- Tolls on new highways.
- Regional rail authorities with taxing ability.
- Federal funding.
- Usage taxes for commercial vehicles.
- Local user taxes.

- State gas and user taxes.
- Bonds.
- Private sources (developers, etc.).

To alleviate congestion on Texas highways, existing routes should be expanded to include added passenger rail service and expanded freight rail lines. New routes should connect major Texas centers of population, preferably by rail.

### Explanation: Transportation

A transportation study, "Texas Public Transportation," was adopted at Convention 2003 as a three-year study, after being recommended by seven Leagues, several of which had local transportation positions. The focus was on current public transportation systems, future needs, and funding availability. In addition, members focused on the impact of public transportation on air quality, land use, and the need for regional public transportation networks. Consensus was completed and adopted by the board in January 2006.

### History: Transportation

**2006.** The League opposed the proposed route for the Trans-Texas Corridor because local and regional planning groups had concerns about economic and environmental effects which were not addressed, their recommendations were not included in the route selection, and major population centers were not connected in a seamless manner.

**2007.** The LWVTX opposed HB 1892 (Smith), a moratorium bill on Trans-Texas Corridor (includes many other toll roads). Highways 1604 and 281 were not included in this moratorium. Some North Texas roads, which had been approved, were not in the moratorium. The governor vetoed the bill passed by the legislature.

**2013.** During the 2013 Legislative Session few transportation bills were passed. The major legislation involved a proposed constitutional amendment to allow funds from the Rainy Day Fund to be used for infrastructure repair and expansion. The amendment legislation passed but did not appear on the same ballot as the water amendment in November 2013. The Texas Department of Transportation was challenged to use funds in as efficient way as possible, which resulted in gravel on some rural roads instead of paving. Effects on roads from oil/gas drilling trucks were a concern. There has been much uproar since then and projects have been redirected. Both House and Senate committees were concerned with congestion (e.g., on I-35W and I-35E), but with limited funds could come up with no funding solution.

Transportation will be a high priority in the coming legislature. High-speed rail from Houston to the Dallas/Fort Worth metroplex, plus the Mexico to Oklahoma City corridor rail, are being addressed by the Texas Department of Transportation. Interim charges include: passenger and freight rail are to be evaluated through a review of the Rail Division of the Texas Department of Transportation, and the port system will be evaluated through a review of the Maritime Division of the Texas Department of Transportation. There was a constitutional amendment on funding that will be on the ballot in November 2014 for use for road infrastructure and improvement. Our current positions enable us to address the proposed legislation in a favorable fashion.

**2017.** Transportation policy bills did not get very far in the 85<sup>th</sup> Legislature. High-speed rail bills, toll road bills, red light camera bills, and other bills to address important transportation issues in the state went unheard or did not make it far in the process. Only 10 transportation bills that the League followed this session were sent to the governor.

One of the transportation policy bills that was signed into law is a statewide ban on texting while driving. HB 62 has exemptions for using global positioning system (GPS) and emergency messages while driving and for operating devices that play music. But the reading and sending of messages via text, email, messaging applications, and other text-based means is prohibited unless the vehicle is stopped. Also significant was the passage of SB 30, which requires the inclusion of education for drivers on peace officer interactions. This is following a number of police shootings at traffic stops across the country that has come to national attention. A bill that would have permitted the advertisement of voter registration deadlines and voting days on the Texas Department of Transportation message

boards along interstate highways did not get a hearing. This was disappointing as the League was prepared to support the bill.

HB 100 was signed into law. And the state will take over the regulation of ridesharing companies while prohibiting local governments from doing so. This is of note to the City of Austin, which banned companies Uber and Lyft from operating in the city last year after the companies did not comply with local regulations. The companies have been operating elsewhere in Texas. SB 312, the bill to continue the Texas Department of Transportation, was signed by the governor. The Texas Department of Transportation was under sunset review this session and was noted as being unprepared to the challenges of the future.

The bills addressing the high-speed rail project between Dallas and Houston did not get very far this session, meaning that for the next 2 years the private company that owns the project has no special limitations to contend with. An overwhelming number of bills did not receive a hearing or were left pending in committee. And most bills did not pass from one house to the other. Bills banning or limiting toll roads also did not move very far (not all toll road have been financially successful). The reverse in position on toll roads from approximately 10 years ago is a policy issue that can have significant impact on many urban commuters in Texas as the state begins to grapple with massive population growth over the next few years.

**2019.** The 86<sup>th</sup> Legislature saw the passage of few transportation bills, and nearly half of the bills either established memorial highways or created new specialty license plates. Among the new plates that are now available to passenger vehicle owners are **Register to Vote specialty license plates** (HB 1330), a bill successfully supported by the League!

**Toll Roads:** The troubled finances of some toll entities and problems with both toll road construction and toll gate sensors have contributed to less enthusiastic support for toll roads from many legislators. HB 803 was signed into law and requires greater financial transparency from toll road entities, which have been criticized for not making their information accessible to the public.

**Driver Responsibility program:** HB 2048 repealed the controversial Driver Responsibility program. Per the Texas Department of Public Safety website:

“The Driver Responsibility Program establishes a system that authorizes the Texas Department of Public Safety (DPS) to assess surcharges to an individual based on certain traffic offenses that have occurred on or after September 1, 2003. Individuals are notified by mail each time a surcharge is added to their driver record. Surcharges are in addition to other fees and do not replace a suspension, revocation, denial, disqualification or cancellation resulting from the same conviction.”

The program had been criticized for contributing to the disproportionate incarceration of low-income individuals, who were unable to pay the charges and subsequently had their driver’s license suspended or were jailed after failing to pay the surcharges after 105 days. Critics of the program further asserted that the surcharges trapped people in a cycle of debt. The evidence presented to lawmakers was enough to generate bipartisan support for the passage of HB 2048, which went into effect on September 1, 2019.

**Red light cameras:** After several unsuccessful attempts in prior Legislative sessions to ban red light cameras, HB 1631 banned red light cameras across Texas. Local law enforcement may no longer use photo enforcement to issue traffic fines and citations.

**High Speed Rail:** Although high-speed rail has been a controversial issue for landowners and elected official along the proposed Dallas – Houston route, none of the bills regarding the privately owned and operated passenger rail line were passed, leaving another two years without legislative resolution for the issues of rail elevation, coordination with county road cutoffs and re-routes, land acquisition, or multi-modal compatibility, among others.

**Other issues:** Many cities in Texas have received an influx of electric scooters, which have had both positive and negative responses. SB 549, which would have regulated electric scooters, failed to pass out of the House committee. HB 417, relating to economic impact reviews conducted by the Texas Transportation Commission, would have required analysis and public comment on transportation project impacts to businesses, but did not receive a hearing.



HB 2306, relating to a study regarding the public health considerations of transportation planning, was left pending in the House Administration committee.

## IV. Natural Resources

### A. Climate Change and Air Quality

1960s, 2020, 2022 (See also LWVUS positions “Air Quality” and “Climate Change” in *Impact On Issues*)

*The League of Women Voters of Texas believes that climate change is a serious threat facing our nation and our planet.*

The League believes that an interrelated approach to combating climate change will protect public health and defend the overall integrity of the global ecosystem. Typically climate change solutions will address:

- Energy conservation
- Air pollution controls
- Development of resilient infrastructure
- Promotion of renewable energy resources
- Environmental justice

The League supports climate goals and policies that are consistent with the best available climate science and that will ensure a stable climate system for future generations.

The League also supports policies that are consistent with environmental justice in that they seek the fair treatment and meaningful participation of all people, regardless of gender, gender identity, ethnicity, race, native or indigenous origin, age, generation, sexual orientation, culture, religion, belief system, marital status, parental status, socioeconomic status, language, accent, ability status, mental health, educational level or background, geography, nationality, work style, work experience, job role function, thinking style, personality type, physical appearance, political perspective or affiliation and/or any other characteristic that can be identified as recognizing or illustrating diversity, to live in a healthy and sustainable environment.

*The League of Women Voters of Texas supports state government action for control of air pollution in Texas, including:*

- Power to set and enforce standards stricter than those required by the federal government.
- Adequate funding to carry out research, planning, and enforcement.
- Legislation allowing local and regional governments to set and enforce standards stricter than those of the state.
- Encouragement of citizen involvement in the rule making and enforcement process.

### Explanation: Air Quality and Climate Change

The League has been involved with air quality legislation at the state and national levels since prior to the passage of the Federal Clean Air Act in 1970. In 1977 amendments to the Federal Clean Air Act were passed extending deadlines and relaxing some pollution standards. The Clean Air Act Amendments of 1990 aimed to reduce substantially air pollution from most American cities by the turn of the century. The requirements will protect human health and the environment, while balancing environmental and economic concerns. Provisions include more stringent pollution controls for air quality, motor vehicles, hazardous air pollutants, acid rain, and stratospheric ozone depletion. Areas in Texas not meeting the air quality standards are Houston, Beaumont/Port Arthur, El Paso, and Dallas/Fort Worth. Additionally, Victoria County and Culberson County (Guadalupe Mountains National Park) are being evaluated for non-attainment status.

The vehicle provided under the Federal Clean Air Act to show compliance or a plan to attain compliance is the State Implementation Plan. The League has been involved in numerous revisions of the State Implementation Plan and supports legislation that will promote clean air, such as vehicle inspections, changes in gasoline formulation and/or the use of alternate fuels, and more auto and industry pollution controls.

This position was amended by delegates to Convention 2020 to include a statement on Climate Change. Wording was modeled after the LWVUS position on climate change.

The Climate Change position was amended again by Convention 2022 to include a bullet titled Environmental justice, and the accompanying explanatory paragraph.

## History: Air and Climate Change

**1985-89.** In the 1985 Legislative Session, the League supported requirements for the state to do periodic reviews of permits and to institute administrative penalties for industry violations of air quality guidelines. We worked in the 1987 Session to maintain these gains. The League also intervened on behalf of the state in the suit brought against Texas by the Texas Association of Business regarding jury trial and administrative penalties. (In 1993, the Texas Supreme Court upheld the lower court's ruling in our favor, affirming the constitutionality of administrative penalties.) The League worked in the 1989 session in support of legislation that promoted the use of alternative fuels in fleets of vehicles such as school buses, taxicabs, and metropolitan transit systems.

**1991-93.** In 1991 the League supported funding at adequate levels for the Texas Air Control Board and the necessary statutory authority to implement the Federal Clean Air Act in Texas. This legislation ultimately passed during the first special session as part of a reorganization of natural resources agencies. In the 1993 Session, the League supported dedication of revenues from environmental fees, such as those required of air polluters, to environmental regulatory and remedial programs. We also successfully opposed legislation that would have exempted agriculture operations from all state air pollution control requirements. Also adopted in 1993 were legislative changes required to bring Texas clean air programs into compliance with regulations adopted by the U.S. Environmental Protection Agency to implement the Clean Air Act Amendments of 1990. Despite League opposition, the 1993 Session repealed the requirement that school buses convert to alternative fuels. Conversion of school buses is now purely voluntary.

**1995.** Though environmental protection was a priority for the LWVTX in the 74th Legislature, an antiregulatory mood prevailed. A League-opposed measure that broadens the definition of alternative fuels to include petroleum fuels passed and was signed into law. In addition, despite opposition from the League and environmental groups, the statewide air emissions testing program was scuttled. Centralized testing was abandoned in favor of returning to the old system of tailpipe testing that is done at the time of the annual safety sticker inspection. Known as the Interim Texas Plan, the program will be in effect while the governor, through the Texas Natural Resource Conservation Commission negotiates a program with the Environmental Protection Agency. The new program will be designed to show that Texas meets the requirements of the Federal Clean Air Act while at the same time administers a program of maximum convenience. The League considers these actions to be a major setback to efforts to achieve cleaner air for polluted areas of the state.

**1997.** The League was unable to support any of the bills concerning air quality that passed during this legislative session. One law authorized Texas Natural Resource Conservation Commission to exempt a permit applicant from meeting pollution control requirements as long as the exemption is consistent with federal law and is at least as protective as the usual standard. Another bill weakened previously enacted laws that required a significant percentage of the vehicle fleets of state and local government agencies, mass transit authorities, and school districts to use alternative fuels. A third bill allowed grandfathered facilities from the 1970s to continue to receive exemptions from obtaining air pollution control permits for new construction and modification permits. The League did not support a provision that was added requiring the Texas Natural Resource Conservation Commission to develop a voluntary emissions reduction plan for these facilities, which could provide the opportunity for interested parties to address the issue of bringing grandfathered facilities into permitted status. The good news is that several other objectionable air pollution bills failed passage.

**1999.** As in the 75th Legislative Session, natural resources was one of our legislative priorities: advocacy to promote funding and policy initiatives supporting environmental protection and public participation. In 1999 the legislature

revisited the issue of grandfathered facilities, those facilities that were exempted from having to obtain air pollution control permits as they were in operation prior to implementation of the Federal Clean Air Act in 1970.

Believing that 30 years is long enough, the LWVTX worked with a broad coalition to require that all air-polluting facilities be required to comply with laws protecting public health by a certain date. A House bill would have set a deadline to require facilities to be permitted, would have required the use of best available technology, and would have ended the volume discount for polluters that only had to pay fees on the first 4,000 tons of emissions. However, what passed was a bill implementing the governor's voluntary program for moving grandfathered polluters into the air control permitting process.

The greatest success in cleaning up Texas air came through the electric deregulation/restructuring bill that was passed and signed into law. Although the League does not have a position on electric deregulation, the LWVTX testified before the Senate and House committees urging them to consider (in the legislation) the importance of public participation and education, the impact on public health and the environment, the use and conservation of energy, and the development of renewable energy resources.

Language in this bill requires about 100-grandfathered power plants to reduce emissions by 50%. With that provision, the exemption loophole was removed from roughly 30% of the state's total grandfathered facilities. Together the two bills will ensure that 60% of the annual emissions by grandfathered plants, or about 540,000 tons of air pollutants, will now have to begin to meet clean air standards. This stands as the biggest win for the environment this session.

**2001.** The 77th Session was the best in a decade for air quality. Important air quality bills that were strongly supported by the League and signed by the governor included the Texas Natural Resource Conservation Commission Sunset/Reauthorization bill that ended the grandfather loophole. After 4 years of sustained work by environmental and public interest groups, including the LWVTX, the legislature finally ended the 30-year-old loophole for grandfathered plants, forcing Texas' oldest, dirtiest industrial plants to meet modern clean air standards. The law defined new standards for "upset emissions" of pollution, required that all emissions be reported within 24 hours, made the source come up with a corrective action plan, and provided penalties.

A large setback came when the legislature failed to remove the fee cap or volume discount collected under the Federal Clean Air Act on air emissions above 4,000 tons. The League, along with our coalition partners, lobbied hard on this issue.

In another major victory for cleaner air in Texas, the Texas Emissions Reduction Program provided three types of incentive programs: (a) rebates to consumers for the purchase of low-emission and alternative fuel vehicles, (b) incentives to use more fuel-efficient building materials and appliances, and (c) assistance to companies that agree to retrofit or replace high polluting diesel engines. Another bill expanded vehicle emissions inspection and maintenance requirements to counties beyond the one specified by federal requirement. The LWVTX supports a regional approach to solving air quality problems.

Other legislation establishes the Clean Coal Technology Council, requires the Texas Natural Resource Conservation Commission to suspend operations for a rock crusher or cement batch plant found to be operating without a permit, allows the Texas Natural Resource Conservation Commission to authorize emissions reductions achieved outside the United States to satisfy emission reduction requirement in international border issues, and allows the Texas Natural Resource Conservation Commission to waive public notice and hearing requirements under certain conditions during construction or modification of a facility. In a loss for the environment, the legislature enacted a provision that prevents the Texas Natural Resource Conservation Commission from requiring petroleum marketers to sell cleaner grades of motor fuels in Texas markets.

**2003.** In a session in which environmental protection was rolled back dramatically, funding the Texas Emissions Reduction Program was a rare positive for Texans. Although the Texas Emissions Reduction Program was adopted by the 2001 Legislature and signed into law, a court in 2002 ruled the main funding mechanism

unconstitutional. Without the 16.3 tons of emissions reductions per day in the Dallas-Fort Worth area and 18.9 tons per day in the Houston area, last year the Environmental Protection Agency threatened to reject the state's urban smog strategies in the State Implementation Plan. So the legislature was under pressure to find the money to fund the program.

Last minute action by both the legislature and the governor prevented federal intervention by funding a program to replace dirty, old diesel-powered construction equipment. Consistent with the prevailing mood of legislators regarding public health and the environment, a state program on low-sulfur diesel fuel was replaced by less stringent federal rules that could increase pollution by 6 tons per day statewide. The new law also eliminated the program of rebates to consumers for the purchase of low-emission and alternative fuel vehicles.

As passed, the Texas Emissions Reduction Program provides assistance to companies that agree to retrofit or replace high-polluting diesel engines and pays for research into new clean air technologies. To pay for it, the plan raises vehicle title transfer fees Texans pay when buying new cars and adds surcharges for on- and off-road diesel vehicles and equipment.

Another LWVTX supported bill that passed allows areas with early action compacts with the Environmental Protection Agency to establish motor vehicle inspection and maintenance programs as an air control strategy. Formerly only areas designated nonattainment were allowed to have inspection and maintenance programs, and other areas were prohibited.

Despite the budget shortfall, the legislature took no action to raise or remove the cap on the air emissions fee. They also failed to prohibit the use of hazardous waste as a fuel in cement plants. The LWVTX supports efforts to force polluters to pay for all emissions and to tighten the regulation of cement kilns, as the current permits are inadequate to protect air quality.

**2005.** The quality of the air in Texas was a low priority for the 79th Legislature. No significant piece of clean-air legislation passed, although many areas of the state face severe air-pollution problems. In fact, the legislature worked hard to cut the Texas Emissions Reduction Program, which since 2001 has provided hundreds of millions of dollars in grants to help companies replace older, dirtier diesel-powered construction equipment. Off-road equipment such as bulldozers and cranes contribute a significant portion of the state's pollution. The legislature even proposed cutting in half the fund that helps low-income motorists repair vehicles that fail the annual emissions test required in nonattainment areas of the state, but restored that fund to current levels at the end.

The enactment of the Texas Emissions Reduction Program in 2001, an economic incentive program to reduce air pollution instead of punishing polluters, was hailed as a model for the nation and was crucial to gaining Environmental Protection Agency approval for State Implementation Plans in Dallas-Fort Worth and Houston-Galveston Area. As a compromise, that legislature did not restrict use of heavy construction equipment during the summer smog season nor did it impose a requirement for faster replacement of old, high polluting diesel engines by providing funding through the Texas Emissions Reduction Program for voluntary replacement by diesel-dependent industries.

The reason given was the budget constraints. But a proposal on raising operating permit fees from the current cap of 4,000 tons per day (no matter how much air pollution is emitted) to 8,000 tons per day never was considered. Proposals requiring the Texas Commission on Environmental Quality to make the amount of a penalty for air or water pollution at least as much as the value of any economic benefit gained by the polluter through the violation had little consideration. Both these would have increased revenue and would have made it more beneficial to business to prevent pollution.

Unfortunately, the health of residents living near industrial plants had low priority. A proposal that would have required the state to develop enforceable health-based pollution standards to protect residents living near industrial plants choked legislators. Proposals to monitor and control toxic air emissions near those plants, along with requiring consideration of cumulative effects of pollution, went nowhere.

Ongoing action in the air quality portfolio involves cement batch plants in Ellis County. While these plants contribute half the industrial pollution in North Texas, they were not included in the Dallas Fort Worth area nonattainment area under the old 1-hour standard. Their permits allow them to emit more pollution than other industrial plants in Texas. When the Environmental Protection Agency designated nonattainment areas under the new 8-hour standards in 2004, they included Ellis County in the Dallas-Fort Worth area. One plant had a permit change request under review to turn off the scrubbers as it costs them too much to operate them at their desired profit levels. That was not approved before the Environmental Protection Agency designation, so the law does not allow them to cite economic disincentive. We gave input to include Ellis County in the Dallas-Fort Worth area nonattainment area as well as to request denial of this permit change.

**Border issues.** The League followed a number of issues that were unique and/or critical to the border region. Many of the bills were directed at vehicular traffic, electronic and clearance checks, coordination of activities between various government agencies, and the review and development of road projects.

**2007.** Many bills were filed in the Legislature concerning air quality. However, only two passed and Senator Averitt, the Senate Natural Resources Committee Chairman, introduced those. The first updated the Texas Emissions Reduction Plan and the Low-Income Vehicle Repair Assistance Program. These programs were both funded.

The second bill required that not only should a preconstruction permit be reviewed every 10 years, it must also be reviewed during the permit amendment process—a great step forward. The League testified many times on the various bills that were introduced, including many that did not pass. These include the toxic hotspots bills, fence-line monitoring, California standards for cars and light trucks, establishing an air pollutant watch list, and a clean school bus bill.

**2009.** Once again, many bills were introduced in the Legislature regarding air quality. Many were also introduced regarding climate change. Only three passed, however. Senator Averitt, chairman of the Senate Natural Resources Committee, introduced an omnibus bill which included air quality and climate change. Unfortunately, this bill did not pass, though parts of it were added to another bill that did pass and was signed by the governor. Those parts which were added include the Texas Emission Reduction Program extension through August 31, 2019, a requirement that the Department of Agriculture, Texas Commission on Environmental Quality, Public Utility Commission, and Railroad Commission collaborate in the federal government process for developing federal greenhouse gas reporting requirements and the federal greenhouse gas registry requirements, and a program for new technologies for emissions control that requires best available control technology as defined by the Federal Clean Air Act instead of the Texas Commission on Environmental Quality—a major gain. Not included in the floor amendment were building energy codes, idling of motor vehicles, maximum weight for vehicles with idle reduction systems, housing partnership program rebates, and an online emissions database.

A bill by Senator Watson passed relating to "no regrets" greenhouse gas emissions reduction strategies to be prepared by the Texas Commission on Environmental Quality by December 31, 2009. The third bill that passed was by Senator Gallegos. It requires a permit applicant or the applicant's designated representative to attend a public meeting on the permit application. So they can't just skip out. We also prepared testimony for several bills that dealt with cement kilns. Regrettably, none passed.

**2011.** While much of our time was spent fighting off bad bills in the 82<sup>nd</sup> Legislature, we did have a number of successes—primarily the passage of the Sunset Bill for the Texas Commission on Environmental Quality. Changes to the Texas Commission on Environmental Quality include the following:

- The Texas Commission on Environmental Quality is to develop and implement a policy for negotiated rulemaking and alternative dispute resolution.

- The executive director is charged with making sure that the agency is responsive to environmental and citizens' concerns, including environmental quality and consumer protection. This was formerly under the purview of the Public Interest Council.
- The Public Interest Council is to ensure that the Texas Commission on Environmental Quality promotes the public interest. However, the primary duty of the office is to represent the public interest as a party to matters before the Texas Commission on Environmental Quality.
- The Texas Commission on Environmental Quality by rule shall develop standards for evaluating and using compliance history that ensures consistency. However, the compliance history shall not exceed 1 year from the date of issuance of each notice of violation. In addition, compliance history is to be classified as "satisfactory, unsatisfactory, or above satisfactory."
- Fees are changed in the Health and Safety Code from not to exceed \$2,500 per day to "not to exceed \$5,000 per day." All other violations are changed from not to exceed \$10,000 per day to "not to exceed \$25,000 per day for each violation."
- The Texas Commission on Environmental Quality is to develop a policy to prevent regulated entities from systematically avoiding compliance through the use of supplemental environmental projects.

In addition, Representative Howard's bill passed that if a person violates a rule set by the Texas Commission on Environmental Quality relating to idling limitations, that person commits a Class C misdemeanor. Representative Burnam's bill adds electric vehicles and natural gas vehicles to vehicles covered by the Low-Income Vehicle Retirement Program.

With regard to climate change, we worked hard opposing Representative Hancock's bill—a Concurrent Resolution urging Congress to prevent the Environmental Protection Agency from regulating greenhouse gases from stationary sources—and it failed. Another bill that failed was by Senator Hancock and would have allowed Texas to participate in a Regional Air Quality Compact with one or several states, thus avoiding the Environmental Protection Agency jurisdiction. Needless to say, we opposed this bill. In addition, Representative Craddick's bill allowing oil and gas facilities to have reduced permit requirements failed.

We prepared testimony which was presented to the Environmental Protection Agency on the Plan for Texas under the Prevention of Significant Deterioration Rule, the proposed Environmental Protection Agency ozone rules, and the proposed rules on New Source Performance Standards and National Emissions Standards for Hazardous Air Pollutants for the oil and gas industry, including hydraulic fracturing. We also encouraged local leagues to become involved in the Clean Air Promise, a campaign of the LWVUS.

**2013.** Of the 26 bills we watched closely, five bills that we supported passed, and nine bills that we opposed didn't pass. That's 14 of 26, more than half—a real plus for our environment. The most important bills that passed were the rewriting of the legislation regarding the Texas Commission on Environmental Quality, more funding for the Texas Emissions Reduction Program, and encouraging the capture and utilization of carbon dioxide for use in enhanced oil recovery.

Important bills supported by the LWVTX that passed included increases the funding for the Low Income Repair and Replacement Assistance Program from \$5 million to \$10 million.

**Major bills opposed by the LWVTX** included a bill dealing with greenhouse gas emissions which was amended in such a way that we could no longer support it. The bill now indicates that it is not subject to contested case hearings and that fees for exceeding emissions of greenhouse gases are limited to the cost of imposing the fee. We submitted testimony opposing the bill unless changed. Unfortunately, the bill passed and was signed by the governor.

**2015. Air quality.** Successes were important this legislative session as we were, as always, in defensive mode. Many bills we opposed died in committee.

**Climate change.** Few legislators were interested in climate change. However, one bill passed and another introduced that will continue. Representative Farrar introduced HB 706, which allows an exemption from ad valorem taxation

of property on which a solar or wind-powered energy device is installed or constructed. Representative Anchia introduced HB 2078 establishing a Global Climate Change Commission to study the impact of climate change in Texas from a global perspective. The LWVTX gave testimony supporting this bill, including a definition of greenhouse gases that Representative Anchia said was the best definition he had heard. His goal is to inform his committee and others about the importance of climate change. He intends to speak to every member of the legislature about the growing impact of climate change on the earth.

**2017. Air quality.** The LWVTX supported HB 2003 (Zerwas) that relates to money used by certain counties for low-income vehicle repair assistance, retrofit, and accelerated vehicle repair assistance programs; and local initiative air quality projects. Left pending in the Senate Natural Resources & Development Committee.

Climate change bills were supported by the LWVTX but they did not pass.

(HB 773 E.Johnson) related to information on projected changes in weather, water availability, and climate variability in strategic plans of certain state agencies. Died in House State Affairs Committee. HB 445 (Frank) to ad valorem tax incentives for wind energy. Died in Chamber.

**2019.** During this session a total of 10 **climate change** bills and three resolutions were filed in the House, and one in the Senate. The 86<sup>th</sup> Texas Legislative Session showed a dramatic increase in the public's interest in climate change legislation. Unfortunately, only **HB 219** authored by **Ron Reynolds** received a committee hearing (Urban Affairs) and it was "left "pending." HB 219 required that long range municipal planning include adoption of an environmental evaluation report. The report was to include projections of the environmental impact of the municipal plan along with strategies to mitigate any adverse results. HB 219 was similar to many other bills submitted this session which incorporated environmental studies as part of a long-term planning process.

The League issued an Action Alert on March 17 directed to the members of the House Environmental Regulation Committee, urging them to give the climate change bills a hearing. The Alert generated 866 responses, but did not result in a hearing for the six bills cited.

The 14 climate change bills submitted this session were the most in the past 10 years. We were particularly encouraged by passage of **HB 3143**, which offered revisions to the **Property Redevelopment and Tax Abatement Act** to extend Chapter 312 of the Tax Code to 2029. This bill affected both air quality and climate change. Opponents to renewable energy tried to amend this Act by making property receiving a tax exemption, ineligible for that benefit if a "solar energy device" or "wind power energy device" were installed or constructed on that property. The Texas Public Policy Foundation supported that amendment in an effort to reduce the impact of renewable energy in Texas, but the amendment failed.

Although Texas, nationally, is a major natural gas and oil producer, it is also the largest producer of wind power in the country. Wind in Texas generates 22,700 MW of power which is 15.7% of the electricity produced in the state. Wind power production is a major industry statewide, accounting for 24,000 jobs.

**2021.** Legislation in support of environmental issues involving climate change is not common in Texas. Recently such legislation was thought to be "anti-big business" and was considered non-supportive of the Texas economy. In the past two legislative sessions, only 20 such bill were filed, and none were given a hearing.

This current legislative session began with high optimism among members particularly interested in environmental issues. A "Texas Climate Caucus" was formed in the House, but in spite of efforts to form a bipartisan caucus, the members could only attract 18 fellow Democrats. The goal was for the caucus to host speakers, to discuss environmental issues with members, and develop a dialog that could lead to important legislation. Unfortunately, the climate caucus initiatives were diverted by the devastation of Winter Storm Uri in February, 2021.

In the 2021 legislative session, 12 climate change bills were filed by seven members of the House. The most promising were: HB 714 (Reynolds), and HB 1191, (Goodwin) focus on environmental justice, HB 1044, (Anchia), and HB 1821, (Zwiener) address future planning, HB 2206, (Talarico), HB 205 and HJR 19, (Crockett).

## B. Land Use

1974, 2018 (See also LWVUS position "Resource Management" in *Impact On Issues*)

*The League of Women Voters of Texas supports a comprehensive state land use policy to provide for the orderly development of the state, including:*

- Land being used according to its carrying capacity based on a thorough inventory of our land and natural resources.
- Growth and development of an area being compatible with the degree of availability of essential natural resources in that area.
- Protection of the traditional rights of ownership of property, but in conflicts between private interest and public welfare, precedence should be given to the public interest.
- Preservation of agricultural lands and desirable open space with preferential tax treatment for each.
- Preferential tax treatment for maintenance of the desirable existing buildings and infrastructure.
- A coordinated system of land use management in Texas including the establishment of a state land use management agency.
- Identification and protection of areas of particular significance (historical, archaeological, aesthetic, recreational) and rare or fragile ecosystems.
- Planning being carried out at the local level should be the main thrust of land use.
- Equitable enforcement of land use regulations and a method for appeal and arbitration when conflicting needs exist.

### Explanation: Land Use

After 2 years of study, League members in 1974 asserted that public interests should take precedence over private rights when there are conflicts over traditional rights of property ownership. Support for preferential tax treatment to preserve agricultural lands and open space and maintain the built environment allows consideration of many innovative tax reform ideas, though care must be taken to examine this aspect of the Land Use position in conjunction with other positions, especially Financing State Government and LWVUS' Urban Policy. While the League's desire for a state land use management agency has not been realized, changes in agencies such as the General Land Office have accomplished some of our goals.

In 2018, delegates to LWVTX Convention voted to review the Land Use position as it relates to eminent domain, especially regarding private property law and the need to consider environmental impacts. A review committee was appointed. They produced an *Eminent Domain Issue Paper 2018* and recommended that no change was needed to the Land Use position. The current language accommodates support for protection of landowner interests, support for protection of environmentally sensitive lands, and support for a requisite public interest when considering legislation concerning eminent domain.

### History: Land Use

**1975-84.** Land use advocacy has often focused on coastal issues. From the late 1970s to early 1980s, League members played key roles in the development of a Texas coastal zone management plan, but the governor did not approve the plan. The League supports the national celebration of Coast Week each year.

The League worked for the establishment of the Big Thicket National Preserve in 1973-74. We have continued to support legislation that would add areas of unique biological diversity and/or essential components of ecologically viable systems to the preserve. The League also played a key role in the 1984 designation of 34,000 acres of east Texas national forest land for wilderness purposes, and we annually cosponsor a Wilderness Pow Wow and support beach cleanup programs.

**1990-91.** In 1990 the League supported the successful reauthorization of a strong federal Coastal Zone Management Act and was represented on a Coastal Management Committee formed to aid the General Land Office in the development of a comprehensive long-term plan for state-owned coastal public lands in Texas. In 1991 the



League opposed proposed state legislation that would have facilitated the development of fragile and disaster-prone areas on the Texas coast.

**1995. Takings and other regulatory measures.** Within the broad priority issue of environmental protection, land use restrictions vs. private property rights were a major focus of League advocacy during the legislative session. The League joined other groups in mounting opposition to the Private Real Property Rights Preservation Act, known as the "takings bill." Unfortunately, antiregulatory sentiment carried the day, and the bill was signed into law.

Key provisions of the new Private Real Property Rights Preservation Act include:

- A broadened definition of taking of private property by government entities to include actions that reduce market value by 25% or more.
- A requirement that governmental entities prepare "takings impact assessments" to determine proposed actions would constitute takings.
- A requirement that health and safety actions meet a stringent three-part test to qualify for exemption from its provisions unless specifically exempted in the law (about 20 categories of government actions are exempted).

On the *plus* side was the death of several bills opposed by the League that would have required cost-benefit analyses of major environmental rules by state agencies.

**Coastal management.** The 74th legislature passed and the governor signed a revamped state coastal management plan. The League supported the revised plan and proposed rules drafted by the General Land Office.

The Railroad Commission submitted numerous amendments to the proposed rules to the Coastal Coordination Council. At a hearing on August 30, the LWVTX expressed opposition to these amendments, noting their conflict with the Federal Coastal Zone Management Plan and the likelihood that adoption of the amended rules would result in rejection of Texas' coastal management plan by the federal government and loss of state authority to regulate the coastal area. The League also urged rejection of the objectionable amendments because they do not reflect important land policy goals, including preservation of the physical, chemical, and biological integrity of the ecosystem, with maximum protection of public health and the environment. (See LWVUS position on Environmental Protection and Pollution Control.)

**1999.** A number of land use issues were debated during the 76<sup>th</sup> Session, and two bills affecting county land use powers were passed and signed into law. Because of substandard development and growth concerns the first bill gives counties a little more power to regulate growth by requiring developers to file plats when they subdivide land into parcels of ten acres or less. It allows counties to set standards for roads and drainage. Adoption of this bill reverses a 1995 appellate court decision, the Elgin Bank Case, that required platting only if roads or parks were being dedicated to the county for maintenance. In order for subdivisions to be approved where the source of water is groundwater, this bill requires that a statement, certified by a registered engineer and approved by Texas Natural Resource Conservation Commission, must be attached stating that adequate ground water is available to the subdivision. This requirement applies to municipal authorities and counties.

The LWVTX continues to support a comprehensive state land use policy to provide for the orderly development of the state. Growth and development of an area should be compatible with the availability of essential natural resource in that area and should avoid the depletion of ground water.

The League actively opposed a bill that would have prohibited wetlands mitigation negotiations on proposed airport sites. The bill, which was counter to the wishes of a majority of Houstonians, and would have threatened the Katy Prairie Westside airport tract, a waterfowl wintering area, did not pass the Senate.

Unfortunately another bill supported by the League that proposed an interim study of farmland preservation was never reported out of committee. Agricultural land is threatened in Texas, the most rapidly urbanizing state in the country.

**2003.** Most of the bills introduced in the 78<sup>th</sup> Session followed by the League, dealt with county authority to regulate development. (This was also true of border issues.) Issues addressed in bills that did not pass included elections to require a subdivision to use a central water or waste water system and standards for (a) minimum amounts of open space or limits on the amount of impervious surfaces, (b) rights of way, (c) drainage, (d) utility connections, and (d) the location, use, and occupancy of housing. A bill prohibiting the operation of a motor vehicle in or on the beds or banks of Texas rivers passed and was signed into law. This issue was examined during the 2002 interim and drew interest statewide from people on both sides of the issue.

**2007.** HB 12 (Hildebran) passed and became law. It appropriates \$170 million more dollars to the Texas Parks and Wildlife Department, and also transfers 18 historical sites to the Texas Historical Commission.

HB 3447 (Rose) failed to pass. This bill would regulate land development in a county wholly or partly located in a priority groundwater management area designated by the Texas Commission on Environmental Quality that contains a territory from seven or more counties.

**2011.** Activity was concentrated primarily in making eminent domain procedures and property owners associations fairer to property owners. In both instances, these powers are widely perceived to have been abused in the past. In the case of eminent domain, the process and method of calculating reimbursement were spelled out in more detail, and the definition of who can wield eminent domain authority was tightened. Governor Perry deemed this topic an emergency at the beginning of the 2011 session, so passage was streamlined and nearly guaranteed. Natural gas pipelines, however, were specifically omitted from this legislation.

Property owners associations, particularly in unincorporated areas, wield great power, but regulations governing the operations of the associations have been ill defined. In the most egregious example of an over-reaching property owners association, a home was foreclosed for relatively small arrears in property owners' association dues. New regulations are intended to result in better notification procedures and more open decision making.

*Note:* Convention 2012 adopted a concurrence entitled "Homeowners Association Reform". This position includes protection against unreasonable foreclosure on homesteads, and priority of payments so that assessment payments apply first to delinquent dues, and then to non-assessment items such as interest and penalties.

**2017. Legislation supported by the LWVTX but did not pass.**

- *Protecting water quality in the Hill Country.* Using water and land use positions, the LWVTX made a major advocacy effort to end the permitting of direct discharge of wastewater over the Edwards Aquifer contributing zone, which covers most of the Hill Country region. An action paper was written, "Protect Water Quality in Edwards Aquifer," and testimony was given at hearings in the House and Senate. Despite significant support from other organizations and affected landowners arguing for land application of wastewater rather than discharge into streams, the proposed legislation died. Work will continue, perhaps during the interim, to stop contamination of surface and groundwater over the Edwards Aquifer contributing zone.
- *Protecting parks and open space.* An Action Alert was issued to advocate for an increase in the proposed funding for the Texas Parks and Wildlife Department, from \$230 million to \$333.5 million. The funding is needed as population growth in the state has caused increased park use and greater need for maintenance and repairs. Legislation was also supported to mandate the dedication of the sporting goods sales tax to the Texas Parks and Wildlife Department, fixing a previous loophole. Sadly, both a budget increase and legislation for a permanent funding source failed.

**Legislation successfully opposed.**

- *Preserving desirable open space.* A bill failed that would have removed land used as an ecological laboratory to be appraised as open space land. The LWVTX registered in opposition to this bill because the LWVTX supports preservation of desirable open space with preferential tax treatment.

- *Supporting adequate powers at the local level.* The LWVTX opposed several bills introduced in the regular and special sessions to remove land use powers from local governments. Especially egregious bills introduced in the special session would have preempted cities' tree ordinances. The LWVTX testified against these bills and worked with an alliance of other groups to successfully keep the bills from getting out of committee. One bill affecting tree ordinances did pass during the special session and was signed by the governor. It requires cities to allow property owners to plant trees to offset mitigation fees for tree removal. This bill was ultimately acceptable to cities, tree advocates, and builders alike. It keeps intact cities' authority to regulate tree removal.
- *Local control of land use.* The LWVTX also opposed other bills affecting local control of land use. One bill would have required cities to enforce building codes according to date of purchase of property rather than date of permit application. Another bill would have accelerated cities' permitting process. The LWVTX registered in opposition because these kinds of decisions belong to local, not state, government.

#### **Legislation unsuccessfully opposed.**

- SB 1172 (Perry): Will prohibit local governments from regulating seed, essentially stripping city and county governments of their ability to protect their farmers and citizens from harmful agricultural practices. The LWVTX position is that these kinds of decisions belong to local, not state, government.

**Legislation watched.** Eminent domain and annexation issues also took center stage. In the special session legislation passed requiring cities in large counties to receive voter approval before annexing new areas.

#### **2019. There were four major issues relating to Land Use in the 86<sup>th</sup> Legislative Session.**

**Eminent Domain.** Using the new LWVTX publication, *Eminent Domain Issue Paper 2018*, we registered and sent testimony in support of numerous bills which were introduced to give protections to property owners involved in eminent domain proceedings. Despite vigorous advocacy from many groups, in the end none of the bills were successful.

**Flood Control Planning.** An historic statewide planning and funding package for flood control was authorized by the Legislature and approved by voters through constitutional amendment in November 2019. LWVTX registered and sent testimony in support of bills that created the framework for this first state flood plan in Texas. A designated Flood Infrastructure Fund (FIF) will pay for planning and flood control projects. The flood control planning process will be similar to the current water planning process, with regional stakeholders, including the public, planning together. The Texas Water Development Board will administer the FIF by making loans to local governments. Projects eligible for FIF may include non-structural and nature-based solutions, like wetlands, as LWVTX and other groups advocated.

**Funding For State Parks.** Legislators agreed to a permanent dedicated funding source for state parks and historic areas, and voters agreed through passage of a constitutional amendment in November 2019. This amendment will close a loophole in previous legislation and will require that all proceeds from the state sales tax on sporting goods will go to Texas Parks and Wildlife Dept. and to the Texas Historical Commission. Population increases, aging and storm-damaged park facilities, and the need for new parks closer to urban areas all require a dedicated, predictable funding source for long-range planning. LWVTX enthusiastically registered in support of this legislation.

**Regulatory Issues.** LWVTX joined with other groups to stop a bill that threatened the contested case hearing process, which is often the last line of defense for citizens to stop the Texas Commission on Environmental Quality (TCEQ) from issuing a permit that could harm air or water quality. Thanks to member response to a LWVTX Action Alert, the bill died. Throughout the session, we watched other legislation regarding regulatory changes and supported protection of environmental regulations.

**2021.** The League was not active in supporting or opposing bills associated with our land use position this during the 2021 legislative session. However, there were several bills, listed below, that passed which are supportive of our land use positions including property owner rights, transparency in governance, and eminent domain.

#### **Public Transparency**

*H.B. 738* updates the statewide municipal residential and commercial building codes. The bill keeps the provision that allows municipalities to adopt local amendments, but added a requirement that any local amendment is adopted in a public meeting.

*H.B. 1154* requires information about meetings, changes in regulations, board membership, etc. of all special purpose districts to be accessible on the Internet in the Special Purpose District Public Information Database.

#### **Landowner Protection**

*H.B. 1564* relates to the disposition of certain platted lots that are abandoned, unoccupied, and undeveloped. The change establishes a process to place the lots back into the market and ensure future development of the lots satisfies minimum modern infrastructure standards. It ensures that all property owners are provided due process.

*H.B. 3833* reduces the tax burden on the property owners when land that had been appraised with a special use valuation (timber or open space) is taken out of that use. In addition, consistency on the appraisal methods used for property under construction as low or moderate income housing is established.

*S.B. 1168* prohibiting municipalities from imposing fines and fees in the ETJ of an area that has either been dis-annexed or where an annexation attempt has failed at the ballot box. This promotes the rights of citizens and protects the will of the voters

*S.B. 1338* amends current law relating to municipal annexation, requiring a municipality to provide to the landowner written disclosure and a plain-language description of the annexation.

#### **Public Lands Protection**

*H.B. 2201* requires the Railroad Commission of Texas to consider recent flood history when deciding on the location of commercial oil and gas disposal facilities. It must include the history of flooding for the preceding 10 years and the potential for polluting groundwater.

*H.B. 2225* relates to the powers and duties of the Texas Parks and Wildlife Department (TPWD) regarding the Texas Water Trust. It establishes which water rights should be held in the Texas Water Trust for environmental needs, including instream flows, water quality, fish and wildlife habitat, and bay and estuary inflows.

*S.B. 700* relates to the continuation of and functions for the TPWD's land and water resources conservation and recreation plan. In addition, the bill supports continuing funding for TPWD for 12 years and recommends best practices for open and effective government.

*S.B. 1118* relates to the creation and administration of the On-The-Ground Conservation Program by the Texas State Soil and Water Conservation Board (TSSWCB). This change will connect outside conservation resources with Texas landowners.

*S.B. 1160* creates the Gulf Coast Protection District (GCPD) to facilitate partnership agreements with the U.S. Army Corps of Engineers that offer solutions for the increasing frequency and intensity of storm surge flooding on the Texas Gulf Coast. The GCPD will have authority to sign project partnership agreements thus accessing federal funds to implement these solutions.

*S.B. 1679* relates to the creation of an urban land bank, and gives direction concerning length of time land can be held and establishes exceptions such as long-term lease with a nonprofit, creating or developing affordable housing, or creation of parks or other public spaces. It can also hold land for flood control and storm water retention or drainage.

#### **Eminent Domain**

*H.B. 2730* changes the eminent domain process to make it more transparent, accountable, and fair for landowners. There must be a Landowner's Bill of Rights (LOBR) that includes the right to file a complaint against an easement. If the LOBR is amended there must be a public comment period before changes are made.

*H.B. 4107* relates to the power of eminent domain by a common carrier pipeline and the notice of entry. It includes written notice to the property owner and indemnification in favor of the property owner with respect to any damages resulting from the survey.

*S.B. 157* relates to eminent domain reporting requirements to reduce cost of penalties for smaller counties and school districts.

*S.B. 721* amends current law relating to the disclosure of appraisal reports in connection with the use of eminent domain authority. This law also now the condemning entity to provide an appraisal, in addition to the landowner.

*S.B. 725* amends current law so that the property owner is not responsible for back taxes when the

## **C. Water**

1971, 1974, 1978, 2012 (See also LWVUS position "Water Resources" in Impact On Issues)

*The League of Women Voters of Texas supports the proposition that water is a natural resource and should be managed for the benefit of the people and the protection of the environment. Further, water conservation should be mandatory, with adequate citizen education for effective water stewardship.*

*The League of Women Voters of Texas supports long-range state water planning that:*

- Takes into consideration its social, economic, environmental, and land use implications.
- Provides for development of adequate water supplies by ecologically and financially sound means.
- Emphasizes conservation and reuse of water.
- Is based on increased research concerning wise and efficient use of the state's land and water resources.
- Affords protection for the land and for fragile ecosystems.
- Establishes water availability criteria before issuing any leases, permits and licenses for new industry, business, housing, and other developments.

*The League of Women Voters of Texas supports measures for the protection, conservation, and development of the groundwater resources of the state as an integral part of the comprehensive state water plan, and groundwater management that would achieve the following objectives:*

- Maintain groundwater quality by preventing harmful contamination of aquifers.
- Assure the long-term productivity of the state's groundwater resources and availability of groundwater supplies.
- Minimize adverse effects of groundwater withdrawals, including land subsidence and reduction of spring flows.

Water resources planning should also include the following:

- Detailed information concerning:
- Hydraulic characteristics and recharge of the state's aquifers.
- Quantities, locations, and trends of groundwater withdrawals.
- Measures that could conserve and extend existing supplies.
- Current and projected costs of ground water and alternative surface water supplies.
- Potential conjunctive use of ground water and surface water.
- Management options developed specifically for each area of the state where ground water is a significant resource and assurance that water transfers to urban areas do not endanger future rural economies.
- Methods to strengthen groundwater conservation districts so they can continue to regulate groundwater use.
- Full public consideration of groundwater management options including a strong state agency with enforcement powers to regulate all water transfers.
- Recommendations of measures to be taken by the state, by political subdivisions of the state, and by the private sector to assure wise management of the state's groundwater resources.
- Coordination of state plans for groundwater management with relevant policies and programs of the federal government and of other states.

Adequate funds should be appropriated for planning and for management of the state's groundwater resources.

## Explanation: Water

In the 1950s and 1960s, the LWWUS positions were reached on water conservation and development and on abatement of water pollution. These positions, as well as national and state positions in other natural resource areas—especially land use—are relevant to action on Texas water issues. A study of state water planning was adopted by Convention 1970. Impetus for the study was the 1968 Texas Water Plan, and the 1969 election in which a \$3.5 billion bond program to begin implementation of the plan was narrowly defeated. The plan proposed importation of out-of-state water to West and South Texas via two large canal systems. The League consensus disagreed with that aspect of the plan, stating that (a) additional water supplies should be developed in an ecologically sound manner from within the state and (b) more efficient use should be made of existing water supplies. The League took another look at the Texas Water Plan in 1974, following publication of a Corps of Engineers analysis of a proposal for importation of water from the Mississippi River. This consensus reaffirmed our 1971 positions.

Convention 1977 deleted the position statement that additional water supplies should come from within the state. Delegates continued to oppose massive water transfer projects but felt that opposition should be based on other

League positions. Convention 1977 also adopted a study of groundwater management and protection, and consensus was reached in November 1978.

The water position was updated in 2012 after the study of Water as a Commodity was completed. The changes specified that the LWVTX believes that water is a natural resource and should be managed for the benefit of the people and the protection of the environment. Further, water conservation should be mandatory, groundwater conservation districts should be strengthened so they can continue to regulate groundwater use, water transfers should be regulated by the state, and water transfers to urban areas should not endanger rural economies.

## History: Water

**1976-80.** When Proposition 1 authorizing \$400 million in Texas Water Development bonds was placed on the ballot in November 1976, the League worked to defeat this proposition. League opposition was based on the absence of financial safeguards guaranteeing timely repayment by beneficiaries of water development projects, absence of environmental protection provisions, and inadequate information as to what projects would be funded. The amendment was defeated. Proposition 2, authorizing \$100 million in water quality enhancement bonds, was supported by the League and approved by voters.

Over the next several years, testimony based on League water positions was presented on the state lignite mining program, state water quality management plans, hazardous waste disposal legislation, the High Plains Ogallala Aquifer Study, the federal Soil and Water Resources Conservation Act of 1977, and a proposed Environmental Protection Agency Groundwater Protection Strategy. The LWVTX Education Fund projects on water issues included: (a) co-sponsorship of a regional floodplain conference in 1975 and (b) Project Safewater in 1976, which explained through a slide program and information kit the implications of the federal Safe Drinking Water Act for Texas communities.

**1981-84.** In 1981 League action again focused on opposition to a proposed constitutional amendment. Proposition 4 would have dedicated half of the state excess revenues in each biennium to a new water fund. In addition to the concern that prompted our opposition to the 1976 amendment, the League opposed the constitutional dedication of state revenues, in accordance with our position on Financing State Government. The League also pointed out that the revision of the Texas Water Plan initiated in 1976 had not been completed. The amendment was defeated.

Shortly after the November 1981 election, the governor called for revision of the Texas Water Plan. The state League and local Leagues testified at forums on water planning issues in 1982 and at hearings on a draft revision of the plan in 1983. In September 1984 the Water Development Board adopted a revised plan, "Water for Texas: A Comprehensive Plan for the Future," which emphasized water conservation and reuse and recognized that importation of water was not feasible under present conditions. In 1981, the LWVTX Education Fund published *Fresh Water for Texas Bays and Estuaries*.

**1985-88.** The 1985 Legislative Session passed a major package of water legislation. Prior to and during the session, the League lobbied to strengthen provisions for water conservation and protection—especially for groundwater. The package consisted of water conservation programs, protection of freshwater inflows to estuaries, creation of groundwater conservation districts in critical areas, and expanded powers for groundwater districts. A bond issue authorized by voters in the November 1985 election funded these initiatives. The League also supported a related ballot issue that passed, authorizing state bonds for an Agricultural Water Conservation fund, if approved by a two-thirds vote of the legislature by 1989.

The League worked with the Water Development Board and the Water Commission for effective implementation of the new conservation requirements and groundwater district provisions. In the 1987 Legislative Session, some League-supported proposals (e.g., stronger septic tank regulation) passed, but all statewide groundwater bills failed.

In 1987-88 local Leagues and the state League participated in the League of Women Voters Education Fund "Community Drinking Water Survey," interviewing water officials on impacts of the 1986 Safe Drinking Water Act

amendments. At Texas Water Commission hearings, the LWVTX testified for more stringent water quality standards and more effective controls of nonpoint source pollution.

**1989-93.** The League reviewed the 13 critical groundwater area reports published by the Texas Water Commission in 1989 and 1990, and urged the commission to address promptly the more serious problems described in the report. Also, in 1990 the state League and several local Leagues presented statements at the Texas Water Development Board public hearings on draft revisions of the state water plan. We commended the plan's emphasis on water conservation and subsequently worked successfully for legislation adopting water-conserving plumbing standards, as recommended in the plan.

In 1990 we attended numerous meetings of the legislature's interim committee on the Edwards Aquifer and testified in the 1991 Legislative Session on two bills proposing management of the aquifer, neither of which passed. A League priority in the 1993 Legislative Session was the creation of a regional management entity for the Edwards Aquifer. The bill the League supported passed in the final days of the session.

In the fall of 1991, the LWVTX testified for a more effective Integrated Environmental Plan for the Mexico-U.S. Border Area and supported a constitutional amendment authorizing use of \$150 million of Water Development Fund bonds for water and wastewater services to *colonias*. The League was represented on the Texas Water Commission Clean Water Council, which submitted its report in November 1992, and on the Clean Texas 2000 Awards Committee, that recommended the April 1993 award winners.

**1994-95.** In 1994 the LWVTX Education Fund sponsored a workshop in New Braunfels highlighting local League work to protect water quality in south central Texas. Since early 1994, League members have been participating in regional advisory committees to the Trans-Texas Water Program, which is considering future water supply options to be recommended in the 1996 revision of the Texas Water Plan. The League is also represented on Watershed Texas, a statewide watershed management project of the Texas Natural Resource Conservation Commission Office of Water Resource Management.

In the 1995 legislative session, the League supported the bill that was passed to meet U.S. Justice Department requirements for the election of the Edwards Aquifer Authority Board. We opposed several bills that did *not* pass, including those lowering water quality standards and limiting pollution control authority of the Texas Natural Resource Conservation Commission.

**1997.** Major new water legislation, known as SB 1, was drafted by various groups during 1996 in response to a statewide drought and also to provide a broader state framework for dealing with Texas' current and future water needs. Early in the session representatives of several public interest and environmental groups, including the League, met to discuss the proposed legislation and to identify essential elements of a state water bill. A resulting policy statement was submitted to legislative staff and these elements were incorporated into the final bill. Key provisions include:

- Adoption of a new state water plan that will incorporate regional plans for drought planning and water conservation by September 1, 2001.
- Retention of the right of capture doctrine for state groundwater.
- Inter-basin transfers approved by the Texas Natural Resource Conservation Commission would become 'junior' water rights with little or no water to transfer out of the basin during a drought.
- Stream flow needs for streams and rivers and environmental flow for bays and estuaries will continue to compete with perceived water use needs of agricultural, municipal, and industrial needs.
- Formulation of a state water plan addressing different needs of managing water in various regions of the state.

The 1997 appropriations bill contains funding of \$36 million for the water legislation during the biennium. An Interim Committee on Water Resources and Development and Management will be created to study a broad range of water issues, including water marketing, and make recommendations to the next legislature. The League plans to monitor this committee during the biennium.

Another bill reinstates the funding mechanism for the state Clean Rivers Program, which would have expired in 1998. However, the population threshold for cities required to establish a water pollution abatement program was increased, weakening the program. Two constitutional amendments concerning water will be on the ballot in November 1997. One would create Water Development Fund II. The other would allow local governments to give tax breaks to businesses that install water-conserving equipment.

**1999.** The LWVTX worked on water quality and protection issues and on budget issues. The LWVTX had as a key priority the provision of money for water quality and quantity issues. The League successfully supported full funding for the ongoing regional water planning process set up by SB 1 in 1997.

The LWVTX joined environmental groups in asking the legislature to fund programs and employees in the storm water permitting process, a water quality program that emphasizes working to maintain the designated uses of specific rivers and streams, water quality improvement and water modeling, and revenue for the National Estuary implementation program for Corpus Christi and Galveston Bay areas. We met with mixed success, but have made an important stride forward in working on the legislative budget and appropriation processes.

The two most important bills, both opposed by the LWVTX, concerned ground water protection and a wastewater discharge bill that restricted the opportunity for public participation. The groundwater bill, originating in the House, was directed at the regulation of the Edwards Aquifer and would have put a moratorium on the pending Edwards Aquifer (protection) Rules that the League supported. The bill would have established a committee to study the rules adopted by the Texas Natural Resource Conservation Commission that had not yet gone into effect. The League opposed the bill, believing that the rules offered increased protection to the contributing, as well as the recharge zone, and were already the result of a large amount of public participation. The bill did not pass; the rules went into effect June 1.

The second bill, which did pass and was signed into law, authorizes the Texas Natural Resource Conservation Commission to lift the cap on wastewater discharges eligible for a general permit. Previously the law had a discharge limit, which if exceeded resulted in having to go through a permit hearing process. These general permits restrict the opportunity for public participation by replacing the contested case hearing process with a notice and comment provision. The bill was strongly opposed by the LWVTX and environmental organizations. This bill serves as an example of legislation that deals with more than one issue, in this case public participation and water quality.

**2001.** The legislature continued its examination of Texas water policy and planning. SB 2 (Brown), signed by the governor, revised the state regional water-planning process, established the Texas Water Policy Council, provided direction on water management strategies, and set up a comprehensive study of water resource issues that will occur during the 2002 interim. The bill strengthened the ability of underground water districts to control the pumping of groundwater. The bill also established the water infrastructure fund to be funded through the Texas Water Development Board. The LWVTX did not support or oppose (during the session or the election) a proposed constitutional amendment to authorize an additional \$2 billion in general obligation bonds for water projects.

**2003.** For a session that was not supposed to deal with water there were a large number of significant bills introduced and passed. These include bills that:

- Deal with the Texas Water Development Board administration and funding, including the Water Infrastructure Fund, the Rural Community Water and Wastewater Loan Fund, and the Rural Water Assistance Fund.
- Consolidate various agricultural assistance funds.
- Create the Water Conservation Implementation Task Force.
- Require all water conservation plans and drought contingency plans submitted with a water rights permit or financial assistance application to include specific, quantifiable 5-year and 10-year targets for water savings.
- Establish the Study Commission on Water for Environmental Flows, prohibits the Texas Commission on Environmental Quality from issuing a new permit for in-stream flows dedicated to environmental needs or



bay and estuary inflows and clarifies that groundwater conservation districts may adopt different well spacing or production limits for distinct aquifers or for different geographic areas within their boundaries.

- Require the Texas Water Development board to study, investigate, and survey the development of water supplies from seawater desalination.
- Relate to notice of groundwater contamination that may affect a public or private drinking water well.
- Relate to (a) prohibiting the creation or enforcement of certain restrictive covenants that undermine water conservation, (b) the authority of certain nonprofit water supply corporations to establish and enforce customer water conservation measures, and (c) the definition, use, regulation, and permitting of grey-water.
- Relate to requiring water rights applicants and holders, water utilities, and conservation and reclamation districts to adopt and implement certain water conservation measures.
- Relate to lawn irrigation and rainwater cutoffs, wastewater, the discharge of wastewater into waters of the state, storm water, land application of sludge, and water supplies.

Bills that would affect low-flow toilets and washing machines conservation standards did not pass. Two other water bills that did not pass addressed issues relative to small community water systems that face exceptional physical or financial circumstances in attempting to comply with federal Safe Drinking Water Act requirements relating to naturally occurring material. This legislation could have led to the loss of federal funds.

**2005.** The latest super water bill, SB 3 (Armbrister) (in line with SB 1 and SB 2), died in the House, a victim of late filing and bad timing. The bill would have covered conservation, groundwater, in stream flows, protection of the bays and estuaries, and other topics. At the last moment representatives were looking for bills to attach environmental flows and the protection of the bays and estuaries amendments. However, no significant water legislation passed. Senator Armbrister filed a bill in the special session dealing with Article I of SB 3, environmental flows and bay and estuary protection, but the bill was not added to the governor's list for the special session. The governor had said that school finance took priority before anything else would be considered.

**2006.** SB 1, the 2nd 5-Year State Water Plan was adopted in the fall following statewide hearings.

**2007.** HB 3 (Puentes), supported by the LWV of Texas, creates a basin-by-basin process for developing recommendations to meet in-stream needs, requires the Texas Commission on Environmental Quality to adopt recommendations in the form of environmental flow standards, and creates the Environmental Flow Advisory Group to oversee the process.

HB 4 (Puentes), supported by the LWV of Texas, is a water conservation bill that represents the consensus recommendations of the state Water Conservation Implementation Taskforce established by the legislature in 2003. The bill establishes a statewide water conservation public awareness program to educate Texas residents about water conservation.

SB 3 (Averitt), opposed by the LWV of Texas, passed. This bill became a reservoir designation bill. The passage of SB 3 does not mean that reservoirs will automatically be built, but may set up conflicts that will take years to resolve.

**2011.** SB 332 (Fraser) originally attempted to reaffirm groundwater as a property right (rule of capture) by describing it as a vested property right. The result would have been to threaten the balance between landowners and the 97 local groundwater conservation districts that are the only community regulators of groundwater reservoirs. These reservoirs supply more than 60% of the state's water needs. In a compromise, the bill eventually just restated groundwater ownership as a landowner's property right. Had "vested" remained in the bill, it would have been a constitutionally protected property right, becoming a statute of common law.

The Texas State Supreme Court in the *Edwards Aquifer Authority v. Day* case answered the vested question in early 2012 when they ruled that water was indeed owned by the landowner. The full implication of this decision is to classify any restriction in the use or sale of a landowner's water as a legal taking that must then be remunerated. The problem now returns to the legislature and the courts to decide how to guarantee the best use of water for the people. In commenting on this Texas Court decision, the *New York Times* noted that Texas is the only state that

"functions by the rule of capture, which allows landowners to pump essentially unlimited amounts of water. Elsewhere in the U.S. groundwater is a public resource" (March 18, 2012).

There were two proposed constitutional amendments relating to water passed by the legislature for the November 2011 ballot:

- SJR 4 (Hinojosa): This proposition is a product of the Sunset Advisory Commission recommendations on the ability of the Texas Water Development Board to issue debt. It authorizes the Texas Water Development Board to issue self-supporting general obligation fund bonds at its discretion and on a continuing basis (essentially a revolving fund). The Texas Water Development Board would thus have greater flexibility in targeting needs across a longer time horizon and increase their ability to meet needs of local governments that must upgrade infrastructure to meet growing populations. This amendment passed.
- SJR16 (Estes): This is the Water Stewardship Amendment that would add water stewardship purposes to the agricultural exemption option (open-space valuation option) for property tax valuations. According to the bill analysis, adding water stewardship purposes to the land management practices would give landowners "a tool to better manage their property and incentivize land owners to invest in projects that improve water quality and quantity for the state." This amendment failed.

Otherwise, this session was a disappointment for all hoping that the issues of water demands and shortages would be faced once and for all. The new, increasing challenges involving groundwater depletion, pollution and toxic spillage resulting from natural gas drilling and hydraulic fracturing will be in the forefront of water planning and permitting for some time to come.

**2013.** The LWVTX followed 23 bills during the session, of which seven passed. The most important water bill signed by the governor was HB 4, which sets up the Texas Water Development Board funding for implementation of the so-called SWIFT loan fund (State Water Implementation Fund of Texas) and bond sales to support the State Water Implementation Fund of Texas.

Also, this bill reorganized the Texas Water Development Board from being run by an administrative voluntary board of six appointed by the governor to a paid professional board of three, one each appointed by the governor, lieutenant governor, and speaker of the house, respectively. The reorganization of the Texas Water Development Board was effective September 1, 2013. However, the State Water Implementation Fund of Texas funds would not be established until the constitutional amendment proposal (SJR 1) passed by the voters in the statewide election November 2013. This vote would authorize the state to move \$2 billion from the Rainy Day Fund to set up the funds. There were lots of pros and cons on this proposal, and the LWVTX undertook a campaign to pass the amendment, including a press conference, working with other groups, and working with local Leagues, sending them blue wristbands to show their support. The amendment passed by a wide margin.

**2017.** This session was not focused on water issues. And several good bills that passed in one house failed to be considered in the other due to tensions between the two houses over unrelated, tendentious issues, such as transgender person's use of public restrooms. So progress overall was limited.

The LWVTX supported bills to protect groundwater (see Land Use paper), surface water, encourage conservation, encourage rainwater harvesting, wastewater reuse, storm water control, desalination, and aquifer storage and recovery. Of these, HB 1648 was signed by the governor providing that any private water utility with over 3,300 connections to specify a conservation officer to be responsible for the utility's conservation plan. SB 59 was also signed into law providing more specific support from the Texas Commission on Environmental Quality for water and energy conservation planning by all state entities.

The League also supported many measures that would strengthen the Water Code and the administration of regulations by the Texas Commission on Environmental Quality, the Texas Water Development Board, and the Railroad Commission, which has a great deal of enforcement authority for the drilling industries to prevent contamination of groundwater. The League supported many of the recommendations of the Sunset Commission in its review of the Railroad Commission. Of these, only a few were signed by the governor.

- SB 864 requires that groundwater conservation districts be notified if the Texas Commission on Environmental Quality receives an application for the use of surface water that identifies groundwater as a backup source.
- HB 2215 adjusted the due dates for groundwater conservation districts to adopt desired future conditions (31 TEX. ADMIN. CODE, PT. 10, §356.10[6]) of aquifers in order to harmonize with the dates for new iterations of the state water plan.
- HB 1818 (a) requires the Railroad Commission to develop an Alternative Dispute Resolution Policy (an annual plan for strategic use of its resources for monitoring and enforcing oil and gas violations) and publish a report of all violations and enforcement measures annually, and (b) provides fees on pipeline applications sufficient to cover administrative and safety enforcement activities.
- HB 1573 requires training standards for certified water loss auditors.
- SB 347 specified that regional planning group meetings be subject to all open meeting provisions.

A very interesting bill that passed confirmed the legality of the contract that Midland had negotiated with an oil exploration company to exchange upgrades to its wastewater treatment plant for a guaranteed amount of treated wastewater to use in hydraulic fracturing. This seems like a win-win project that may be replicable in other places. Reducing the use of fresh water for hydraulic fracturing is an excellent conservation measure.

Several bills the League opposed also failed. Most would have rewritten state definitions and regulations in favor of regulating water as a commodity and reducing the time needed to approve a surface water permit, which would shift the balance in favor of developers by reducing protections for the public interest to be considered thoroughly.

The League also watched many bills that would have amended the process of developing the State Water Plan. SB 1511, the only one that passed, provides more hearings by the regional planning groups, the assessment of any strategies that were implemented and identification of impediments to the implementation of those that were not, and allows simplified planning, which means that if nothing has changed, every other 5-year update can be less comprehensive.

#### **Pertinent bills that passed and were signed by the governor.**

- SB 625 establishes a database of all special purpose districts with many specific data points required.
- SB 1009 limits information requirements.
- SB 1430 prioritizes handling of permits for desalination projects and limits time for appeals.
- SB 1446 loosens some of the notification requirements in contested case hearing on surface water permits.
- SB 1538 allows the use of the Floodplain Management Fund to collect information about planning, protection, mitigation, etc., and provide it to the public. Signed by the governor.
- HB 544 allows the Water Development Board to fund planning for water projects as well as implementation.
- HB 294 allows the Public Utility Commission to take over investor owned water utilities that do not comply with state rules in counties with over 2.7 million population.

#### **Related measures passed and signed by the governor, of interest as governmental oddities.**

- HCR 31 urges Congress to encourage the U.S. Department of Agriculture to change a regulation that requires a farmer to continue watering a crop that has already failed in order to collect on its crop insurance policy.
- HB 965 requires state correctional facilities to comply with local water restrictions in times of drought.
- HB 641 continues the Red River Boundary Commission that negotiates with Oklahoma over shifts in the riverbed.

**2019.** The 2019 Session offered a view into changing water perspectives in Texas. Clearly water, or a lack thereof, is becoming a concern for our lawmakers. Filed were numerous bills pertaining to groundwater and aquifer injection; that is the storage of water we have now, for use later. Creating laws around how water is measured and retrieved will likely continue as a focus while we become more sophisticated in our groundwater management approach.

The League supported numerous bills giving authority for these injection wells, in addition to the formation of an interregional planning council for state water planning and a bill directing the Water Board to conduct a study on aquifer storage and use across the state. A partner bill authorizing the Water Board to fund interregional projects was also filed and passed. We believe long term water goals for Texas are more easily met by increased partnerships across water sheds. After all, water knows no county lines, and infrastructure needs can be spread across the state for cost savings and innovation.

**Aquifer storage bills that passed and were signed into law:**

- SB 520 (HB 481) - allowed the City of New Braunfels storage and recovery of water in a portion of the Edwards Aquifer.
- HB 712 - authorized the Texas Water Development Board to conduct studies of and prepare and submit reports on aquifer storage and recovery and aquifer recharge projects.
- HB 720 - clarified retrieval rights from aquifer storage wells.

We also supported HB 1044 which sought to expand definitions of the Edwards Aquifer to include the Upper Glen Rose. Sadly, this bill did not make it out of committee.

**Planning as a focus (signed into law):**

- HB 807 - Requires the Texas Water Development Board (TWDB) to appoint an interregional planning council during each five-year state water plan adoption cycle. The council would include one member of each regional water planning group, to serve until a new state water plan is adopted.
- HB 1052 - Board funding established in partnership with HB 807.

One planning bill LWVTX supported, HB 1059, related to the creation of a 10-member group each fiscal biennium to prepare a report on the use of green stormwater infrastructure and low impact development in the state. **Governor Abbott vetoed the bill stating there were already provisions in place for stormwater study.** The emphasis on green stormwater infrastructure was a key component of this bill. We hope to see something similar in the future and will offer increased support.

While Proposition 8, “creating a flood infrastructure fund that the Texas Water Development Board could use to finance drainage, flood mitigation and flood control projects after a disaster” was approved by voters, green planning remains an over-looked need for our state.

The League also supported HB 817 which would prevent dumping of toxins into the Edwards Aquifer. Sadly, this bill was left pending in committee. Fortunately, one bill with some teeth, SB 530, increased fines for polluting drinking water, public water supplies, and bodies of water from a penalty from \$50 to \$1,000 for each violation to \$1,000 to \$5,000. We hope this decreases the likelihood of intentional pollution in our waterways.

A big win for Texans, Proposition 2, calls for investment in economically distressed areas of the state through loans from the Texas Water Board. The proposition passed with a wide margin of support “allowing the Texas Water Development Board to issue bonds to fund water and wastewater infrastructure projects in areas where median household income is at or below 75% of the statewide median income level.” This should offer relief to thousands of Texans, largely located near the border, who currently have little to no water infrastructure.

**2021.** There was very little activity on water in the 87<sup>th</sup> Session. We testified four times in support of House bills, but only two passed the House and were not taken up by the Senate. HB 2716 would have given more power to the Texas Parks and Wildlife Dept. to contest water and wastewater permits. HB 2990 would have mandated posting water use permit applications online.

HB 1435 would have given more power to cities when dealing with utility companies, but was left pending in committee. HB 2652 would have established an advisory board to study surface and groundwater interaction. It died in the House Calendars committee.

# LWVUS Program Positions

This is a summary of LWVTX advocacy at the state level based on certain national League positions, and for which we have no corresponding state position. A complete record and explanation of all current LWVUS positions can be found in *Impact on Issues* (revised after each LWVUS Convention).

## I. Representative Government

*Promote an open governmental system that is representative, accountable, and responsive.*

### A. Citizen's Right to Know/Citizen Participation (Open Government)

1984

*The League believes democratic government depends upon informed and active participation at all levels of government. The League believes that governmental bodies must protect the citizen's right to know by giving adequate notice of proposed actions, holding open meetings, and making public records accessible.*

#### LWVTX Action: Open Meetings/Open Records

**1987-89.** The League supported a successful effort on the part of a coalition of several groups (Common Cause, news media) during the 1987 Legislature to amend the Texas Open Meetings Act to strengthen the provisions on executive sessions of public bodies, requiring them to tape record such sessions or file certified agendas. In the 1989 session the League supported successful legislation that strengthened the Texas Open Records Act by requiring agencies to make records available within 10 days after they are requested and establishing reasonable fees for copying records.

**1997.** The League supported a bill that would have prohibited closed-door staff briefings of governing boards in cities, counties, school districts, etc., a common practice throughout the state. The bill passed the Senate easily, was voted out of the House committee, but was killed when it was pointed out that the practice is already illegal under current law. Another League supported bill that would have mandated that private contractors, offering services formerly provided by the state, operate under the Open Meetings Act, did not come out of committee.

**1999.** Two important bills dealing with open meetings and open records statutes were passed during the session. The first bill removed a loophole that allowed governmental bodies to meet in secret without notice when called a "staff briefing." The second bill combined multiple changes in the open records act, preventing delay tactics and restricting the withholding of information.

**2001.** Although the League followed several bills, none will significantly affect the public's right to know. At the end of the session the League worked with Common Cause and the Consumer's Union to defeat several otherwise dead bills that were attached as amendments to still-alive bills. Two of these amendments would have closed certain records to the public. The League's biggest concern, a proposed constitutional amendment making privacy an explicit constitutionally guaranteed right, did not pass.

**2005.** SB 286 (Wentworth) and HB 634 (Baxter), both supported by the LWVTX, added educational requirement to the existing Open Meetings Act and Public Information Act for elected and appointed officials in Texas. This training was one of the legislative priorities of Attorney General Abbott. The governor signed SB 286.

#### Explanation: Recorded Votes

Texas is the largest of the 10 states that does not require that votes be routinely recorded by legislators' names. About half of the votes taken are by voice vote: all those in favor say aye, opposed nay. Legislators must request a recorded vote by roll call in the Senate and by electronic means in the House. Records of votes are published in the *Texas Journal* and are difficult to access by even competent computer users. The participation of citizens in the democratic process is hindered by the unavailability of voting records of their individual representatives.

## LWVTX Action: Recorded Votes

**2003.** In April the *Dallas Morning News* began a media campaign to inform the public of when and how votes are recorded and not recorded. A Recorded Votes Committee was approved at the state level in August 2003. During the special session of the Legislature in the summer of 2003, Senator John Carona of Dallas introduced legislation to record nonceremonial votes. The efforts of the Recorded Votes Committee resulted in an action motion passed overwhelmingly at Convention 2004 in support of the constitutional amendment noted above. Throughout 2004-05 advocacy efforts were undertaken with written articles, educational forums, meetings with candidates for office, and lobbying of state representatives.

**2005.** League members can take pride in the progress that was made in the 2005 Legislative Session regarding the need to routinely record all substantive votes. In previous legislative sessions, bills for recorded votes were not even heard in committees. In 2005 both the House and the Senate changed their rules to make recorded votes easier and more frequent, and to have them posted on the Internet. Bills to require routinely recorded votes were heard in committees in both Houses, and the Senate passed a bill to record all substantive votes. The Senate vote was unanimous. Regrettably, the House leadership persisted in their opposition of the bill and did not allow a vote in the State Affairs Committee, although there were enough votes to pass it.

Efforts to make routinely recorded votes and public access to them a reality in Texas will continue in the interim and the 2007 Legislative Session. It is not unusual for a bill to take three sessions to pass. Our plans for future action include:

- Investigating the mechanics of recording votes in other states.
- Getting candidates and elected legislators on record regarding recorded votes during the 2006 primaries and general election.
- Continued education of our members and the public.
- Ongoing collaboration with newspapers and advocacy groups that support routinely recorded votes.

**2006.** History was made in the 80<sup>th</sup> Legislature when the House and Senate passed HJR 19 (Branch), a constitutional amendment to the Texas Constitution: "to require that a record vote be taken by a house of legislature on final passage of any bill, other than local bills, of a resolution proposing or ratifying a constitutional amendment, or of any other nonceremonial resolution, and to provide for public access on the internet to those record votes." The amendment was supported by the League and approved by Texas voters in the November 2007 election. This achievement is the culmination of work by a dedicated program chair and other League members who worked tirelessly since 1997 to advocate for recorded votes.

## LWVTX Action: Open Government

**2011.** The governor signed HB 2973, known as the Citizen Participation Act or Anti-SLAPP legislation, which is an acronym for Strategic Lawsuits Against Public Participation. The new law places burdens on lawyers who want to file lawsuits on behalf of public figures or institutions in order to discourage people from investigating or complaining about the public figures.

Other bills supported by the League that became law include HB 336, requiring the posting on the Internet of political contributions and expenditures of public school board trustees in larger school districts. HB 2439 requires state agencies with more than 1,500 employees to allow employees to submit suggestions for cost efficiencies on their website. HB 2460 makes public retirement systems subject to the Texas Public Information Act. HB 2017 requires advisory committee meetings of the Texas Department of Motor Vehicles to be publicly accessible. SB 227 requires the Texas Medical Board to make public any remedial plans created to resolve complaints about physicians.

**2019.** Transparency and open government, among the pillars which assure that democracy works, were hot topics this session. Advocates in all sectors are unabashedly complaining that the once-robust Texas Public Information Act is hemorrhaging, and the League of Women Voters in Texas stands firmly with them.

This session the League of Women Voters of Texas is closely aligned with the **Freedom of Information Foundation of Texas** and the growing statewide **Sunshine Coalition**. The Foundation seeks to inform all about their rights and

responsibilities as participants in our democracy, with the clear objective to protect and preserve the state's open meetings and open records laws. The Sunshine Coalition is working with state and local lawmakers, executives and other key policymakers to enact new provisions that strengthen Texas' Sunshine Laws, improve public oversight and rebuild trust in government operations and decisions. Both are nonprofit organizations.

Sen. Kirk Watson, D-Austin, and Rep. Giovanni Capriglione, R-Southlake, worked with the League of Women Voters through the Sunshine Coalition and Freedom of Information Foundation of Texas to pass SB 943, contracting transparency legislation that strengthens the Texas Public Information Act. In 2015, two Texas Supreme Court rulings had blocked public access to how taxpayer money is spent.

Watson and Capriglione also joined to pass SB 944, which allows better access to public records in a government official's private cell phone or email account. These records are already public by law, but SB 944 closes a "custodian loophole" and makes them easier to obtain.

This session's bi-partisan legislation will obligate governments to reveal the core elements of their contracts with private companies, including final dollar amount, key contract provisions, and line-item pricing. Information about public contracts with nonprofits that are performing government work, such as economic development agencies, will also be more readily available.

A bill we supported by Sen. Watson (SB 1318), which clarified when dates of birth should be made public, was left pending in committee. Businesses, journalists, and regular citizens use dates of birth for many purposes. Birthdates help to verify identity in the context of credit checks, providing loans, news reporting, etc.

Unfortunately, in dire contrast to what is discussed above, HB 2730 (Leach), passed and was signed by the governor despite opposition from groups such as the League and Sunshine Coalition. In most cases, the Anti-SLAPP law is a tool for regular Texans facing a David-and-Goliath court battle they cannot afford and do not deserve. HB 2730 will remove protections for people who get sued for defamation, for employers who try to protect their employees, for Texans who get sued by out-of-state corporations, and for consumers who write online reviews but have unknowingly signed non-disparagement agreements while clicking through the website. The law could actually prevent average citizens from getting a lawyer to defend them because of certain language.

**2021.** The League of Women Voters of Texas continues to be active in what is now the Transparent and Accountable Open Government Coalition, an advocacy group formed in 2019 by the Freedom of Information Foundation of Texas. At this writing, there are more than 30 active members, including print and broadcast news organizations and pro-justice and civil rights nonprofits. The coalition is working to bring onboard Republican and Democratic legislators.

Throughout this legislative session, we supported and worked closely with the Transparency and Open Government Coalition (TAG) on a myriad of bills that would have required all public entities to be transparent in all its actions. Two of those bills have been signed by the Governor: SB 930 (allowing families of nursing home residents to have more information about their loved ones) and SB 1225 (catastrophe notice reform to avoid abuse). They will both become law on September 1, 2021.

The TAG Coalition sums it up well when it says, "As disappointing as it has been to not see some of our major agenda items advance in the Senate, we played some incredible defense on measures that would have substantially compromised the TPIA and harmed the public's right to know." Below is a recap of open government bills we supported in the House that simply stalled out in the Senate.

HB 1416 (requiring skeleton crews to have functional governments) died when it did not receive a hearing in the Senate Business and Commerce Committee.

HB 1810 (providing for searchable/sortable electronic records) died when it did not receive a hearing in Senate B&C.

HB 3015 (enforcement of the required response for public documents in a timely way) died when it did not receive a hearing in Senate B&C.

HB 3535 (providing that dates of birth are made public) died when it did not receive a hearing in Senate B&C.

HB 2683 (providing public access to remote meetings) was never referred to committee.

HB 2913 (requiring all government contracts to be posted online) never got a committee hearing in either chamber.

## B. Public Policy on Reproductive Rights

1983

*The League of Women Voters of the United States believes that public policy in a pluralistic society must affirm the constitutional right of privacy of the individual to make reproductive choices.*

### LWVTX Action - Access for Safe, Legal Abortions

LWVTX immediately began using this position for action and actively works to support access to safe and legal abortion. During each legislative session, we track legislation that affects abortion access and register our position for or against pending legislation. We frequently prepare written or oral testimony to be provided to various legislative committees.

During every Texas legislative session, bills are introduced to restrict Texas women's access to meaningful reproductive choices. LWVTX works with other prochoice groups to defeat these measures with mixed success. Unfortunately, Texas now has some of the most restrictive abortion laws in the country. Anti-abortion advocates have been successful in imposing a 24-hour waiting period before an abortion can be performed and have severely limited the availability of abortions after 20 weeks of pregnancy. They have passed laws that require parental consent for a minor to obtain an abortion and require a vaginal ultrasound prior to an abortion.

**1983-89.** During each succeeding legislative session, bills attempting to place various restrictions on abortions have been introduced. The LWVTX has worked with other prochoice groups to defeat these measures, initially with great success. But laws enacted in recent sessions severely restrict Texas women's access to meaningful reproductive choices. Also in recent years, prochoice groups, including the LWVTX, have broadened their focus in this area to include advocacy for women's access to comprehensive reproductive health services and for medically accurate sexuality education. In supporting these initiatives, the LWVTX has relied on the LWVUS positions on Health Care and Meeting Basic Human Needs. The LWVTX position on Health Care for Those of Lesser Means also supports advocacy for access to comprehensive reproductive health services. Following the 1989 U.S. Supreme Court decision in *Webster v. Reproductive Health Services* that gave states increased power to regulate abortion and threatened to overturn *Roe v. Wade*, prochoice groups in Texas, including both state and local Leagues, began organizing concerted responses to the escalating calls for restrictive legislation.

**1990's.** In 1995, for the first time, two restrictive measures were voted out of Senate committees. One would have mandated parental or judicial involvement in a minor's decision to seek an abortion. The other would have classified abortion providers as ambulatory centers, thereby driving the cost of the procedure beyond the means of most women. At committee hearings, the LWVTX presented testimony in opposition to both bills. Fortunately, neither measure garnered the 21 votes necessary to be voted for consideration on the Senate floor. By 1999, after many failed attempts in previous sessions, antichoice proponents were able to enact a parental notification bill, vigorously opposed by the League. Under its provisions, a physician performing an abortion on a minor must provide 48-hour notice to a parent. A judicial by-pass was provided as the only alternative to parental notification.

**2003.** Several laws were enacted that further compromise a woman's right to choose:

- An omnibus law implements a 24-hour waiting period before a woman can obtain an abortion, requires physicians to provide women seeking abortions with informational materials including misinformation linking abortion to breast cancer, and requires abortions after 16 weeks be performed in ambulatory surgical centers, making their availability and cost prohibitive for most women.
- Another law allows criminal or civil charges to be brought against anyone who causes the death or injury of a fetus, and defines an individual as "an unborn child at every stage of gestation from fertilization until birth." By thus giving a fetus status as an individual, this law opens the door to future measures and lawsuits that would undermine women's reproductive choices. The law also has the potential to interfere with a doctor's care of a pregnant woman, as a doctor might not be willing to perform certain procedures (such as amniocentesis) for fear of being charged with a crime if the woman lost the fetus as a result.



**2005.** Enacted setbacks to choice were in the form of amendments attached to the measure reauthorizing the Texas Medical Board. These amendments mandate parental consent for a minor's abortion (cf. the notification requirement enacted in 1999), and further restrict the already extremely narrow circumstances under which a woman can obtain a legal abortion in the third trimester of pregnancy to cases where the fetus has a severe and irreversible brain impairment or the woman risks death or severe and irreversible brain damage or paralysis.

Other setbacks for women's health included two riders attached to the state budget: One diverted \$5 million to crisis pregnancy centers whose chief mission is giving misinformation to pregnant women in order to discourage them from having abortions, rather than providing actual health care services. The other rider diverted \$20 million from existing providers (including Planned Parenthood affiliates, medical schools, hospital districts, and health departments), displacing over 70,000 low-income women currently receiving family planning and other health care services from these entities.

On the good news front, the legislature passed the Medicaid Waiver bill, which instructs Texas Health and Human Services to apply for a federal waiver that will expand access to preventive health care and family planning services for low-income women, including screening for diabetes, cervical and breast cancer, hypertension and tuberculosis, as well as counseling and education on contraception. Unfortunately, a bad amendment attached to the waiver prohibits waiver funds from going to agencies that perform or promote abortions and limits coverage of information about and prescriptions for emergency contraception. Another victory was passage of a bill mandating hospitals to implement plans for adequate and comprehensive services to victims of sexual assault, though it regrettably does not mention emergency contraception.

**2007.** Although there were a couple of close calls, all of the bills filed during the 80<sup>th</sup> Legislative session that would have imposed additional burdens on Texans seeking abortions and/or abortion providers died. The state budget brought both good news and bad news for proponents of women's health and increased access to preventive and reproductive health care. New language was added to the rider passed by the 79<sup>th</sup> Legislature in 2005 that diverted \$20 million away from proven providers of preventive health care and resulted in 33,000 fewer women receiving family planning services. The new rider restricted the Texas Health and Human Services from implementing the rider if it would adversely affect the number of women who receive family planning services. However, the Alternatives to Abortion program rider enacted by the 79<sup>th</sup> Legislature remained intact. The provision allows for allocation of \$5 million to agencies that provide no medical services and do nothing to prevent unwanted pregnancies.

**2009.** For better *and* worse, status quo is an appropriate summation of the 81<sup>st</sup> Legislative Session in this program area. On the better side, no antichoice bills were passed, thanks in part to unrelated procedural maneuvers. Measures opposed by the LWVTX that came close to passage included those that would have (a) required an ultrasound prior to abortion, (b) authorized Choose Life license plates whose purchase would fund unregulated, unlicensed pregnancy centers, and (c) placed burdensome new reporting requirements on women seeking and physicians performing abortions, under the guise of protecting women from coerced abortions.

On the worse side, efforts to improve sex education in public schools and to expand low-income women's access to preventive family planning and other health care services were ultimately unsuccessful. Some of these efforts were encompassed in the Education Works bills and the Prevention Works bills strongly supported by the LWVTX. Kudos to Representatives Castro, Villarreal, and Strama who tried but failed, during the frantic waning days of the session, to attach amendments to an education-related bill that would have required information taught in sex education courses to be medically accurate.

Also for the worse, provisions included in the state budget opposed by the LWVTX impede women's access to preventive health care:

- Rider 56 diverts \$20 million from expert family planning health care providers, such as Planned Parenthood, and gives it to Federally Qualified Health Centers that don't have the capacity to see large numbers of family planning patients. Since the rider was enacted in 2005, 70,700 fewer such patients have been served. A

bright spot: New language was added requiring funds not spent by Federally Qualified Health Centers to go back to family planning providers who can use them.

- The Alternatives to Abortion program was also renewed, with increased funding that is directed to crisis pregnancy centers—organizations that provide no medical services and do nothing to help women prevent unintended pregnancies.

**2011-2012.** Despite vigorous advocacy by the LWVTX and other prochoice groups and individuals, women's health and reproductive choice were big losers in the 2011 Legislature and its aftermath.

**Family planning funds and the Texas Women's Health Program.** A budget cut of approximately \$62 million from the state family planning program will leave an estimated 200,000 women without access to basic health services. Adding insult to injury, the budget actually includes an increased amount for the Alternatives to Abortion program that encourages women in crisis pregnancies to carry to term, often with Medicaid support. The Alternatives to Abortion program, which has an \$8.3 million budget in the current biennium, provides no medical services, although it does make referrals to other government programs.

Although the Texas Women's Health Program was reauthorized, but the renewal application submitted to the federal government effectively excluded Planned Parenthood centers from providing Texas Women's Health Program services.

The federal government responded that excluding qualified providers is a violation of federal law and that funding for the Texas Women's Health Program would be withheld if Planned Parenthood were excluded. The state refused to back down. Planned Parenthood then filed a lawsuit against the state Health and Human Services Commission, alleging that it is unconstitutional to block Planned Parenthood from participating in the Medicaid Women's Health Program and depriving women of the right to choose their health care provider. The judge has issued a temporary injunction that allows renewal of the program and Planned Parenthood participation pending a full hearing and arguments from both sides.

#### **Antichoice legislation/regulations.**

*Sonogram requirement.* As passed and signed into law, Texas now has perhaps the most extreme pre-abortion sonogram requirement law in the country: it mandates that the woman receive a verbal description of the fetal image even if she opts out of viewing it. Further, although a woman may certify that she doesn't wish to view the fetal image, the law actually says that her consent to the medical procedure of an abortion is not informed if she doesn't view the image.

*Choose Life license plates.* This new law authorizes the issuance and purchase of Choose Life license plates. Proceeds from the purchases will go to eligible organizations that give assistance to pregnant women who are considering placing their children for adoption. But organizations that provide abortions or abortion-related services or make referrals to abortion providers are not eligible to receive these funds.

*Funding restrictions.* Another amendment to SB 7, the special session's omnibus health care bill, effectively bans hospital districts from using local tax revenue to fund abortions or risk losing state funding. The amendment allows exceptions if the woman's life is in danger or if the fetus has a severe fetal abnormality.

**2013.** As the regular session adjourned, the LWVTX and other advocates for reproductive choice and for comprehensive, affordable women's health care briefly rejoiced that none of the bills on these issues that the LWVTX opposed passed. In fact, none of them even received a vote from either chamber. Also preventive health care for women was a winner in the state budget that:

- Allocated \$71.3 million in state funding for the Texas Women's Health Program. Approximately 90% of this was to replace lost federal funding because of the Affiliate Ban Rule enacted in 2011. This funding maintains the Texas Women's Health Program but shifts the funding source from federal to state dollars.
- Expanded the state's Community Primary Care program by \$100 million to support women's preventive care, including contraceptive care for approximately 100,000 low-income women.

- Added \$32.1 million to the Texas Family Planning Program to replace federal Title X grant funds that were awarded to the Women's Health and Family Planning Association of Texas instead of to the state.

Unfortunately, along with the death of the antichoice bills opposed by the LWVTX during the regular session, all of the prochoice and pro-women's health measures supported by the LWVTX also died without receiving votes.

In the 1st special session that immediately followed the regular one, the governor added "legislation relating to abortion procedures, providers and facilities" to the agenda. A number of abortion bills were filed but the ones that moved were companions SB 5 (Hegar) and HB 60 (Laubenberg)—omnibus measures banning abortion after 20 weeks, requiring all procedures to be performed in a mini hospital forcing women to make four trips to a clinic for a drug-induced abortion, and requiring all abortion doctors to have admitting privileges at a nearby hospital. The committee substitute for SB 5 added an exception to the 20-week ban for situations involving a severe fetal abnormality.

The battleground then moved to the House where the State Affairs Committee scheduled HB 60 and HB 16 (Laubenberg), a stand-alone fetal pain measure banning virtually all abortions after 20 weeks, for hearing. Hundreds of women (estimates as high as 700) registered to be heard. After more than 10 hours of testimony, with hundreds (including the LWVTX) still waiting to be heard, the committee closed the hearing.

The State Affairs Committee reconvened the next day and quietly approved both HB 60 and its companion bill SB 5, as well as HB 16. However Texas women's impassioned and eloquent stand against these antichoice bills began to receive national attention. The marathon testimony in the State Affairs Committee was widely reported and dubbed "the people's filibuster." With the full House set to hear SB 5 and HB 60, hundreds of motivated and mobilized reproductive rights advocates headed for the Capitol, most wearing orange as urged by organizers and many wearing orange tee shirts saying "Stand with Texas Women." After hours of debate that went on into Monday morning, the House passed SB 5 on a vote of 95-34 with 20 members absent.

As the bill moved back to the Senate for its final approval on June 25, activists began arriving early in the Senate gallery. Senator Wendy Davis began to filibuster against SB 5 at approximately 11 a.m., needing to continue until midnight in order to kill the bill. Filibuster rules prohibit the speaker from eating, drinking, taking bathroom breaks or straying off the subject of the bill.

As afternoon turned into evening, several senators challenged Davis with specious points of order, alleging that it was out of order for Davis to accept a back brace from Senator Ellis as she stood on the floor and that twice, her remarks had strayed from the subject and were not germane. Unfortunately, the points of order were sustained and as senate rules provide, the filibuster ended on the third ruling, shortly after 10 p.m.

Other prochoice senators then stalled a vote on the bill with procedural questions until 11:45 p.m. As Senator Duncan, presiding in place of Lt. Governor Dewhurst, was about to start the roll call on a procedural vote before the final vote on the bill, Senator Van de Putte interrupted with a parliamentary inquiry, asking at what point must a female senator raise her voice to be heard by her male colleagues. At that point, the gallery filled with prochoice supporters erupted in cheers that were taken up and echoed by others standing outside the gallery and all around the Capitol building. Midnight came and went and the bill died amid the cheering and chaos.

Governor Perry wasted no time in calling a 2nd special session for July 1, with abortion front and center on the agenda. With unabated passion, approximately 5,000 prochoice supporters, including many LWVTX members, assembled on the Capitol steps on July 1 to bring their message to legislators. The Legislature focused on SB 1 (Hegar) and HB 2 (Laubenberg), companion omnibus measures that mandated (a) prohibition on abortion after 20 weeks, (b) requirements that facilities where abortions are performed meet the standards of ambulatory surgical centers and that doctors performing them have admitting privileges at a nearby hospital, and (c) a requirement that physicians administer in person the two medicines used for drug-induced abortions and see the patient again within 14 days.

In the House State Affairs Committee, 3543 persons had signed up to speak but only 100 were heard. Then the action shifted to the Senate Health and Human Services Committee for a hearing on SB 1. LWVTX presented testimony, among thousands who had registered to testify.

Unfortunately, HB 2 passed both House and Senate and was signed into law by Governor Perry on July 18. During floor debate in the Senate, prochoice senators offered 20 amendments, ranging from proposals to add exceptions to the 20-week abortion ban for victims of rape and incest to requiring annual inspections of abortion facilities. All were rejected. *The Texas Tribune* reported the chants and cheers from the massive crowd of prochoice advocates gathered outside of the chamber but that the audience observing from the gallery remained mostly quiet and orderly throughout the proceedings, in contrast to the closing hours of the 1st special session.

**2015.** Those who oppose women's access to safe, legal abortions and to comprehensive, affordable and accessible reproductive health care were not content to rest on their laurels in 2015. Regretfully, these people worked to restrict access to safe, legal abortions even further, coming up with new, draconian proposals affecting women's health.

### **Access to safe, legal abortions.**

*The worst bill that passed.* HB 3994 imposes significant and unreasonable restrictions on the judicial bypass option for young women seeking safe, legal abortions. The harmful provisions of the bill as passed include: (a) requirement that bypass petition be filed in the teen's home county (unless the county has a population under 10,000), (b) elimination of physical, sexual or emotional abuse as grounds for a bypass, (c) extension of the time (from 2 to 5 business days) in which judges must rule on bypass petitions, and (d) requirement that the minor's attorney and guardian ad litem be the same person. This omnibus judicial bypass measure will have an especially adverse impact on vulnerable minors who have been neglected, abused or abandoned.

*Another bad bill that passed.* HB 416 requires abortion facility personnel to take education and training on human trafficking. The measure as passed is thus a targeted regulation of abortion providers that should apply to all frontline medical personnel. Note that Planned Parenthood clinics in Texas have for many years been proactive in training staff to recognize and appropriately deal with trafficking victims.

### **Women's health care safety net.**

*Budget-the good news.* The General Appropriations bill for 2016-2017 includes \$50 million in new funding for women's preventive health care, including contraception. The Texas Women's Healthcare Coalition has called for thoughtful implementation that will 'increase the number of women served and help provide access for the more than 1.3 million Texas women in need of contraception and other preventive services.

*Budget-the bad news.* Unfortunately, the budget effectively removes Planned Parenthood's participation in the Breast and Cervical Cancer Screening program by stipulating that providers of these screenings must be eligible for the Texas Women's Health Program. (Planned Parenthood was excluded from that Program in 2011.)

*Good bills that passed.* HB 786 requires public employers (e.g., state agencies, local governments, public schools) to provide accommodations for mothers who need to pump breast milk while at work. According to the Texas Breastfeeding Coalition, 40% of mothers who return to work choose not to breastfeed because they anticipate lack of accommodations at work.

*Note.* On July 1, 2016, the Texas Women's Health Program and the Expanded Primary Health Care for Women program were consolidated into the **Healthy Texas Women Program**. The program provides pregnancy testing and counseling, family planning, breast and cervical cancer screenings, immunizations, and screenings and treatment for diabetes, high blood pressure and high cholesterol to low-income women. It covers minors as young as age 15 years with parental consent, including access to free birth control.

**2017.** The 2017 Legislative Session was very challenging for reproductive choice proponents. In the end, only one of the many antiabortion measures filed in the session was enacted and became law. But, unfortunately, that one is

particularly heinous. However several measures that strengthen the women's health care safety net passed into law. Legislative attempts to ensure comprehensive, medically accurate sexuality education go nowhere.

### **Access to safe, legal abortions.**

*Very bad news.* SB 8 (Schwertner), opposed by the LWVTX, is now law. As passed by the Senate, SB 8 requires burial or cremation of fetal remains after an abortion and also bans the donation of aborted fetal tissue for medical research. It also bans partial birth abortions, which are already prohibited by federal law.

In the House, an amendment was added to SB 8 (and approved when sent back to the Senate) that prohibits abortion providers from performing dilation and extraction abortions. Called "dismemberment abortions" by opponents of the procedure, it is the most commonly used and safest method of performing abortions during the 2<sup>nd</sup> trimester. The Texas branch of the American College of Obstetricians and Gynecologists stated that such a ban would create "a dangerous environment for patients that would prevent doctors from having every option available when providing a patient with the best possible care in any given situation." A trial judge has blocked implementation of this prohibition pending the outcome of the litigation.

**Women's health care safety net.** Several supported by the LWVTX are now law. These include measures that address the recent disturbing spike in maternal mortality and morbidity in Texas such as requiring insurance coverage for maternal medical depression screenings during a Medicaid or Children's Health Insurance Program visit up to 1 year after a child's birth.

*2017 special session.* While we rejoice that vouchers for private schools and the "bathroom bill" did not pass in the special session, abortion access took several big hits. On the other hand, the crisis in maternal deaths in Texas received long overdue attention that resulted in a comprehensive bill addressing the situation.

### **Insurance coverage.**

HB 214 (Smithee) passed, which prohibits private insurance companies from providing coverage for elective abortions unless a woman purchases a supplemental policy. The LWVTX and other reproductive rights advocates fought hard against this cruel measure that makes abortion unaffordable for many women, especially women of color, rural residents, and immigrants.

### **Women's health care safety net—addressing the maternal mortality crisis.**

Passage of SB17 with bipartisan support was a big win for women's health advocates, including the LWVTX. Highlights of SB 17 as passed include:

- Continuation of the Maternal Mortality and Morbidity Task Force until 2023, giving more time for the state to directly address the causes of pregnancy-related deaths in Texas and demonstrating the state's commitment to reducing the high rate of maternal mortality and morbidity.
- Expansion of the duties of the Maternal Mortality and Morbidity Task Force to include study and review of health conditions and factors that disproportionately affect the most at-risk populations and best practices and programs in other states that have reduced the incidence of pregnancy-related deaths and severe maternal morbidity.
- Requirement that the Maternal Mortality and Morbidity Task Force compare the rates of pregnancy-related deaths based on the mother's socioeconomic status and consult with the Perinatal Advisory Council when making recommendations to reduce the incidence of pregnancy-related deaths and severe maternal morbidity.
- Requirement that the Texas Department of State Health Services conduct a statistical analysis of the aggregate data for pregnancy-related deaths and severe maternal morbidity to identify trends, rates, and disparities; and empowering the Texas Department of State Health Services to convene a panel of experts to advise the department and the Maternal Mortality and Morbidity Task Force in developing recommendations for improving collection of accurate data.

- Requirement that the Texas Health and Human Services Commission evaluate options for treating postpartum depression in economically disadvantaged women, which could lead to improved access to mental and behavioral health screenings before and after childbirth.
- Requirement that the Mortality and Morbidity Task Force coordinate with the Texas Department of State Health Services to develop and make available to health care providers materials on substance use and best practices in substance abuse screening of pregnant women and a list of substance use treatment resources statewide.

**2019.** The most recent 2019 legislative session was again challenging for reproductive choice proponents. Emboldened by the current composition of the U.S. Supreme Court, abortion opponents proposed several extreme new laws. In the end, none of the extreme bills were enacted, but three bills affecting abortion were passed and signed into law.

H.B. 16, as amended by the Texas Senate, was signed into law. The so-called “Born Alive” legislation creates a doctor-patient relationship between a doctor and a child born during a failed abortion and imposes a minimum \$100,000 fine on the doctor and criminal liability if the doctor does not provide the required care. Under the bill, a child born must be immediately transferred to a hospital. LWV actively opposed this bill, and the companion bill S.B. 23, because the legislation was unnecessary and was aimed at shaming women. This bill is an effort to intimidate and deter doctors from performing late term abortions. Late term abortions are rare.

S.B. 22, prohibiting transactions between governmental entities and affiliates of an abortion provider, was signed by the Governor. This legislation prohibits all transactions between a governmental entity and an abortion provider or an affiliate of a provider, specifically Planned Parenthood. The law not only cuts off all future state funding for these health care providers, it extends the ban to local governments. LWV opposed this bill for several reasons. In our written testimony, we pointed out that this bill would reduce women’s access to necessary medical services, including preventative care, contraceptives, cancer screenings, and STD screenings. This bill would be harmful to thousands of low-income women.

SB 24 regarding counseling was enacted. Under prior Texas law, women must receive counseling and certain information prior to receiving an abortion. The new law prohibits the information from being provided by audio or video recording, and requires the information to be provided at least 24 hours before the abortion, orally by telephone on a private call, or in person in a private and confidential setting.

However, several bills restricting abortion rights failed to move forward. A heartbeat bill to restrict the time for an abortion to the 6<sup>th</sup> week of pregnancy, and another bill to prohibit abortion based upon the woman’s reason for an abortion, both failed. Proposed legislation that would have required a pregnant woman to receive counseling by a third party (possibly a crisis pregnancy center) prior to abortion did not advance out of committee. A bill to appoint an attorney for the fetus in cases where a minor sought a judicial bypass from the parental consent requirement also failed.

Unfortunately, some good bills intended to ameliorate previously enacted harmful laws met the same fate. These included: elimination of waiting period before abortion and removal of unproved information from so-called informed consent to abortion materials.

**2021.** The 87th legislative sessions were very bad for reproductive choice proponents. Emboldened by the current composition of the U.S. Supreme Court, abortion opponents successfully enacted some extreme new laws, which had failed in prior legislative sessions. Due to the pandemic, participation in the legislative process was extremely difficult but we were able to file written testimony in opposition to some of the extreme anti-abortion bills.

**Governor Abbott signed SB 8, the so-called heartbeat bill** that prohibits almost all abortions once at fetal heartbeat can be detected, which is usually at the 6<sup>th</sup> week of pregnancy and before many women even know that they are pregnant. It is important to understand that pregnancy is measured from the first day of a woman’s last menstrual period and not from the date of conception.

This law went into effect on September 1, 2021. The law was challenged in court by abortion providers, but it was allowed to go into effect by the Fifth Circuit Court of Appeals and the U.S Supreme Court. The law is unusual as it is not enforced by the State of Texas, but instead by private citizens. This was intended to prevent the law from being

challenged in the courts, as the state is not the enforcer. As a result, the number of abortions in Texas has been dramatically reduced and women who need abortions have had to go out of state to obtain care. The ban was subsequently challenged in another lawsuit brought by the U.S. Justice Department, and the district court agreed that the law was unconstitutional and enjoined it from going into effect. Unfortunately, the Fifth Circuit overturned the lower court and allowed the ban to go into effect. LWVUS signed an amicus brief in opposition to SB 8.

Governor Abbott also signed **HB 1280, the "trigger ban."** Under this law, abortion becomes illegal in Texas if the U.S. Supreme Court overturns *Roe v. Wade*.

During the second special legislative session, the legislature passed another anti-abortion bill affecting **medical abortion**. The bill reduces the timeframe for medication abortion from 70 days to 49 days. This is contrary to previous Texas law and U.S. FDA guidelines, which state that abortion-inducing medications are safe to administer to patients up to 10 weeks of pregnancy. It also prevents the mailing of medication abortion drugs and adds additional, medically unnecessary reporting requirements for abortion providers.

## Women's Healthcare Safety Net

LWVTX is a coalition member of the Texas Women's Healthcare Coalition. We track laws that impact women's health and access to family planning. We strongly advocate for the availability of long acting reversible contraceptives (LARCS) which enable women to have more control over when and whether to have children. We also advocate for post- partum care and for increasing Medicaid eligibility for women to take care of themselves and children.

**2019.** Positive news on this front includes a budget of \$346,961,855 for the state's women's health programs including family planning programs – this is an increase of \$62.3 million from last biennium's allocated amounts. It is not as much as our coalition partner, Texas Women's Healthcare Coalition, had advocated as necessary to account for the increase in Texas population.

**2021.** LWV and various other members of the Texas women's Healthcare Coalition worked in support of **HB 133**. The original version of the bill, which passed the House, would have extended Medicaid coverage for women for one year post-partum. The version that passed allows women to keep their Medicaid coverage for 6-months postpartum, instead of just 2 months. This is important because Medicaid covers approximately half of the births in Texas. Unfortunately, bills for Medicaid expansion in Texas did not pass.

## II. Natural Resources

*Promote an environment beneficial to life through the protection and wise management of natural resources in the public interest.*

### Resource Management and Protection

*Support resource conservation, stewardship, and long-range planning, with responsibility for managing natural resources shared by all levels of government. Preserve they physical, chemical, and biological integrity of the ecosystem with maximum protection of public health and the environment.*

#### A. Energy

1975,1978

*Support environmentally sound policies that reduce energy growth rates, emphasize energy conservation, and encourage the use of renewable resources. (For full position, see Impact on Issues, LWVUS).*

#### LWVTX Action

**1973-76.** The LWVTX became active in the energy area in 1973 when it recommended to the LWVUS Council the adoption of energy as an emergency study item. The study item was not adopted then, but Council directed that a series of energy briefs be published to give members background material on this timely topic. The following year, again with strong LWVTX involvement, an Energy Task Force was established at Convention 1974 and our first

position on energy— relating to conservation—was the outcome. Our national study on alternate sources of energy was also strongly supported by the LWVTX at the LWVUS Convention 1976.

**1980s.** During the existence of the Texas Energy and Natural Resources Advisory Council and its predecessor agencies, the League was represented on advisory committees in the areas of conservation, solar, and nuclear energy. We worked diligently, but in vain, during the 1983 Legislative Session to prevent the demise of the Texas Energy and Natural Resources Advisory Council and the Energy Development Fund. We also supported legislation dealing with conservation, solar energy, low-level nuclear waste management, and funding of the Energy Development Fund. In the effort to increase use of renewable energy, we supported legislation protecting consumers (installer licensing, device testing) protecting users' access to sun and wind, providing assistance in financing installations, and establishing an energy conservation code.

During the 1980s the League was represented at several utility-consumer interaction meetings, where we pressed the utilities to encourage conservation and use of renewable energy to delay the need for more generating plants. We argued this would conserve both natural resources and capital while providing increased employment in the labor-intensive, pollution-free solar energy and weatherization industries. In 1985 we cosponsored a second electric utilities dialogue.

**2007.** Committee Substitute HB 3693, supported by the LWVTX, passed into law. It requires electric utilities in Texas to achieve energy efficiency and conservation. This bill improves and expands existing energy efficiency measures, allows better management of customer demand, updates energy codes, and requires state agencies to utilize equipment and appliances that are more energy efficient.

**2011.** None of the legislation that we supported passed in this legislative session. However, some of the other bills that passed may have positive impacts, such as HB 51 (Lucio III) that establishes high-performance sustainable-design standards for the construction of new state buildings and renovations for which the cost exceeds 50% of the value of the existing facility. These standards would apply to institutions of higher education, public education instructional facilities, and certain state agencies. HB 362 (Solomons) prevents property owners' associations from including or enforcing a provision in a real estate dedicatory instrument that would prohibit a homeowner from installing a solar energy device as defined by the Tax Code. The bill would void any existing deed restriction against solar energy devices.

**2021.** In response to the winter storm of February 2021 (Winter Storm Uri), Governor Greg Abbott declared the reform of the Electric Reliability Council of Texas (ERCOT) as an emergency item during the 87th Legislative Session. The testimony to the Texas Legislature revealed multiple areas of negligence and mismanagement by ERCOT and its board of directors. LWVTX submitted testimony about the need to examine the current functioning of ERCOT and the readiness of our energy distribution system to respond under adverse conditions. The bills listed below are ones that were passed into law.

In summary, the legislature did not order an energy market overhaul or provide direct assistance to people harmed by the power crisis in February. In fact, the bills approved will most likely increase the cost of energy for Texans over the next two decades. On a positive note, however, SB 3 did require ERCOT to create a statewide emergency alert system similar to Amber Alert so citizens could prepare in advance.

#### **FOUR MAJOR ENERGY BILLS PASSED THIS LEGISLATIVE SESSION**

**SB 2** amends current law relating to the governance of the Public Utility Commission of Texas, the Office of Public Utility Counsel, and an independent organization certified to manage a power region. SB 2 reduces the number of ERCOT board members from 16 to 11, and added the requirement that members of ERCOT live in Texas. In addition, the PUC commissioners (all five of whom are governor appointees confirmed by the Senate) will have the opportunity to veto any changes recommended by ERCOT and its Technical Advisory Committee before they go into effect.

Instead of appointments to the ERCOT board being from companies and consumers in the electricity markets and representing various power sources, they will now be appointed by a selection committee. The selection committee is composed of three people appointed by the governor, lieutenant governor and speaker of the House. This increases the influence of politicians by replacing experts with political appointees, a change energy experts say would do little to improve the power grid.



**SB 3** amends current law relating to preparing for, preventing, and responding to weather emergencies and power outages; and increases the amount of administrative and civil penalties. SB 3 requires power companies and some natural gas companies to make upgrades so their facilities can withstand extreme weather and requires regulators to create an emergency alert system, similar to an Amber alert, for power outages and inclement weather. Although lawmakers required electricity generators to weatherize against extreme weather, they took a more limited approach that requires only gas facilities that are deemed "critical" by regulators to make changes. The amended legislation would require state regulators to review whether there is enough reserve power available and if additional reserves from nonrenewable sources are necessary. SB 3 formalizes the Texas Energy Reliability Council (TERC) and its duties related to ensuring the state's natural gas needs are met and prohibits retail electric variable rate plans. This legislation also strengthens reporting related to on-site generation to ensure the Electric Reliability Council of Texas (ERCOT) has a full picture of power generation in Texas. It also directs the creation of a State Energy Plan.

Language was removed from **SB 3** which would have increased the cost of using renewable energy sources. Unfortunately, parts of SB 3 were stripped away that would have supported conservation efforts by individuals to insulate their homes and reduce their electricity usage. Another part of SB 3 that was stripped out was a proposal to aid critical water, health care and electric facilities in funding backup power generation. One positive note was that the legislation does direct electric providers to give customers information about how to register as "critical," a designation that is intended to ensure power is not cut to households that require electricity for life-saving medical devices.

**SB 2154** revamps the makeup of the Public Utility Commission board by increasing the number of appointments from three to five, adding additional criteria and parameters for qualification.

**HB 4492** amends current law relating to securitizing costs associated with electric markets and grants authority to issue bonds. HB 4492 would create the Texas Electric Securitization Corporation (TESC) which would be limited to issuing bonds to provide a lower cost financing mechanism for securitizing unpaid and short-paid invoices to ERCOT. TESC would be nonprofit, self-funded, and the state would not appropriate any funds to pay for it. However, ERCOT will receive \$800 million from the rainy day fund to pay off massive debts incurred by some electric companies in an effort to prevent huge bills being passed on to consumers. TESC would be governed by a board of directors consisting of five members appointed by the PUC which would also ensure that securitization provides financial benefits to wholesale market participants.

#### **SMALLER BILLS DEALING WITH SPECIFIC ITEMS**

**HB 16** would prohibit retail electric providers from offering a wholesale indexed plan that passes along 100% of energy cost to consumers. During the February winter storm in Texas, customers on this type of plan experienced extreme electric rate spikes due to scarcity prices of up to \$9,000.00 per megawatt. This type of plan attributes too much risk to expect average consumers to manage. Current fixed-rate plans or variable-rate plans that allow a consumer to tailor the plan to known usage patterns are preferable.

**HB 17** will prevent cities and counties in Texas from banning different types of utility services and preserve access to energy choices. This applies to building permits, zoning decisions, passage of codes or ordinances that discriminate between energy sources or impose utility specific fines. This bill takes the politics out of energy source decisions.

**HB 1520** amends current law relating to the recovery and securitization of certain extraordinary costs incurred by certain gas utilities and provides authority to issue bonds and impose fees and assessments. HB 1520 seeks to minimize the cost that customers might experience from those extraordinary costs, as well as from future extraordinary costs from potential catastrophic events such as natural and man-made disasters or system failures, by providing securitization financing to enable gas utilities to recover these costs. This financing mechanism will provide rate relief to customers by extending the time frame over which the extraordinary costs are recovered and will support the financial strength and stability of gas utility companies.

**HB 2586** requires the Public Utility Commission (PUC) to conduct an annual external audit of ERCOT's financial statements, including budget, expenses and salaries, as well as its asset compliance with PUC standards. To promote transparency, the audit findings shall be provided to the Texas Legislature not later than the 60th day after the conclusion of the audit. The audit would also be made available to the public via the PUC's web portal.

**HB 3648** relates to the designation of certain gas entities and gas facilities as critical during an energy emergency. During the winter storm of 2021 some natural gas suppliers were part of the rotating outages compounding the loss of electricity throughout the state. H.B. 3648 would require the Public Utility Commission of Texas and the Texas Railroad Commission to adopt rules to designate gas production facilities that supply electric generators as critical facilities during an emergency. The bill would prioritize these facilities as critical to maintain and would allow transmission and distribution utilities to prioritize these facilities for continued service and restoration of service if their service is discontinued.

## B. Waste Management/Nuclear Waste

1970's

*Promote policies that reduce the generation and promote the reuse and recycling of solid and hazardous wastes. (For full position, see Impact on Issues (LWVUS).*

### LWVTX Action

Under this national position, the LWVTX has taken action on both municipal solid waste and hazardous waste issues.

**1980s.** Since the adoption of the position in 1973, the state League has worked for passage of container deposit legislation, actively participating in the Association for Beverage Container Deposits, publishing an advocacy paper in 1987, and submitting legislative testimony in 1989, to no avail. In 1983 the League helped draft the Comprehensive Municipal Solid Waste Management, Resource Recovery, and Conservation Act and served on a related Texas Department of Health advisory committee.

The LWVTX advocacy for proper hazardous waste management began in the 1970s and intensified in 1980 when Texas first sought Environmental Protection Agency authorization to implement the federal Resource Conservation and Recovery Act. In 1981 the League obtained a grant from the LWVUS and sponsored an educational workshop and tour of hazardous waste management facilities in the Houston area. League legislative and administrative action in 1981-83 focused on the need for more stringent criteria for siting new facilities.

In the interim before the 1985 Legislative Session, the League testified on hazardous materials administratively. In 1986 the League intervened on behalf of the Texas Water Commission and the Texas Air Control Board in a lawsuit filed by the Texas Association of Business contesting the constitutionality of administrative penalty powers. During the sunset review process additional public participation opportunities and enforcement powers for the agencies that regulate hazardous waste were requested. During this interim a state League director served on the Governor's Hazardous Waste Task Force, which drafted consensus recommendations that led to passage of comprehensive hazardous waste legislation addressing most of the issues of concern to the League. Sunset reauthorization of the Texas Water Commission gave the agency the power to assess penalties in a case that was decided in 1989 in favor of the state agencies, a victory for the League. The Texas Supreme Court affirmed this decision.

During the mid-1980s, the League played an educational role on the controversial issue of hazardous waste incinerator ships. The LWVTX send an observer aboard an incinerator ship in the North Sea. It participated in Environmental Protection Agency briefings and a Keystone Center national policy dialogue on the role of the oceans in hazardous waste management.

**1985.** The League completed the major part of the Keystone Education Project, a 2-year League effort to educate communities about hazardous waste management and the Keystone site selection process for community involvement in the site selection of new hazardous waste facilities. The project included sponsorship of workshops in six industrial areas of the state and publication of informational materials as well as a training manual for those who serve on Keystone local review committees.

The League commented on rules implementing the comprehensive hazardous waste legislation and fee system and lobbied for waste reduction. Legislative activity focused successfully on preservation of the joint and several liability clauses of hazardous waste laws during the legislative efforts to reform the tort law system.

**1989.** Since 1989 the League has been represented on the Waste Reduction Advisory Committee, a policy advisory committee to the Texas Water Commission and its successor agency, the Texas Natural Resource Conservation Commission. The League supported a policy that would require industry to reduce waste at the source. In October 1990 the Texas Water Commission adopted the Waste Reduction Advisory Committee policy on waste reduction, which required industry to move toward source reduction, to work toward recycling and neutralization of toxins, and to move away from injection wells, incineration, and land-fills.

**1991.** In the 72<sup>nd</sup> Legislature the League supported bills calling for waste reduction and pollution prevention. These included a comprehensive hazardous waste reduction and pollution prevention bill that passed, making significant changes in regulatory programs in Texas. This legislation called for a temporary moratorium on new permits for commercial hazardous waste facilities, a greater role in the site selection process for citizens' groups, needs assessments, and requirements for source reduction.

The League has also been represented on Task Force 21: Waste Management Policy for the Future, a Texas Natural Resource Conservation Commission (formerly the Texas Water Commission) advisory council made up of representatives of industry and environmental groups. The task force has worked on development of regulations to bring state agencies into compliance with existing law. See next section, Public Participation, for more on Task Force 21.

The League supported an omnibus recycling bill, addressing many League concerns, which passed. The law charged the General Land Office with coordinating a recycling market development study, implementing a strategy for expanding markets, and developing and implementing a recycling awareness campaign.

**1993-95.** Unfortunately, the sessions did not continue the progress made in 1991 toward pollution prevention, waste reduction, and recycling goals. Despite League opposition, bills were enacted in that limit the power of local governments to regulate what goes into their local solid waste streams and that encourage the environmentally unsound process of mixed municipal solid waste composting. The League has continued to monitor development of regulations to implement the comprehensive waste minimization and recycling legislation enacted in 1991. We have submitted comments on proposed composting regulations and the adoption process.

**1999.** Following denial by the Texas Natural Resource Conservation Commission of a permit for low-level radioactive waste disposal at the state site near Sierra Blanca in West Texas, the legislature worked on and debated a bill that would have allowed private facilities to receive low level waste. The issues of disposal are complex and involve an interstate compact Texas has with Maine and Vermont, the licensing of private entities, site selection issues, groundwater protection, full public disclosure and participation, as well as the kind and volume of waste. Following a public forum held by the LWV of Midland and discussions with LWVUS, the LWVTX decided to oppose the legislation that failed to pass the legislature.

The bill would have mandated the use of assured isolation (above ground) storage, an alternative to burial. Following the failure of the bill, the governor used the pocket veto to remove the second- year budget for the Low-Level Radioactive Waste Disposal Authority. The Agency's functions will be transferred to the Texas Natural Resource Conservation Commission. The issue of low-level nuclear waste disposal will be an important interim issue as the state continues to look at the need for a low-level waste disposal site, the type of disposal that can be used, and licensing and permitting issues.

**2001.** The LWVTX worked with other groups to defeat HB 3420 Permanent Management of Low Level Radioactive Waste Act, which would have created privately operated, for-profit waste disposal facilities in West Texas, left the state with liability, and possibly led to contamination of the Ogallala Aquifer. A number of serious questions were raised that helped bring about the bill's defeat: site selection, liability, kind, source and amount of waste, problems of cleanup, and a total lack of public participation in addressing the concerns raised during the process.

**2003.** The 78<sup>th</sup> Session will be known as the one in which Texas finally, after many years and legislative sessions, adopted a low-level nuclear waste disposal bill (HB 1567) that was signed by the governor. One of the bad aspects of this bill will be the acceptance of mixed waste, which means a combination of hazardous waste and low-level radioactive waste, in particular federal mixed waste. The final bill kept the 6 million cubic yard cap on total federal waste, but increased the B and C cap to 600,000 cubic yards. Texas is now in line to become the dumping ground for the hottest low-level radioactive waste, even waste that is not allowed at the low-level site in Utah. The Texas Commission on Environmental Quality will permit a private facility and will begin writing rules for the permitting in mid July.

The League was not successful in killing or modifying the low-level radioactive waste disposal bill, but the positive aspect is that we worked very well with members of a coalition, Beyond Nuclear Power. The LWVTX suggested improvements would have prohibited a private company from holding the license for long-term management, prohibited importation of out-of-state waste for storage, used assured isolation (above ground) storage instead of below ground burial, minimized waste transport, kept waste near the site of generation, and increased the role of the public in decision making.

**2005.** The LWVTX held a press conference on February 28<sup>th</sup> in Austin with Representative Mike Villarreal, Representative Pete Gallego, Sierra Club, and Public Citizen to express support for the representatives' legislation concerning the importation, storage, and disposal of low-level nuclear waste in Texas. HB 1656 (Villarreal) directed the governor-appointed Texas Low-Level Radioactive Waste Disposal Compact Commission to contract to accept waste only from the initial compact states (Texas, Vermont, or Maine). This would amend the existing law to close what is known as the compact loophole. As currently written, the existing law allows the Texas Low-Level Radioactive Waste Disposal Compact Commission, representing Texas and Vermont, to enter into an agreement by majority vote with any person, state, regional body, or group of states to import low-level radioactive waste into the compact facility. The Texas Low-Level Radioactive Waste Disposal Compact Commission would consist of six commissioners from Texas and one commissioner from Vermont.

HCR 85 (Gallego) requested that the lieutenant governor and the speaker of the House of Representatives create a Joint Interim Committee to study issues relating to the importation of radioactive waste into Texas, and that this committee submit a full report including findings and recommendations to the 80<sup>th</sup> Texas Legislature in January 2007. Recent actions by the Federal Government and requests by a private company, Waste Control Specialists, applying to the Texas Commission of Environmental Quality for a license to dispose of low-level radioactive waste in West Texas have brought to light the expansiveness of Texas law when it comes to the importation, storage, and disposal of radioactive wastes. Currently two state agencies, the Texas Commission on Environmental Quality and the Texas State Department of Human Services control the management and disposal of low-level radioactive waste. The Federal Government has reclassified the by-product from concentrating highly radioactive ore from the Congo as 11-e-2 waste, a low-level radioactive waste classification. This waste is managed by the Texas State Department of Human Services. Waste Control Specialists is in the process of requesting an amendment to their current Hazardous Waste License to bring this waste to West Texas. The 11-e-2 waste is in addition to the low-level radioactive waste allowed by HB 1567 (2003) permitting the disposal of both the Texas Low-Level Radioactive Waste Disposal Compact and Federal Government waste by a private company in Texas. Since passage of that legislation another possible low-level radioactive waste stream has developed. A multinational company, Louisiana Energy Services, has applied for a license from the Federal Government to operate a uranium enrichment facility near Eunice, New Mexico. This facility would produce low-level radioactive waste that could be imported a few miles east into West Texas for disposal.

The issue is complex to begin with and has become more complex due to actions by the Federal Government, a for-profit private company, and the expansively written legislation from last session. Neither HB 1656 nor HCR 85 passed.

**2006.** The Texas Commission on Environmental Quality is reviewing the application for the Andrews County low-level disposal site.

**2007.** The LWVTX achieved goals from the last three legislative sessions with the passage of SB 1604. The Texas Commission on Environmental Quality will regulate activities associated with storage, processing, and disposal that relate to uranium mining and radioactive waste, including activities at the permitted low-level radioactive disposal site in Andrews County.

**2011.** HB 1504 and SB 1605 passed in the 82<sup>nd</sup> Texas Legislative Session, relating to low-level radioactive waste disposal at the Waste Control Specialists Federal Waste Control Facility being constructed in Andrews County.

While the bills were a mixture of protections of the health and safety of people and the environment, many aspects are not healthy or safe for either. On the whole, the legislature opened Texas and the site to the liabilities of out-of-compact waste in a significant way that is ultimately expensive and unsafe for Texas.

SB 1504 (Seliger) allows out-of-compact radioactive waste to be imported with certain restrictions. It includes an annual limit by volume and curies for imported waste, sets a total limit on how much of the site's capacity may be used for imported waste, directs the Texas Commission on Environmental Quality to study the anticipated capacity of the dump site, and clarifies the authority of the Texas Commission on Environmental Quality related to importation. Additional sections of the bill dealt with other matters.

*Improvements made in SB 1504 due to advocacy.*

- The capacity study date was changed to 2012 from 2014.
- The bill was amended to ensure that Waste Control Specialists must amend their license to accept out-of-compact waste.
- A financial assurance study, which includes assessment for unplanned events or accidents to protect the State of Texas and local governments' budgets, was commissioned.

The LWVTX worked for improvements to SB 1504, but was not successful in all areas. Points that need to be addressed include: (a) a capacity study *before* beginning importation of low-level radioactive waste since the three results of existing studies are so varied, (b) a transportation study to examine emergency preparedness and liability to the state and local governments for accidents resulting from increased shipments of radioactive waste on highways and railways, (c) tighter limits that spread importation over the expected lifetime of the site, (d) clarification of the ratemaking process, and (e) a full study of dangers to nearby groundwater because the results of existing studies are inconsistent.

SB 1605 (Seliger) provides stronger guidance to the Texas Low-Level Radioactive Waste Disposal Compact Commission, stating that it shall operate and be funded independently of the Texas Commission on Environmental Quality and requiring that bylaws be in place prior to the commission reviewing import applications. However, this bill eliminates all six of the current Texas Low-Level Radioactive Waste Disposal Compact Commissioners, giving Governor Perry authority to fill the vacancies midway through the original terms of his first six appointed commissioners.

The LWV sponsored a forum with six panelists for legislators, their aides, and the LWVTX and community members on February 8, 2011, in the Capitol to provide information about the issue. The forum was well attended and appreciated.

**Other legislation that pertained to hazardous waste.** Senate Bill 329 (Watson and Chisum) that passed will have television manufacturers take back and recycle obsolete televisions, keeping toxic materials such as lead and mercury out of Texas landfills and water sources passed. This bill is one of the rare environmental victories during the 2011 Texas Legislative Session. The League spoke in support of this and other recycling legislation.

**2013.** The 83<sup>rd</sup> Legislature was generally a success for the environment and conservation. Several laws were passed that help reduce hazardous materials being released: legislation dealing with clean energy development, water conservation, and significant increases in state funding to state parks and clean air programs. Numerous bad bills failed that would have rolled back environmental regulations and curtailed citizen participation in environmental decision making. Stopping and slowing the release of hazardous materials help create a cleaner Texas environment.

Compared to other states, Texas ranks 4<sup>th</sup> in total amount of toxic releases into water and 5<sup>th</sup> in releases into the air. Texas ranks 4<sup>th</sup> in the amount of recognized cancer-causing carcinogens released into the air and 5<sup>th</sup> in releases into the water. Texas ranks 1<sup>st</sup> in the amount of hazardous waste generated.

Some legislation with benefits to public health and the environment are the expansion of the successful Texas Emission Reduction Program and the renewal of the Texas Chapter 313 economic development program, which will

allow Texas to continue being the nation's leader in wind power. Each will help with reducing hazardous materials released into the air and water.

In terms of the state budget, significant gains were made in funding essential environmental programs, including using dedicated environmental funds for their intended purpose and not diverting them or allowing them to build up to help balance the state budget. While the legislature ultimately did little to address the problem with dedicated funds across the board, some improvement was made in using parks and clean air funds, which had accrued tens of millions in unspent fund, for their intended purpose.

In other legislative areas, there was mixed success in oil and gas regulation. Positive measures passed included improvements to gathering line safety in rural areas, increased fines for pipeline violations, increased funding for the Railroad Commission, and the setting of regulations for saltwater pipelines. A good resign-to-run provision in the Ethics Commission Sunset bill, which would have prohibited Railroad Commissioners seeking statewide office from collecting campaign contributions from the energy companies they regulate, was vetoed by the governor. And a good Senate bill dealing with water permitting for hydraulic fracturing failed to advance in the House. In addition, a number of good bills dealing with beverage container recycling, paint take-back, and diverting electronic waste from landfills were derailed by industry groups.

Two bad bills, SB 347 and SB 791, dealing with uranium mining and radioactive waste storage were passed into law. One measure ends the ability of citizens to bring meaningful challenges on production area authorization permits for uranium mining. The other significantly increases the concentration of radioactive waste allowed to enter the Andrews County radioactive waste dump without taking adequate precautions to protect public health and safety around the site and on Texas roadways. The bill allows far more radioactivity to come to the site sooner and produces far more revenue for Waste Control Specialists by eliminating the annual caps on volume or curries at the site. This could allow an increase in radioactivity and allows for three times the waste to be stored on the site and transported across Texas. One section of the law appears to allow the executive director of the Texas Low-Level Radioactive Waste Disposal Compact Commission to modify the license without requiring a public hearing or public review, and another section appears to allow a huge fee waiver.

It is important to note that all eight of the nation's low-level radioactive storage dumps have leaked and the cleanup costs have ranged from \$750 million to over \$5 billion. The bill states that when the environmental radiation and perpetual care account reaches \$100 million, fees charged to the company to ensure funds for cleanup are suspended.

**2019.** Several bills were filed in the House and Senate regarding the transportation and storage of low-level and high-level radioactive waste, carcinogens, and solid waste facilities. We would have supported all but two bills, but most were not even given a committee hearing. The five bills that got a committee hearing were SB 1021 (Seliger) OPPOSE, HB 2269 (Landgraf) OPPOSE, HB 4089 (Blanco) SUPPORT, HB 1391 (Bohac) SUPPORT, and HB 1435 (E. Thompson) SUPPORT. We gave testimony on the two we opposed: both bills passed their committees but were never voted on in their houses. HB 4089 and HB 1391 were left pending in their committees.

One bill did pass both houses and was signed by the governor: HB 1435. This bill requires state environmental officials to actually visit a proposed facility that will store, process or dispose of municipal solid waste before issuing or renewing a permit. It takes effect on 9/1/2019.

We gave testimony on May 30, 2019 to the Texas Low-level Radioactive Waste Disposal Compact Commission regarding Waste Control Specialist's transportation and storage process and site in Andrews County. We also testified on October 17, 2019 before the Environmental Protection Agency in opposition to their proposed policy amendments to their New Source Performance Standards for the Oil and Gas Industry. Both testimonies are posted on the LWVTX website.

**2021.** Our main concern leading up to the 87<sup>th</sup> session was that the Waste Control Specialists (WCS) site in Andrews County applied to the U.S. Nuclear Regulatory Commission (NRC) for a Consolidated Interim Storage facility license.

This license would allow WCS to receive and store 40,000 metric tons of high-level nuclear reactor waste. This waste would come from decommissioning old nuclear reactors across the country, and would be stored in above-ground concrete casks. It would be transported to and across Texas by rail and truck.

With support from Governor Abbott, two bills were filed to prohibit the disposing of or storing high-level radioactive waste in Texas, HB 2692 and SB 1046. However the League, along with other environmental organizations such as Public Citizen and the SEED Coalition, testified against the bills. We felt that the bill could not preempt the NRC, cut several fees and surcharges costing the state money which would be needed to clean up contamination, and relaxed safety measures. Action Alerts were issued and updated in April and May, garnering 734 emails. Both bills died in calendars without a vote.

But the issue was revived in the 2<sup>nd</sup> Special Session as HB 7, and we testified again. However this bill passed both houses and was signed on Sept. 9, effective immediately.

As Issue Chair I worked with Leagues in Texas largest cities that would be impacted by transportation of the radioactive waste, encouraging them to make their municipal governments aware of the potential problems.

## C. Public Participation

1986-1988

*Promote public understanding and participation in decision making as essential elements of responsible and responsive management of our natural resources.*

### LWVTX Action

**1994.** Commenting on proposed compost regulations (see Environmental Protection and Pollution Control above), the League objected to the circumventing of the public participation component during the rule-making process.

**1995.** In recent years, public participation has emerged as a focus of the LWVTX advocacy efforts in the area of natural resources. During the legislative session, the League testified in favor of a measure that would establish the independence of the Office of Public Interest Council of the Texas Natural Resource Conservation Commission and ensure adequate public representation on the Office of Public Interest Council. We testified against a measure that would have weakened the Office of Public Interest Council duties. Both bills died in committee.

A law enacted in 1995 directed the Texas Natural Resource Conservation Commission to develop criteria to determine who is an affected person/party in the permitting/hearing process. The LWVTX will monitor to determine if rules are proposed that would limit public participation in permit hearings.

Public participation issues led the League representative to Task Force 21 (see Environmental Protection and Pollution Control above), along with representatives of other public interest groups, to resign from that advisory council in 1995. These representatives felt the advisory council's decisions had been reopened and undermined during the legislative session. The League also objected to legislative action that resulted in loss of expense reimbursements for representatives to groups such as Task Force 21.

**1997.** Public participation in the environmental decision-making process was one of the LWVTX two priority issues during the 75th Legislative Session. The League, working with environmental and consumer groups, helped draft more than a dozen different pieces of legislation that would have increased public participation in environmental decision making, but none passed and most never left committee. A bill directing the Texas Natural Resource Conservation Commission to do an annual enforcement report that will allow enforcement comparisons over a 5-year period was the only League supported public participation bill signed into law. Some bills that the League opposed passed: a cost benefit analysis bill, also known as paralysis by analysis, and the Pine Island Bayou Storm Water Control District bill. The latter was considered a local bill although it will affect a federally protected ecosystem, the Big Thicket.

**1999.** As in 1997, public participation in environmental decision making was high on the LWVTX legislative action list and, as in 1997, again met with mixed results. On the positive side, an anti-contested case hearing bill, considered to be Public Enemy Number One, ended up as a bill that effectively enhances public participation by providing earlier notice and protection of the hearing process that is streamlined but retained. Upon hearing the serious criticisms of the original bill, the sponsor invited proponents and opponents of his original bill to sit down, discuss their differences, and try to mold a compromise. Representative Uher was successful, and the bill was signed into law.

To quote our lobbyist, G.K. Sprinkle, "We made a difference." We can point with pride to the fact that we made legislators look at the issue of funding the travel of the public on key Texas Natural Resource Conservation Commission advisory committees. The League succeeded in incorporating a rider allowing the Texas Natural Resource Conservation Commission to fund travel for public members to two key advisory committees.

A bill, supported by the League, that requires the responsible party to report accidental discharges or spills that may adversely affect a public or private source of drinking water within 24 hours. It provides the opportunity for public participation and notification, passed, and was signed into law.

On the other hand the Right to Know Right to Act Agenda did not fare well although early, timely notice was incorporated into the bill discussed above. The establishment of an independent Office of Public Interest Counsel at the Texas Natural Resource Conservation Commission and the environmental justice issues involved in the siting of landfills remain two important issues that have not been put into law.

The governor signed a law that will prohibit the Texas Natural Resource Conservation Commission from requiring computer modeling of air pollutant emissions from concrete batch plants if the Texas Natural Resource Conservation Commission does some modeling in establishing a standard exemption for such plants. This move which will increase the difficulty for the public in using valid scientific data to protect the air.

**2001.** As in the past few sessions, the LWVTX continued to lobby hard in the area of public participation in environmental decision making. Since the close of the 76<sup>th</sup> legislative session, the LWVTX has been a member of the Public Interest Sunset Working Group and later a member of the Alliance for a Clean Texas. The Texas Natural Resource Conservation Commission Sunset/Reauthorization bill contained a number of changes that strengthen public participation in environmental protection, including:

- Cumulative impacts will be considered in issuing permits, an important environmental justice provision.
- Anonymous citizen complaints will remain anonymous.
- Timely responses by the Texas Natural Resource Conservation Commission to complaints received during nonbusiness hours is now required.
- Citizen access to information and avenues for influencing permitting and enforcement decisions are now available. For example, all advisory committee meeting minutes, pending permit and enforcement actions, and compliance histories and violations by repeat offenders must be posted on the agency website.
- The role of the Texas Natural Resource Conservation Commission executive director in contested case hearings is now limited to solely providing administrative information for the record.
- The mission of the Texas Natural Resource Conservation Commission has been changed to bring balance to the role of economic development.

Another bill that strengthened public participation shifts the notice requirement for multiple plant air permits from the Texas Natural Resource Conservation Commission to the applicant for the permit, requires that the applicant publish notice statewide, and requires that the Texas Natural Resource Conservation Commission provide an opportunity for a public hearing and submission of public comment.

The biggest disappointment was the legislative failure to create an independent Office of Public Interest Counsel at the Texas Natural Resource Conservation Commission. However, a senate interim committee has been appointed to look into this issue that the League and its coalition partners have lobbied for during the past several sessions.



**2003.** As we have for a number of sessions, the League continued to follow the progress of reform of the Texas Commission on Environmental Office of Public Interest Council. Created by the legislature in 1977 to represent the public interest, the Office of Public Interest Council was the subject of intense scrutiny during the Texas Natural Resource Conservation Commission sunset review process in 2001. Legislation was filed to establish the independence of the Office of Public Interest Council, give the Council the right to appeal commission decisions to courts, and allow the Council to make recommendations to the legislature and participate in advisory committees. Advocates argued, "Only with similar access to trained legal staff and technical experts that those seeking permits have, can people effectively participate in agency decisions that have a direct impact on the health, safety, and environment of their community." In order to provide this level of expertise, the budget must be adequate to fund a technical staff or hire consultants to evaluate permit applications and other public interest issues that come before the Texas Natural Resource Conservation Commission.

Although the effort to make the Office of Public Interest Council independent passed the Texas House but ultimately failed, progress was made in protecting public participation. The sunset legislation authorized the Office of Public Interest Council to use outside technical support and to recommend needed legislative and regulatory changes. It directed the executive director to ensure that advisory committees, work groups, or task forces be used, and that these groups have balanced representation. It further directed the legislature to complete an interim study on the need for an independent Office of Public Interest Council.

The Interim Joint Committee on Natural Resource Public Interest Council charges were to examine (a) the authority of the Council (including the authority to appeal decisions of the Texas Natural Resource Conservation Commission), (b) the resources needed to carry out the function of the office, and (c) the relationship of the office to other public assistance efforts in the agency.

The Alliance for a Clean Texas, and the LWVTX, a member of the Alliance, urged the legislature to adopt the recommendations proposed by the Interim Joint Committee. The Interim Joint Committee report recommended that the Texas Legislature:

- Give the Office of the Public Interest Council an independent budget, including \$100,000 annually for outside technical expertise.
- Allow the Public Interest Council to appeal rules packages, if it appears that they were adopted without proper legal procedure or exceed the authority of the Texas Commission on Environmental Quality.
- Allow the Public Interest Council to appeal when the Texas Natural Resource Conservation Commission has substantially amended a proposal for decision from the State Office of Administrative Hearings and appeal is necessary to serve the broad public interest.

Although a number of bills were introduced, none of them passed. We will monitor the Office of Public Interest Council and wait for another session in which to reintroduce and support these proposed improvements.

## III. Social Policy

### A. Early Intervention for Children at Risk (Child Health)

1994

*Support policies and programs that promote the well-being, development, and safety of all children. These include: child abuse/neglect prevention, teen pregnancy prevention, quality health care including nutrition and prenatal care, early childhood education, developmental services emphasizing children ages 0-3, family support services, and violence prevention.*

#### LWVTX Action

**2009.** The governor's veto of House Bill 130, despite House and Senate passage of research-based, enhanced quality legislation, ended statewide coalition efforts to advance a full-day, high-quality prekindergarten policy. The veto did

not eliminate the \$25 million funding to the Public School prekindergarten expansion program, which will go to the state's existing prekindergarten grant program. This was the largest appropriations increase for prekindergarten in the nation.

Additional legislative oversight and contracting transparency passed for the State Center for Early Childhood Development. Increased funding was obtained for Texas Early Education Model, Early Childhood School Readiness Programs, and School Readiness Certification System. Plus, the passage of HB 635 (Guillen) allows Texas Head Start programs operated by school districts or community-based organizations to qualify for federal grant funding, such as the E-Rate Program that provides discounted access to technological and informational services in the classroom.

Other bills that passed include the following:

- SB 68 (Nelson) requires the Department of Family and Protective Services, before adopting school-age program minimum standards, to convene a temporary work group to advise the Department of Family and Protective Services regarding the proposed standards.
- SB 90 (Van de Putte) allows adoption of the Interstate Compact on Educational Opportunity for Military Children.
- SB 95 (Van de Putte) prohibits the sale or use of unsafe children's products; providing a civil penalty.
- SB 282 (Nelson) funds a grant program to provide nutrition education to children.

**2017.** Numerous cross-agency bills were proposed with only three bills overcoming political stalemate:

- HB 2039 created an early childhood teacher certification to teach students in prekindergarten through Grade 3.
- HB 674 set limits for out-of-school suspensions for students in prekindergarten through Grade 2 and permits school districts to implement positive behavior management strategies.
- HB 357 expanded prekindergarten eligibility to include children of seriously injured or fallen first responders.

The Texas Legislature cut appropriations for prekindergarten, eliminating the funding for the 2015 High-Quality Prekindergarten Program. Instead, legislators passed a budget rider simply directing all school districts to comply with the program quality standards using a portion of the Foundation School Program kindergarten entitlement, totaling \$236 million statewide for the High-Quality Prekindergarten Program. Educators recognize the need for high standards, but the enforceability of the rider is in question. The best way to drive improvements is through high standards coupled with additional funding to support additional district investment in quality teachers, full-day options, reduced class size, or other improvements.

Legislators failed to improve (a) the transitional Temporary Assistance for Needy Families services, (b) nutrition standards in childcare, (c) a review of the Texas Workforce Commission subsidized childcare program, (d) a staff to child ratio and a group size incident reporting of licensed childcare study, (e) licensed before- and after school programs promoting healthy eating and physical activity, and (f) a task force to coordinate the multiple agency study of parent engagement education programs provided. The legislature also failed to reverse the 2015 therapy cuts for children with disabilities with a funding compromise to provide only a 25% restoration.

**2019.** Prior to the opening of the 86<sup>th</sup> Texas legislature, the Dallas Morning News published a series of articles on individuals covered by Medicaid Managed Care. These articles detailed poor administrative practices and inadequate oversight, resulting in negative medical outcomes and even death. As a result, various legislative committees held hearings and multiple bills were introduced related to Medicaid Managed Care. Most important for child health, HB 342, the Children's Health Coverage Bill, attempted to achieve 12 months of continuous coverage for children eligible for Medicaid. This was voted out of the House, but the bill and its provisions died in the Senate. Also related to maternal and child health, HB 25 authorizes a pilot program to allow medical transportation program services to a child if the child's mother is a recipient of Medicaid during a pregnancy, regardless of whether the child is also a recipient of Medicaid. Without this bill, a mother might not be able to take her newborn baby with her when she goes for post-partum care. This bill was passed by both the House and Senate and signed by Governor Abbott. HB 2099, designed to prevent managed care companies from switching medications or other treatments for non-medical

reasons, died in a Senate Committee. HB 4533, which tightens Medicaid oversight, was passed and signed into law; SB 1207, which changes the appeals process and is meant to ensure fair hearings, was also signed into law.

Also prior to the legislative session, the Texas Mortality and Morbidity Task Force provided recommendations to reduce the high maternal mortality rate in Texas. The Task Force recommended increased access to health services for women on Medicaid. HB 744 attempted to extend Medicaid coverage to eligible women for one year after the birth of a child; this bill passed the House but was not taken up in the Senate. HB 253 requires development of a post-partum depression strategic plan, and SB 750 requires development of a treatment network. SB 748 requires a report on maternal mortality and morbidity in Texas.

**2021.** LWVTX supported two bills in this legislative session to improve the health care provided to post-partum mothers and children. **HB 133** attempted to extend Medicaid coverage for postpartum women to 12 months from the currently available two months, but it was ultimately amended to extend coverage to six months, with the remaining six months covered by the less comprehensive Healthy Texas Women program.

We also supported **HB 290**, which proposed one year of continuous eligibility for children on Medicaid. HB 290 was not approved, but provisions from HB 290 were ultimately incorporated as part of **HB 2658**, an omnibus bill relating to Medicaid and other programs. As amended, it addresses coverage for children receiving medical assistance under Medicaid. According to the bill as passed, there are two consecutive periods of eligibility for a child between each certification and recertification. The first period must be continuous. The second period is not continuous and may be affected by changes in the child's household income. During the first six months the commissioner is required to review the household income of the child using electronic income data. This review may be conducted only once during the child's two consecutive periods of eligibility. If the income does not exceed the maximum income for eligibility, the commission will provide for a second continuous period of eligibility until the next annual recertification. If the income appears to exceed the maximum, the commission may request additional documentation to verify income, in accordance with federal law. If the income of the household appears to be too high, Texas must still provide coverage of at least 30 additional days to allow the parent or guardian opportunity to provide documentation that the income does not exceed the maximum. HB 2658 not only improves the eligibility of children on Medicaid, but also greatly reduces the administrative burden for families to continue to provide income information to the Medicaid program. HB 2658 was passed.

The main issue of concern to LWVTX was Medicaid expansion. An amendment to the state budget was proposed in the Texas House in April 2021. This would have directed the Governor and state health officials to use billions of federal dollars to expand health coverage for uninsured Texans. It would have allowed the state of Texas to use federal funds earmarked for Medicaid expansion to create a program unique to Texas to cover some of the 5 million Texans who are currently without health insurance. The League of Women Voters of Texas supported Medicaid expansion, including this budget amendment. The budget amendment was defeated.

## B. Gun Policy

1990, 1994, 1998

*Protect the health and safety of citizens through limiting the accessibility and regulating the ownership of handguns and semiautomatic weapons. Support regulation of firearms for consumer safety. (Position in Brief)*

*The League of Women Voters of the United States believes that the proliferation of handguns and semiautomatic assault weapons in the United States is a major health and safety threat to its citizens. The League supports strong federal measures to limit the accessibility and regulate the ownership of these weapons by private citizens. The League supports regulating firearms for consumer safety.*

*The League supports licensing procedures for gun ownership by private citizens to include a waiting period for background checks, personal identity verification, gun safety education, and annual license renewal. The license fee should be adequate to bear the cost of education and verification.*

*The League supports a ban on "Saturday night specials," enforcement of strict penalties for the improper possession of and crimes committed with handguns and assault weapons, and allocation of resources to better regulate and monitor gun dealers.*

## LWVTX Action

**1993-95.** Using this position several local Leagues opposed passage of legislation allowing Texans to carry concealed weapons. A concealed weapons law was enacted in 1995. The law required would-be weapons carriers to undergo training and be licensed by the state.

**2001.** Several gun control bills worked their way through the 77<sup>th</sup> Legislative Session. Legislation, which did not pass, would have banned gun possession by juveniles convicted of felony-level crimes. Other legislation supported by the League, which also didn't pass, related to background checks of all sales at gun shows.

**2003.** There was a great deal of interest in who should be allowed to carry handguns and whether or not to allow gun permit holders in other states to carry handguns in Texas. The League strongly opposes the new law that took away the power of the cities to have gun-free zones on designated municipal property. Courts, schools, and racetracks were exempted.

**2015.** Texas continues to encourage the ownership and use of guns. Gun laws passed this session include an open carry law which allows concealed handgun license holders to carry a gun visibly and a campus carry law that allows concealed handgun license holders to carry their weapons on public school colleges and universities.

**2017.** There were over 200 bills filed this session with the words, handguns, firearms, or weapon.

**A good bill that is now law.** HB 2359 made the discharge of a firearm in a public place illegal.

### **The ugliest bill that is now law.**

- HB 1692 (Hefner, Bonnen of Brazoria, Dutton, Raymond, Huberty, et al.): Would not allow a school district, open-enrollment charter school, or private school from prohibiting a person, including a school employee, who holds a license to carry a handgun from transporting or storing a handgun or other firearm or ammunition in a locked, privately owned or leased motor vehicle in a parking lot, parking garage, or other parking area provided by the district or charter or private school, provided that the handgun, firearm, or ammunition is not in plain view. Died in Calendars Committee. Amended to SB 1566 on its second reading.
- SB 1566 (Kolkhorst, King): Several House members led a valiant effort to remove the amendment from SB 1566 on its third reading, but were unsuccessful. Passed and signed by the governor. Opposed by the Texas Association of School Boards.

### **Bad bills that are now law.**

- SB 16 (Nichols, Huffman, Bettencourt, Burdwell, Buckingham et al.): Decreased the fee for the issuance of an original or renewed license to carry a handgun.
- SB 263 (Perry, Springer, White, Shaheen, Oleverson et al.): Removed the requirement that applicants to obtain or renew a handgun license be able to demonstrate the minimum proficiency of operating a .32 caliber or above handgun. Proponents argued that Texans should not be prevented from obtaining a handgun license because of physical injury or handicap or preferences for a caliber weapon.

**Bad bills that did not pass.** HB 375 and HB 1911 would have allowed persons eligible to purchase a handgun to carry without a license. HB 375 died in House Homeland Security & Public Committee; HB 1911 died in chamber.

**2019.** Several laws will go into effect that weaken gun regulations in Texas, yet not a single gun safety law was passed last session. **We testified in favor of HB 86** (Martinez), creating a criminal offense for the reckless discharge of a firearm, but the bill died in House Calendars committee.

**We also supported HB 316** (Howard) which would have required the Texas Department of Public Safety (DPS) to develop and implement a campaign designed to encourage firearm safety and improve public awareness on the topics of: 1) prevention of firearm accidents involving children, 2) suicide prevention and 3) the safe handling and storage of firearms. This bill was met with cries that the campaign would indoctrinate gun owners into giving up their "God given second amendment rights." This bill also died in the House Calendars Committee.

**The Governor vetoed HB 1168 (Anchia)**, which would have prevented an airline employee from possessing a weapon in an airport operations area.

**Bills we opposed that passed:** HB 302 (Paul) allows open or concealed carry in apartment complexes regardless of the owner's wishes. HB 1177 (Phelan) which allows persons to carry a handgun during a declared disaster and in a shelter.

The governor has stated that there will be no special session to address mass shootings in Texas. Inaction is not a solution for Texas families and communities. So for now, we must look to our federal leaders for a solution.

**2021.** This was a busy session for bills on gun policy. We filed 19 testimonies on bills, on which we supported 11 and opposed 8. We also wrote Action Alerts on 2 bills: opposing HB 530, which would change the penal code to allow election judges and alternate judges to carry handguns while performing their duties. (died in the Senate), and opposing HB 1927, the "Permitless Carry" bill.

HB 1927 received much publicity, and was opposed by the LWVTX and several organizations, including the Texas Coalition on Family Violence, the Catholic Bishops of Texas, Texas Gun Sense, law enforcement agencies and organizations throughout the state, a group of 90 Faith Leaders, and some gun safety instructors. In spite of that and many amendments being proposed by legislators, it finally passed both houses and was signed by the governor, taking effect Sept. 1, 2021. Our Action Alerts against it in April and May produced about 3500 emails from each one. Demonstrating the art of making sausage, favorable amendments to the bill 1) increased the penalty for a felon caught carrying to a second-degree felony with a minimum of five years in prison, 2) require that the Texas Department of Public Safety offer a free online course on gun safety, 3) require data collection – this improves transparency and allows the state to assess the impact of permitless carry, 4) created an offense with a penalty for carrying a handgun while intoxicated in public.

Most bills we testified on were left pending in committee without a vote. However two passed, HB 103 (support), establishing the Texas Active Shooter Alert System, and HB 1069 (oppose), allowing first responders to carry concealed weapons.