

# TEXAS

## LEGISLATIVE MANUAL



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Published by  
Texas State Directory, Inc.  
P.O. Box 12186  
Capitol Station  
Austin, Texas 78711  
512/477-5698

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## **PREFACE**

This manual was originally prepared by the Texas Legislative Council to assist new legislators in effectively meeting the challenges of involvement in the top sector of state government. The information contained provides information and guidelines relating to the various aspects and functions of the legislative office and responsibility. The rules and procedures of the Legislature and the function of the officers and officials discussed in the sections of this manual are based on the organization and practices of the current Texas Legislature. These, of course, are subject to changes, which will be incorporated into subsequent editions of the book.

Our special thanks to the Legislative Council and personnel in other areas of state government for specific information on the current procedures and organization of the Legislature. We hope this manual will give Texans a basic understanding of how this branch of our government functions.

Scott P. Sayers Jr.

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# **Part I**

# **THE LEGISLATURE**

# **HISTORICAL SYNOPSIS OF EARLY TEXAS LEGISLATURES**

## **PERSPECTIVE**

When the 1st Legislature of the State of Texas convened on February 16, 1846:

Texas had joined the Union as the 28th state six weeks previously, on December 29, 1845.

James K. Polk was President of the United States.

It had been ten years since the Fall of the Alamo and the Battle of San Jacinto. A number of veterans of San Jacinto had been elected to the legislature, and many members had relatives who died in the Alamo.

A former vice-president of the Republic, General Edward Burleson, had been elected to the senate and later served as president pro tempore of that body.

General Sam Houston was following the proceedings of the session from the sidelines with particular interest; he was elected to the United States Senate by the legislature as one of its first orders of business.

Less than one year had passed since the first telegraph message had been transmitted between Baltimore and Washington.

General Zachary Taylor was in Corpus Christi mobilizing troops for an advance on Brownsville, and war with Mexico was a practical certainty.

## EARLY STATEHOOD

### Capitols of the State of Texas

Anson Jones, the last president of the Republic, had ordered the plain one-story frame building, which had served as the seat of Texas government until 1842, repaired and made ready for use once again as a legislative hall. This simple frontier structure, located at 8th Street and Colorado in Austin, had been used as a church school since 1842. It was the first of four state capitols and housed the legislature until 1853.

The second, a more substantial structure described as the “colonial capitol,” was the seat of government between 1853, when the 5th Legislature convened, and 1881, when it was destroyed by fire. This building occupied the ground on which the present capitol stands.

From 1881-1888, a temporary capitol, located at 11th Street and Congress opposite the old Travis County Court House, housed the legislature, the 17th being the first to occupy these premises.

The fourth capitol was dedicated on May 18, 1888, and the 21st Legislature met there on January 8, 1889. With architectural modifications, this building has served as the state capitol to the present day.

### First Legislative Session

The 1st Legislature of the State of Texas, consisting of 20 senators and 66 representatives, convened at Austin on February 16, 1846. Frank C. Adams in *Texas Democracy* quotes a newspaper assessment of the political character of the legislature: “Loco Foco, 1, Tyler man, 2; Whig, 4; Polk man, 1; Anti-tariff, 1; Tariff man, 1; Republicans, 4; Nullifier, 1; Texan, 1; unidentified, 14—total, 86.”

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The first days of the session involved the laborious task of organization without benefit of precedents. Representative of the procedural problems encountered in the new legislature is the historical curiosity that between March 9 and March 17, the speakership of the house changed four times.

The original elected speaker, William E. Crump, was granted a leave of absence on March 9, and one John Brown was elected to serve as speaker pro tempore. Immediately, questions were raised as to whether a temporary speaker could act constitutionally. It was subsequently decided that the office of speaker was vacated by the

granting of a leave of absence, Mr. Brown resigned, and Edward T. Branch was elected to the office.

In the April 1 issue of the *Democratic Telegraph and Texas Register*, the Austin correspondent reported, without elaboration, that Speaker



Members of the House of Representatives, 17th Legislature, First to Convene in Temporary Capitol

Branch had resigned his seat on March 16, and the durable Mr. Crump was once again elected to the speakership without opposition.

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On February 19, Governor J. Pinckney Henderson concluded his inaugural address before a joint session of the legislature on a note of militancy which marked his term by stating that: "Henceforth the prosperity of our sister States will be our prosperity, their happiness our happiness, their quarrels will be our quarrels, and in their wars we will freely participate."

On May 19, 1846, Governor Henderson assumed command of the state troops in the Mexican War, and Lieutenant Governor Albert C. Horton served as chief executive de facto for the major portion of the remaining term.

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One of the first items of business before the legislature was the passage of the bill establishing the state's congressional districts. The Trinity River served as the dividing line between the eastern and western districts. On February 21 the legislature, by almost unanimous vote, elected General Rusk and General Houston as the first two senators from Texas.

Until the adoption of the 17th Amendment to the United States Constitution in 1913, members of Congress were elected by the state legislature.

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Considering the hardships under which the 1st Legislature was operating in adjusting the state to its new condition, in passing laws required by the constitution, and in amending laws enacted during the Republic, the volume of legislation passed was impressive, almost equalling that of all nine congresses of the Republic.

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Particular attention was paid to securing Austin as the seat of government by passing legislation encouraging purchase of town lots through provision of financial incentives.

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A bill fixing the formula for assessment of direct taxes was reported as exciting particular controversy toward the end of the session. On April 20 the senate approved a direct ad valorem tax of 20 cents on each \$100 value of real and personal property, providing an estimated revenue of \$100,000 per annum.

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At the time of adjournment on May 13, 1846, 31 new counties had been created by the 1st Legislature.

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## 2nd Legislature

With the Mexican War drawing to a close, newspaper coverage, devoted to detailed examination of the progress of hostilities, provided scant information on the proceedings of the second legislative session.

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A bitter struggle surrounded the passage of the first senatorial and representative district apportionment bill. The western counties and section of the state had practical control of the legislature and fought against any alteration of the current arrangement. The new apportionment bill was not passed until the last day of the session: house membership was limited to 47; that of the senate to 22.

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On January 12, 1848, the legislature took a step toward the creation of the extensive modern state ballot by providing for the popular election of the commissioner of the land office. Previously, only the governor and lieutenant governor were elected by the voters.

It remained for the 3rd Legislature to continue the movement by adding the offices of attorney general, comptroller, and treasurer to those requiring selection by the electorate.

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In February, 1848, the *Galveston News* published the state census as reported to the 2nd Legislature by the secretary of state:

Total white population.....	100,508
Electors .....	20,748
Slaves .....	35,038
Free negroes .....	229
Total population .....	156,523

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On March 17, 1848, the legislature adjourned for the elaborately planned funeral of Richard Bache, Jr., one of the most distinguished of the early legislators, who had died during the final week of the session.

Bache, the grandson of Benjamin Franklin, was born in Philadelphia in 1784. His mother was Sarah, the only child legitimized by Franklin

during his lifetime. His father, Richard, Sr., had succeeded Franklin as Postmaster General of the United States in Philadelphia.

Bache was married at 21 to Sophia Burrell Dallas, daughter of the secretary of the treasury under President Madison and sister of the subsequent vice president of the United States.

At the age of 52, Bache immigrated to Texas from New Orleans as an officer of the Louisiana Independent Volunteers, arriving in 1836 just after the Battle of San Jacinto. He was one of the officers in charge of guarding Santa Anna at Velasco after the dictator's defeat.

During the days of the Republic, he served as enrolling clerk of the House of Representatives of the 3rd Congress and as justice of the peace for Galveston County.

In 1845, he was elected as a delegate from that county to the Constitutional Convention at Austin, where he cast the only vote against annexation of Texas to the Union.

In 1847-1848 he represented Galveston in the senate of the 2nd Legislature, where he counted Mirabeau B. Lamar among his closest friends and associates. He suffered a stroke while walking on the street in Austin on the morning of March 7 and died 10 days later at the age of 64, just 3 days prior to adjournment of the session.

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## **TEXAS-NEW MEXICO BOUNDARY DISPUTE**

The 2nd Legislature undertook measures that precipitated the new state toward its first major crisis, which threatened to culminate in war with the United States.

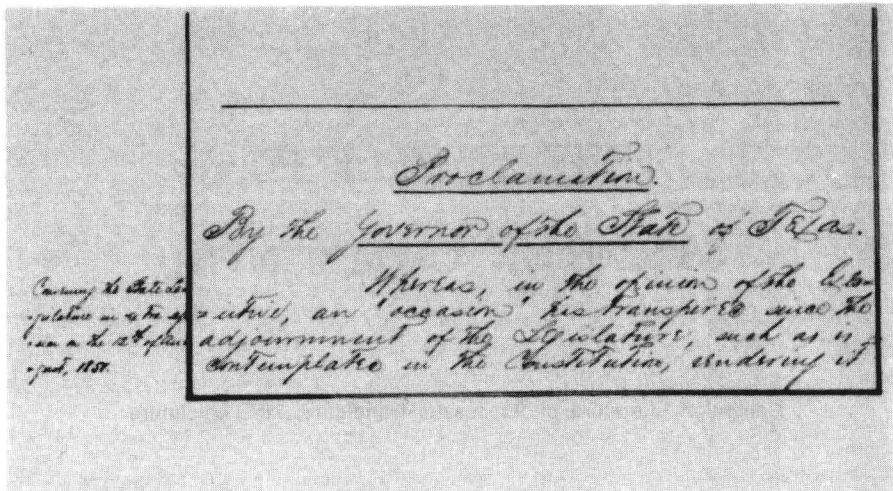
Central to the crisis was the creation by the legislature of Santa Fe County, consisting of most of eastern New Mexico and western Texas, an action which reaffirmed a territorial claim originating under the Republic.

Subsequent attempts to establish a government over the vast area were firmly resisted by the New Mexicans, and the dispute over the territory had become incendiary by the time the 3rd Legislature convened in November of 1849.

During the regular session, the legislators moderated the territorial claim by again creating a Santa Fe County encompassing a smaller area. The chance of this measure succeeding was compromised, however, by the simultaneous creation of El Paso County, which secured the huge area of West Texas for the state, a move regarded as additionally threatening by the New Mexico military authorities. They immediately instituted stern measures to discourage the local population from any cooperation with the Texans.

Events having reached an impasse with the continued failure of the

Texans to secure a foothold in the territory, Governor Bell called the 3rd Legislature into special session in August of 1850 for the first time since statehood. He charged the legislators to weigh all possible means of enforcing the Texas claim, including military action.



Preamble of Governor Bell's Proclamation Citing an "Occasion" for Convening the First Called Session Since Statehood, 3rd Legislature, August 12, 1850

The First and subsequent Second Called Session of the 3rd Legislature involved considerable debate on the question of legislative authorization of the raising of an army to take forcible possession of the disputed territory. Relations between the state and the "general government" became increasingly hostile, with the president refusing to respond to the governor's communications regarding the Santa Fe question and with the announcement of the election in New Mexico of a representative to the 31st Congress. The seating of such a delegate in Washington was widely viewed in Texas as a violation of the sovereign right of the state government to exercise jurisdiction throughout the limits of the former Republic of Texas.

The federal government's efforts to avert the mounting crisis climaxed in the passage of the Boundary Act of September, 1850, by Congress, which offered Texas \$10 million to accept modification of its western boundary. The subsequent approval of the provisions of the act by the legislature and the electorate represented the successful compromise of the dispute, and the 3rd Legislature adjourned on December 3, 1850, leaving the matter of the disposition of the indemnity funds to its successors.



For Engrossing Clerk,

OF THE

SENATE,

STEPHEN CUMMINGS.

Campaign Literature of Successful Candidate, 7th Legislature

## THE CIVIL WAR AND RECONSTRUCTION

On the fifth day of the 1st Called Session of the 8th Legislature, Friday, February 1, 1861, the Ordinance of Secession was signed in legislative ceremonies; Texas joined the Confederacy in early March.

Governor Sam Houston, reaffirming his opposition to secession, refused to declare allegiance to the Confederacy, and Lieutenant Governor Edward Clark assumed the duties of the governorship.

In December, 1861, the 9th Legislature passed a conscription law declaring all able-bodied men from 18 to 50 subject to frontier defense duty and to the call of the Confederate Government for military service.

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In the wake of Confederate military reverses and mounting concern over the heavy toll of Texas lives exacted by the bloody and brutal conflicts, Governor Lubbock issued a call for an emergency session of the 9th Legislature in February of 1863 for the purpose of raising taxes. These were almost doubled and were largely appropriated for relief of distressed families of the state's military forces and for the establishment of a \$200,000 hospital fund to provide care for the wounded Texans serving in the Confederate Army.

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