

Finding New Hope

[Cori Baker](#) October 6, 2017

Mayor of New Hope, Jess Herbst, raised her voice against discriminatory legislation. While the battle is won, the war isn't over.



Photo by Cori Baker

Jess Herbst has been a civil servant for nearly 15 years, two of which she has

served as Mayor of New Hope, Texas, population 663. Her job doesn't involve drama like the mayor of Dallas who is dealing with a failing police pension fund or the mayor of Austin who is battling the current administration for being a sanctuary city. She helped get the gravel roads in New Hope paved and secured more funding for a request made by the Collin County Sheriff Jim Skinner; that's about as controversial as her work gets. Even when she came out as a transgender woman, few people in her town made a fuss. Their main concern was whether she would continue to do the job to the best of her ability. And she has.

When the Texas Legislature convened this year, Jess didn't know this session would throw her into a tornado of contention, specifically the filing of Senate Bill 6 authored by Senator Lois W. Kolkhorst of Brenham, Texas. Informally, it's known as the bathroom bill.

Passing SB 6 was a top priority for Lieutenant Governor Dan Patrick, so much so that he withheld sunset bills (which are legislation that must be passed in order for agencies like the Texas Medical Board and Railroad Commission of Texas to function) in order to push Governor Greg Abbott to call a special session (we'll get back to that). SB 6 would require transgender people to use bathrooms that coincide with their biological sex in public schools, government buildings and public universities. The bill would also preempt any city ordinance allowing transgender people to use bathrooms that match their gender identity.

“The Texas bathroom bill came into play around the time I came out [as transgender],” Jess explains over a cup of coffee. My coming out went so unbelievably public everyone asked me what I thought about the bathroom bill. I kept saying I was against it. Then it dawned on me—I should do something about it.”

Enter Senator Sylvia Garcia of Houston who invited Jess to testify against SB 6 before the Senate State Affairs Committee the first week of March. Jess was one of nearly 400 transgender Texans who traveled to Austin for the hearing. On the day of, proponents against the bill filled the hallways, the stairs and the entire extension of the capitol. Jess, along with two trans men, a minister and a doctor, were Sen. Garcia's invited guests and among the first to testify.

Jess didn't do as well as she hoped. Snide comments made by committee members during the minister's testimony got her heated. She blasted them but eventually came around to her main argument:

“Look, I’m a mayor. I know what you’re talking about,” Jess explained. “If I’m going to pass a law, I’m going to look and see if there’s already a law on the books. If so, is it covered properly? If not, what do we need to modify to fix the current problem? Of course, you have to look at what is the current problem. And what am I going to do about enforcing it?’ When I said all this to the Senate [committee], stone cold faces. Just nothing.”

The committee listened to 13 hours of testimony from over 200 individuals and nearly 1800 people submitted written testimony; an overwhelming majority of them were against the bathroom bill. The committee voted 8-1 to send SB 6 to the full Texas Senate. The Senate decided within minutes to pass the bill onto the House, including Sen. Van Taylor of Collin County.

“That was disheartening. They weren’t listening to us,” Jess exasperates. “You could tell they weren’t listening. I’m a public servant. The idea behind a public hearing is to listen to what the public wants. I was thinking, ‘Great, we’ve nailed this!’ No, they voted ... in favor.”

During the testimonies Jess realized how those on her side were unorganized. Groups like Equality Texas, Trans-Cendence and the American Civil Liberties Union (ACLU) did their own thing, so when one person’s testimony got cut off due to the time limit, the next person would start on a completely different point.

“I came home and decided we need to do something about this,” Jess says. She started contacting the various rights organizations and putting together group phone calls and email chains, so everyone could share their knowledge and create a battle plan for the next round of testimonies. When the House committee heard the bill, advocates didn’t begin testifying until midnight. Jess testified at 3:15 a.m.

This time, reactions by House members were much different than the Senate.

“All through the proceedings the House committee acted logically,” Jess says. “You could tell they were listening, they were interested in the issues. The one point that they did bring up was when a representative from Texas Association of Business (TAB) came forward. House members asked, ‘Where are the Texas business CEOs, and why aren’t they here?’ In the end [the House] didn’t vote. They just let [the bathroom bill] die.”

Cue Lt. Gov. Dan Patrick. He knew SB 6 wasn’t going to pass, so he withheld key budget bills—the aforementioned sunset bills. Thus requiring Gov. Abbott

to call a special session.

“They announced the special session, and all of a sudden I start getting emails from people I knew before, but in the email chain was a much bigger list. People from the Human Rights Campaign and ACLU started talking about a coalition. Over the weeks the coalition grew from a few people ...” Jess explains as tears well up in her eyes. “We had 36 major groups from Planned Parenthood, the AFL-CIO to environmental groups—people I’ve never even heard of all came together. It made me feel really good.”

Jess went back down the day before the special session began. On July 18, over 3,000 people rallied against the bill; they made so much noise in the capitol rotunda, the Senate shut down and went home.

That Friday, the Senate committee once again held a hearing for SB 6. Jess, along with her friend Ashley Smith, a trans woman whose selfie with Gov. Abbott went viral, got to the capitol before the doors opened in order to get in line to testify. Once again, Jess laid out her reasons why the bathroom bill failed all measures of logic.

“I told them, look this doesn’t make sense. I’ve looked into this. There’s already Texas penal code 20 and 21 that cover [an attack]. I’ve looked to see if there’s something about it that doesn’t cover it and no, if you attack anyone in a bathroom there is no out for being transgender. You’re still going to jail.” Jess lets out a sigh. “Again, [the committee] looked at me and did not say anything.

“It is frustrating. At some point someone on the other side ought to be able to go, ‘Oh yeah.’ Instead, I got silence. They can’t give a logical reply to my reasoning. There is no valid explanation. When you say, ‘I’m going to create a law to protect these people,’ and I say, ‘That law already exists.’ What do they say? ‘Oh, well it’s just going to be an additional incentive to not commit this crime.’ So, if you’ve already decided to break the law and attack someone, you know that’s against the law. But not going into the bathroom ... [the criminals] not crossing that law? It does *not* make sense.”

Once again the Senate committee voted 8-1 to advance the bill to the full Senate. Jess boils it down to the senators wanting to please Lt. Gov. Dan Patrick and threats made by the evangelical right.

“They are senators, and the Senate is run by Lt. Gov. Dan Patrick. They do what he says. That is where their loyalties lie. The evangelical right—who

testified in front of the Senate after me—they said, ‘Look, if you don’t vote for this we will have all our congregation members not vote for you. We will have them vote for someone else.’ They threatened them with their jobs, no matter [the senators’] consciences.”

SB 6 once again went before the Senate, but instead of deciding within minutes the floor held eight hours of debate. During which one senator read Jess’s testimony word for word. Those who supported the bill didn’t respond to him either. The Senate passed the bill onto the House, which Jess was expecting, but the fact that they debated for so long gave her hope.

Then things Jess didn’t expect started happening. Law enforcement officials and faith leaders held separate press conferences saying they were against the bathroom bill. High-tech, small businesses and large oil companies like Halliburton denounced the bill. Even the Dallas Stars hockey team publically came out against it.

“There was a House representative who kept asking, ‘Where are the CEOs?’ The first day I was there getting ready for the [special session], we were at Capital Grille planning. A group of people came over to say hello and that they were from IBM. IBM sent three executives. HP sent three. Those who sent letters—instead of saying this is from Apple, they sent letters signed by Tim Cook. So now we have all these businesses [showing up] as big supporters.”

Another instrumental ally was House Speaker Joe Straus who continued to block the bathroom bill during both sessions. “He’s been one of our greatest allies, not that he’s an LGBT advocate—he just doesn’t want to lose business,” Jess says.

Speaker Straus said in a press conference, “This is the right thing to do in order to protect our economy from billions of dollars in losses, and more importantly, to protect ... some very vulnerable young Texans.”

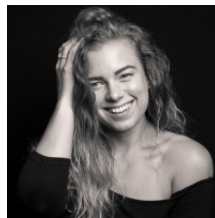
On Tuesday, August 15th the special session ended a day early, and the bathroom bill died with it. Fighting for the right to use the bathroom of their choice was not how Jess and so many others wanted to spend their summer. They didn’t want to take off work to travel to the capitol; they didn’t want to plead and defend themselves before the Texas Legislature; they didn’t want to fight this battle. When Sen. Kolkhorst filed this bill, she didn’t realize that she would be uniting a force to be reckoned with.

“[This experience] has brought people together and given them a voice. It really has,” Jess says with pride. “Before that first Senate hearing, I knew maybe 75 trans women. I knew no trans men or trans children. Now, I know hundreds and hundreds. Some of my best friendships have been formed in the last six months. It pulled us out of the closet, and once we got our eyes adjusted to the light we realized—oh, there’s another one of us and another one. We’ve all joined hands and said we’re here, and we’re here to stay.”

But Jess knows the end of the special session was only the beginning. She believes that without a change in the legislative makeup, attempts to roll back LGBTQ rights will continue. Jess now serves on the board of the Trans United Fund, an organization dedicated to putting people in office that share their values for all human rights.

And the 36 major rights and advocacy groups that came together for the special session have now deemed themselves One Texas Resistance, an alliance whose goal is preventing this type of discriminatory legislature.

“I hope to never see this kind of thing again,” Jess reflects. “But I know it will not happen on its own. It will take hard work and vigilance from decent people everywhere.”



Cori Baker is a journalist and photographer based in Plano, Texas. Cori is an alumna of Plano Senior High School and graduated from the University of Texas at Austin with a Bachelor's in Journalism and a minor in business.

Cori has worked as an intern for KUT Radio, Austin's NPR affiliate station, a photographer for Reporting Texas, and is currently the Creative Assistant at the Plano Profile. Her work has been featured on Reporting Texas, Orange Magazine, Plano Profile, and the Austin American-Statesman.