
Vetoed of Legislation

83rd Legislature

Gov. Rick Perry vetoed 26 bills approved by the 83rd Legislature during the 2013 regular legislative session. The vetoed bills included 15 House bills and 11 Senate bills.

This report includes a digest of each vetoed measure, the governor's stated reason for the veto, and a response to the veto by the author or the sponsor of the bill. If the House Research Organization analyzed a vetoed bill, the *Daily Floor Report* in which the analysis appeared is cited.

Summaries of the governor's line-item vetoes to SB 1, the general appropriations act for fiscal 2014-15, and HB 1025, the supplemental appropriations act, will appear in the upcoming House Research Organization state finance report, *Texas Budget Highlights, Fiscal 2014-15*.

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Limiting the types of beverages sold at public schools

HB 217 by Alvarado (Uresti)

DIGEST: HB 217 would have allowed only certain beverages to be sold on public elementary, middle, or junior high school campuses. Campuses could have sold or allowed the sale only of:

- water without added sweetener;
- milk with a fat content of 1 percent or less;
- fluid milk substitutions allowed by the U.S. Department of Agriculture; and
- 100 percent vegetable or fruit juice.

These requirements would not have applied when the school was not in session, before the beginning of the breakfast period, after the end of the last class period, or to the sale of a beverage to a high school student on a school campus on which a high school was co-located with an elementary, middle, or junior high school.

GOVERNOR'S REASON FOR VETO: "I support reasonable measures to sustainably improve the health and wellness of Texas students through nutrition. To that end, current Texas Public School Nutrition Policy already responsibly limits unnecessary, unhealthy access to high-sugar, high-calorie beverages. House Bill 217 takes this effort to an unreasonable and unnecessary extreme, and would limit access to such innocuous beverages as two percent milk."

RESPONSE: **Rep. Carol Alvarado**, the bill's author, said: "HB 217 was a compromise bill between the beverage manufacturers and the medical community that had the potential to decrease our state's skyrocketing childhood obesity rates and increase parental control over a student's nutritional choices. When obesity cost Texas businesses an estimated \$9.5 billion in 2009, and when one out of every four young persons is too overweight to join the military, our state leaders must take meaningful action. HB 217 would have finally taken Texas elementary and middle schools out of the business of subsidizing unhealthy lifestyles. The governor's veto will only prolong our state's growing obesity epidemic."

Sen. Carlos Uresti, the Senate sponsor, said: "Gov. Rick Perry's veto of HB 217, which would have banned the sale of sugary drinks in Texas public schools, represents a setback in the state's fight against an epidemic of childhood obesity in Texas."

“HB 217 would have restricted the sale of drinks in elementary and middle school campuses to water without added sweetener, 1 percent fat-content milk, fluid milk substitutions, 100 percent vegetable juice or 100 percent fruit juice, bringing Texas in line with pending changes to federal requirements. High-sugar and high-calorie drinks, major contributors to the obesity crisis, would not be available for sale.

“The governor stated in his veto message that he supported reasonable measures to improve the health and wellness of Texas students through nutrition, but that HB 217 ‘takes this effort to an unreasonable and unnecessary extreme.’

“I respectfully disagree. The act would not apply when school is not in session, before the breakfast period, or after the last class period, and students could still bring any drinks they prefer from home, preserving the right of parental choice. In addition, HB 217 did not represent an unfunded mandate on Texas schools. And given the mandates the state does impose — on everything from course requirements, to curriculum choices, to physical education — it simply does not follow that the measure is ‘unreasonable.’

“And it is certainly not true that it is ‘unnecessary.’ According to a 2012 report by the Centers for Disease Control and Prevention (CDC), 15.6 percent of Texas children are overweight and 13.6 percent are obese. A separate CDC report said the obesity rate in Texas increased more than 80 percent over the last 15 years, making Texas the 12th most obese state in the country.

“Good health practices should begin at an early age, but that’s hard to do in a society where sugary drinks are so pervasive. HB 217 would have greatly helped students make better health decisions by limiting access to these drinks in our schools. The veto quashed a great opportunity to help secure the health and well-being of Texas schoolchildren.”

NOTES: The HRO analysis of HB 217 appeared in the *May 7 Daily Floor Report*.

Preference in procurement for goods manufactured in Texas

HB 535 by Y. Davis (Zaffirini)

DIGEST: HB 535 would have required state agencies to give preference to goods manufactured in Texas. A “manufactured” good would have been defined as an item produced through a process that “alters the form or function of components, including articles, materials, or supplies, that are directly incorporated into the item in a manner that adds value and transforms the components, and that is functionally distinct from a finished item produced merely from assembling the components into the item.”

The same criteria for giving preference to goods produced or grown in the state would have applied to goods manufactured in the state. The bill would have required the comptroller’s office and other state agencies acting under the state’s preference criteria to promote the purchase of goods manufactured, produced, or grown in the state.

GOVERNOR’S REASON FOR VETO: “House Bill 535 requires state agencies, when purchasing goods, to give preference to goods ‘manufactured’” in Texas. Current law already requires state agencies to give preference to goods produced and grown in Texas. While I support and encourage our agencies to buy goods from Texas businesses, this bill simply does not change current law.”

RESPONSE: **Rep. Yvonne Davis**, the bill’s author, said: “Gov. Perry’s veto of HB 535, the ‘Buy Texas Bill,’ is a heavy blow to manufacturing companies and jobs in Texas. The governor’s opposition to the legislation indicates his strong support for out-of-state workers and industries over Texas’ economic growth and stability.

“The House and Senate overwhelmingly passed HB 535 as a common sense approach aimed at promoting Texas’ economic growth by encouraging Texas agencies to buy from Texas businesses whenever we can. The governor’s failure to understand the need to keep our hard earned money in Texas to promote and protect jobs in Texas is problematic.”

Sen. Judith Zaffirini, the Senate sponsor, said: “I was surprised that Gov. Rick Perry vetoed HB 535 by Rep. Yvonne Davis, which I sponsored in the Texas Senate. Although devoted to attracting businesses to Texas, the governor vetoed a bill that would have demonstrated Texas’ preference for the state’s manufacturers.

“HB 535 would have required the comptroller and state agencies to give preference to products produced or grown in Texas and to promote the purchase of Texas manufactured goods. It also would have clarified that manufactured goods are eligible for the existing tie-breaker purchasing preference.

“The governor’s veto message noted that ‘current law already requires state agencies to give preference to goods manufactured in Texas.’ This is inaccurate because ‘produced’ and ‘manufactured’ have different meanings. Specifically, as HB 535 clarified, the manufacturing process includes research and development, building the components, assembly, packaging, and distribution to Texas. Companies that ‘produce’ goods in Texas can do as little as the final assembly process in-state, employing far fewer Texans than companies that administer the entire manufacturing process within Texas.

“HB 535 would have supported bringing more living-wage jobs to Texas, as well as related economic benefits of lower unemployment rates, a higher skilled labor force, and greater investments in Texas businesses and communities..”

NOTES: The HRO analysis of HB 535 appeared in the April 22 *Daily Floor Report*.

Adjusting the window for filing suit related to discrimination in pay

HB 950 by S. Thompson (Davis)

DIGEST: Under HB 950, an unlawful employment practice would have been deemed to have occurred each time:

- a discriminatory compensation decision was adopted;
- an individual became subject to a discriminatory compensation decision; or
- an individual was adversely affected by application of a discriminatory compensation decision or practice each time wages affected by the decision were paid.

A person could have obtained up to two years of back pay prior to the filing of a complaint if the unlawful practices were similar or related to discrimination in payment of compensation that occurred outside the period for filing a complaint.

GOVERNOR'S REASON FOR VETO: "Texas' commitment to smart regulations and fair courts is a large part of why we continue to lead the nation in job creation. House Bill 950 duplicates federal law, which already allows employees who feel they have been discriminated against through compensation to file a claim with the U.S. Equal Employment Opportunity Commission."

RESPONSE: **Rep. Senfronia Thompson**, the bill's author, said: "I am deeply disappointed and heartbroken that women will still have to struggle to receive their equal pay for their equal work because of the governor's actions today. Women have been fighting throughout history for equality and it amazes me that in 2013, women still have to fight for the same rights enjoyed by men. I will continue to fight for not only women, but for all those who are faced by discrimination in any way.

"I want to thank my colleagues for all their hard work in making sure the bill met the needs of all the people in this great state. HB 950 was passed with bipartisan support in both houses. The bill merely mirrored current federal law and created a more uniform method for the state to handle pay discriminations. Texas' Lilly Ledbetter Fair Pay Bill would have greatly improved the state's justice system by making the process far more efficient for Texans without federal court costs."

Sen. Wendy Davis, the Senate sponsor, said: "I think Texans everywhere are not just disappointed but shocked that Gov. Perry has vetoed bipartisan legislation to make sure that Texans receive equal pay for equal work. Texas families all across our state — whether they are supported by single mothers or by working mothers and fathers

— deserve to be paid fairly for the work they do. By vetoing the equal pay for equal work bill, Gov. Perry shows a callous disregard for wages required to support Texas families.”

NOTES: The HRO analysis of HB 950 appeared in the April 24 *Daily Floor Report*.

Creating search-and-rescue task forces

HB 1090 by Martinez (Hinojosa)

DIGEST:

HB 1090 would have created two new regional search-and-rescue task forces — Texas Task Force 1 (TTF 1) Type 3 and Texas Task Force 2 (TTF 2) — to work in areas such as building collapse, search and rescue, swift water rescue, hazardous material response, and public safety. TTF 1 Type 3 would have been headquartered in the Rio Grande Valley. It would have operated, trained, responded, and functioned under TTF 1, with substantially equivalent training and assistance capabilities. Members would have been responsible for costs for the operation, training, and equipment of the task force, including procuring and maintaining equipment and supplies, and could have been reimbursed in the same manner as members of the statewide TTF 1. HB 1090 also would have authorized the city of Dallas to create TTF 2.

HB 1090 would have amended the state’s workers’ compensation statute to extend coverage to members of both task forces when they were activated by the state. TTF 2 members, regardless of their full-time employment status outside the task force, would have been considered state employees for purposes of workers’ compensation coverage when activated by the state or during TTF 2 training activities.

HB 1090 also would have required the Department of Public Safety to conduct a study on the effectiveness of TTF 1 Type 3 and on the need to establish and operate similar task forces in other regions.

GOVERNOR’S REASON FOR VETO:

“House Bill 1090 requires the Texas A&M Board of Regents to establish a Texas Task Force 1 (TTF 1) Type 3 search and rescue team based in the Rio Grande Valley. The bill also codifies another search and rescue team, Texas Task Force 2 (TTF 2), which is run by the City of Dallas.

“However, the bill would make the state liable for any worker compensation claims resulting from training exercises conducted by TTF 2, shifting liability for a local activity to the state despite the fact the state has no control or oversight over the activity.

“Although without HB 1090 there will not be a requirement to create a Type 3 search and rescue team for the Rio Grande Valley in statute, I will instruct the Texas A&M Board of Regents and Texas Division of Emergency Management to take action to create a TTF 1 team that will be based in the Rio Grande Valley to assist with any disaster in that the region of the state.”

RESPONSE:

Rep. Armando Martinez, the bill’s author, said: “Whenever one spends a tremendous amount of effort and time to pass a bill that is ultimately vetoed, there is always disappointment. I accepted an amendment on HB 1090 to assist the City of Dallas. The governor referenced the amendment in his veto statement and stated the amendment was the basis for his veto. Even though HB 1090 was vetoed, Gov. Perry will instruct the Texas A&M Board of Regents and Texas Division of Emergency Management to create a Texas Task Force 1 team that will be based in the Rio Grande Valley. I appreciate Gov. Perry recognizing the need to establish and base a Texas Task Force Team 1 in the Rio Grande Valley to respond to disasters even though HB 1090 was vetoed.”

Sen. Juan Hinojosa, the Senate sponsor, said: “Although a member of the Legislature never wants to see a bill they authored or sponsored get vetoed, it is positive to see that Gov. Perry has declared in his veto statement of HB 1090 that he will issue an executive directive to create a Texas Task Force 1 team in the Rio Grande Valley.

“The reason for the governor’s veto of this bill was not based on the actions of trying to establish a task force in South Texas. It was caused by an amendment relating to the liability and workers’ compensation claims of Texas Task Force 2 in the Dallas area.

“Upon the completion of the governor’s executive directive to the Texas A&M Board of Regents and the Texas Division of Emergency Management, the sections of HB 1090 relating to the Rio Grande Valley will essentially become implemented.”

NOTES:

The HRO analysis of HB 1090 appeared in the April 24 *Daily Floor Report*.

Transferring authority to operate a water utility in a certain city

HB 1160 by Geren (Nelson)

DIGEST: HB 1160 would have required the Texas Commission on Environmental Quality to transfer certificates of convenience and necessity for water and wastewater service to the City of Blue Mound and the City of Tyler if each prevailed in condemnation proceedings to acquire the assets of the investor-owned utility within each city.

A transfer would not have been effective unless:

- a judgment that transferred the real property of the public utility to the municipality became final and was not subject to further appeal; and
- the municipality paid to the public utility the fair market value, as set by agreement or as ordered by a court judgment, for the taking of real property.

GOVERNOR'S REASON FOR VETO: "House Bill 1160 allows a city to condemn the real property of a water or sewer utility, making no provision for the value of lost business. At a time when infrastructure is a focus for our growing state, this bill would provide a disincentive for development by private utilities. Additionally, there is pending litigation directly related to this issue."

RESPONSE: **Rep. Charlie Geren**, the bill's author, said: "I am extremely disappointed in Gov. Perry's decision to veto HB 1160, which passed the Texas House 142 to 1. The governor's veto statement reflects a fundamental misunderstanding of the legislation. In the governor's statement, he says that the bill "allows a city to condemn the real property of a water or sewer utility, making no provision for the value of lost business." Nowhere in the language does HB 1160 allow for a condemnation. The bill simply allows for the transfer of a certificate of convenience and necessity as specified by a trial court.

"As for loss of value, the district court has spent over 18 months hearing a case between the City of Blue Mound and the private water company in question. The district court named three commissioners who were in charge of determining the 'fair market value' of the company. Ch. 21 of the Property Code governs the process for determining value, not HB 1160. With this veto, a for-profit government-created monopoly will continue to charge my constituents in the City of Blue Mound rates that are three times higher than surrounding areas while providing sub-par service."

Sen. Jane Nelson, the Senate sponsor, had no comment on the veto.

NOTES: The HRO analysis of HB 1160 appeared in the April 23 *Daily Floor Report*.

Revisions to local sales and use taxes

HB 1511 by Larson (Eltife)

DIGEST: HB 1511 would have increased the flexibility municipalities had in setting rates for sales-and-use taxes collected for a variety of purposes, provided the combined rate imposed by a municipality and other political subdivisions never exceeded the 2 percent maximum in current law. The bill also would have extended from four years to eight years the time by which a local sales tax dedicated to street maintenance would expire without voter reauthorization.

GOVERNOR'S REASON FOR VETO: “House Bill 1511 would restrict Texans’ power to vote to maintain or increase a street maintenance tax. This bill would allow municipalities to delay voter input by limiting the tax elections to once every eight years rather than the current four-year period. Texans should have the right to vote on tax measures sooner rather than later.

“Last session I vetoed House Bill 2972 for these same reasons.

“Therefore, I veto HB 1511.”

RESPONSE: **Rep. Lyle Larson**, the bill’s author, said: “HB 1511 would have increased local control by allowing Type A general law cities to determine their own appropriate sales and use tax rates for each tax category, subject to voter approval. Type A general law municipalities have tens of millions of dollars in sales tax revenue that they cannot use to respond to their citizens’ unique needs. These cities already face limits on the maximum sales tax rate they can enact, so additional restrictions on sales tax rates for individual categories are an excessive governmental burden. Cities can use limited resources more efficiently if they have the flexibility to decide what their own tax rates should be.

“For example, the City of Hollywood Park is an enclave community that is adjacent to a major highway in San Antonio. Hollywood Park experiences an excessive amount of traffic on its city streets due to vehicles diverted from the highway because of construction or congestion. The town cannot annex more territory, and its property tax collections are essentially stagnant. Hollywood Park would like to use more of its 2 percent sales tax collections for maintenance and repair of its city streets; however, under current law, the city can only enact a tax rate of one-eighth or one-quarter of 1 percent for street maintenance. Hollywood Park and hundreds of other general law cities across the state would benefit from increased local control provided by this bill.

“HB 1511 would have also saved taxpayer dollars by allowing a reauthorization of sales tax rates for each category every eight years, rather than four. These tax rates must already be initially approved by voters. Any change in tax rates must also be approved by ballot measure. This bill would have saved significant time and resources by lifting the very narrow restriction requiring reauthorization after only four years.

“This bill was thoroughly vetted in committee and faced no opposition. It passed unanimously in the House and by a 29-2 vote in the Senate. With 99 percent of Texas lawmakers in support of the bill, the governor’s opposition to more local control is curious.”

Sen. Kevin Eltife, the Senate sponsor, had no comment on the veto.

NOTES:

HB 1511 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Modification of state-jail felony record to class A misdemeanor

HB 1790 by Longoria (Hinojosa)

DIGEST: HB 1790 would have authorized judges, under certain circumstances, to amend conviction records for certain state-jail felonies (180 days to two years in a state jail and an optional fine of up to \$10,000) to reflect a conviction for a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000). The change could have been made only if written consent of the prosecuting attorney was provided before sentencing.

After a defendant placed on community supervision (probation) for a state-jail felony had completed two-thirds of the original community supervision term for eligible state-jail felonies, a judge could have reviewed the record and considered amending it to reflect a class A misdemeanor instead. Defendants would have been required to have fulfilled all conditions of their community supervision, including paying restitution and fines, costs, and fees that they were able to pay. A judge could not have changed the name of the offense. After a modification, a defendant would not have been considered to have been convicted of a felony.

Certain offenses would have been ineligible, including failing to register as a sex offender, family violence offenses, and all offenses against a person in Penal Code, Title 5.

GOVERNOR'S REASON FOR VETO: "The intent of House Bill 1790 can already be achieved under current law. A mechanism already exists to prosecute a state jail felony as a Class A misdemeanor in circumstances where the prosecutor sees fit. Adding the option to reduce the conviction at the back end of a case will cause additional and unnecessary court procedures, reduce judicial efficiency, and add to the costs of our criminal justice system."

RESPONSE: **Rep. Oscar Longoria**, the bill's author, had no comment.

Sen. Juan Hinojosa, the Senate sponsor, said: "This bill was a common sense approach to providing a clearer avenue for saving the taxpayers of this state costs associated with certain non-violent state jail felony convictions.

"HB 1790 did not undermine the separation of powers with the judicial branch, and did not force prosecutors to use the provisions in the bill.

"HB 1790 provided for a structure of proper supervision and providing substance abuse treatment to defendants who took this option granted by this legislation."

NOTES: The HRO analysis of HB 1790 appeared in the *May 7 Daily Floor Report*.

Modifying the enterprise zone program

HB 1982 by Murphy (Hinojosa)

DIGEST: HB 1982 would have modified provisions governing enterprise projects, which are development projects eligible to apply for state sales-and-use tax refunds on qualified expenditures. The bill would have changed the way tax refunds were computed on larger capital investment projects by basing the highest refunds on the number of new permanent jobs created and not on the number retained. It would have allowed new permanent jobs held by veterans to be counted toward satisfying certain minimum employment requirements for such projects.

The bill would have required a county making a nomination for an enterprise project in a municipality's jurisdiction to enter into an interlocal agreement with that municipality that specified which entity would be responsible for administering the project. Any county could have nominated a project, subject to approval from the municipality with jurisdiction.

HB 1982 would have allowed an enterprise project designation to be split into two halves for designation by the Texas Economic Development Bank. A half designation would have used one-half of one of the enterprise project designations allowed under state law. The Economic Development Bank could have allocated a maximum of 250 jobs to each project that was split into two half designations. A half project would have been eligible for a maximum tax refund of \$125,000 in each fiscal year and would have been subject to existing capital investment and job allocation requirements.

The bill would have prohibited a state or federally mandated capital investment, including an investment in pollution abatement equipment, from qualifying as a committed capital investment in an enterprise project.

GOVERNOR'S REASON FOR VETO: "I applaud the intent of House Bill 1982 to improve the enterprise zone program by requiring projects that get the biggest tax refunds to create more jobs rather than focusing on job retention.

"However, HB 1982 also contains ambiguous language which could hurt, rather than help, the program.

"Therefore, I veto HB 1982 and will recommend that the lieutenant governor and speaker of the House conduct an interim study to review this issue and ways to improve the program."

RESPONSE: **Rep. Jim Murphy**, the bill’s author, had no comment on the veto.

Sen. Juan “Chuy” Hinojosa, the Senate sponsor, said: “I filed SB 1084, and ultimately sponsored and passed HB 1982 (the House companion), to maximize the job creation potential of the enterprise zone program. The legislation passed unanimously in the Senate and the House and in their respective committees. The bills were widely supported by cities, counties, economic development corporations and earned the endorsement of the Texas Conservative Coalition. Only one entity registered opposition to the legislation through the process — a tax-consulting firm that gains millions of dollars for helping large businesses qualify for tax rebates by retaining jobs they were likely to keep anyway.

“I am disappointed by Gov. Perry’s decision to veto HB 1982. The governor’s veto is contrary to the principles he represents. As a champion for new jobs, a supporter of economic development programs, and a promoter of Texas’ economy, the governor’s decision should have been clear.

“The governor, in his veto proclamation cites “ambiguous language which could hurt, rather than help the program.” I was surprised at this reasoning since my office worked with the governor’s office and the Economic Development Bank, which administers the program, to carefully craft the legislation. We worked through several versions of the legislation to specifically avoid any ambiguity or vagueness.

“HB 1982 is a jobs creation bill. By vetoing HB 1982, Gov. Perry vetoed: 1) maximizing job creation in areas that need new jobs the most; 2) maintaining incentives for job retention; 3) incentivizing the hiring of veterans; 4) promoting small business participation in the enterprise zone program; 5) allowing cities and counties to partner when nominating projects; and 6) closing a tax loophole on certain capital investments.”

NOTES: HB 1982 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Expanding the Near Northside Management District

HB 2138 by Dutton (Ellis)

DIGEST: HB 2138 would have expanded the boundaries of the Near Northside Management District in northwest Harris County by designating the southern boundary as Buffalo Bayou, rather than Interstate 10.

Any territory of the management district overlapping with the boundaries of the Greater East End Management District would have been excluded from the Greater East End Management District.

The bill also would have expanded the board of the Near Northside Management District from nine directors to 12, with members serving staggered, three-year terms. It would have listed the initial directors of the district.

GOVERNOR'S REASON FOR VETO: "House Bill 2138 would expand the Near Northside Management District's territory in a manner that does not allow input from the citizens and property owners of the land to be annexed. I support the current method of a district annexing property subject to the approval of the local governing body and the safeguards that public input provides."

RESPONSE: **Rep. Harold Dutton**, the bill's author, said: "It should be a requirement that the governor — at the very least — read the bill prior to any veto. His veto message clearly establishes a legal requirement that is not a part of the existing law for the establishment of management districts. This bill had absolutely nada to do with annexation or the law governing annexation. If the governor wants to impose a new legal requirement on management districts, he should run for a seat in the House. Otherwise, he should follow the existing law. This bill was a local bill in which notice of its filing had been previously provided in the Houston newspaper. Thereafter, the bill received a majority vote in both chambers on their local calendars. Unicameral legislatures are not common. But a uniperson legislature is fictional. Governors can be too."

Sen. Rodney Ellis, the Senate sponsor, said: "I am very disappointed that Gov. Perry chose to veto a purely local bill that would have improved management and development along the Buffalo Bayou in Houston. It was unnecessary and will lead to more confusion and delay on vital local projects."

NOTES: The HRO analysis of HB 2138 appeared in the May 6 *Daily Floor Report*.

Foreclosure sale of property subject to an oil or gas lease

HB 2590 by Keffer (Eltife)

DIGEST:

HB 2590 would have provided that an oil or gas lease covering real property subject to a security interest that had been foreclosed would remain in effect after the foreclosure sale under certain circumstances. For the lease to have remained in effect, the oil or gas lease could not have terminated or expired on its own terms and would have to have been executed and recorded in the real property records of the county:

- before the date the security interest was recorded; or
- after the date the security interest was recorded but before the foreclosure sale.

Royalty payments under an oil or gas lease due to the owner of the real property that was subject to the security interest that had been foreclosed would have been paid to the buyer of the foreclosed real property.

The lessee of the oil or gas lease would have been required to indemnify the buyer and any mortgagee of the foreclosed real property from actual damages resulting from the lessee's operations conducted pursuant to the oil or gas lease.

If an oil or gas lease had been executed and recorded in the real property records of the county after the date a security interest in the affected property was recorded, then the property was later sold in a foreclosure sale, the foreclosure sale would have terminated and extinguished the lessee's right to use the surface of the real property pursuant to the oil or gas lease.

A subordination agreement between a lessee of an oil or gas lease and a mortgagee of real property would have had control over any conflicting provision.

GOVERNOR'S REASON FOR VETO:

“House Bill 2590 would amend the Texas Property Code to allow for the continuation of certain oil and gas leases in the event that the leased land undergoes a foreclosure. This bill makes changes that would benefit all parties to mineral leases in urban environments, like certain sections of the Barnett Shale. However, the bill's language is less well suited to leases in rural areas, where the bill's prohibition on entering onto the land may make the lease impossible to utilize.

The bill also includes a provision that could subject a lessee to lawsuits for reasonable and minimal damage to the land caused by the lessee's lawful production of oil and gas, a reversal of the well-established rule. Furthermore, the bill could be interpreted to allow these suits even if the mineral lease was recorded before

the foreclosed mortgage, and even for lawful drilling that occurred before the foreclosure. This could have a serious chilling effect on the production of oil and gas across our state.

Because I agree with the intent of HB 2590, I encourage the author and the sponsor of the bill to narrow this legislation to only affect leases in urban areas, and to limit the potential liability for lawful oil and gas production..”

RESPONSE: **Rep. Jim Keffer**, the bill’s author, said: “This bill would have made changes to the law that would have benefited all parties to mineral leases. Though there is dispute about whether the bill contained a drafting error that would have caused unintended consequences, we appreciate the governor’s acknowledgment that he agrees with the intent of the bill, and his encouragement to refine the bill’s language to ensure the most positive outcome.”

Sen. Kevin Eltife, the Senate sponsor, had no comment on the veto.

NOTES: HB 2590 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Texas High Performance Schools Consortium

HB 2824 by Ratliff (Paxton)

DIGEST: HB 2824 would have allowed the 23 school districts participating in the Texas High Performance Schools Consortium to administer fewer State of Texas Assessments of Academic Readiness (STAAR) exams, if allowed by a federal waiver. It would have allowed the administration of national college preparatory tests in place of STAAR end-of-course exams. Consortium campuses would have been evaluated for accountability purposes by an independent third party on their success in closing achievement gaps and achieving “readiness” standards essential for a specific grade and subject.

The consortium would have reported on the effectiveness of participant campuses in closing achievement gaps, teaching fewer high-priority learning standards in depth, recommendations for legislation, and the result of independent evaluations.

GOVERNOR'S REASON FOR VETO: “Education is changing, and Texas must remain at the forefront of innovation as the digital age evolves. That is why I signed legislation during the 82nd regular session to create the Texas High Performance Schools Consortium. The 23 participating districts are responsible for informing policymakers about methods to improve student learning through digital learning strategies and improved standards and assessments, while relying more on local control of the educational process.

“House Bill 2824 would exempt consortium districts, which have shown a range of performance levels on the most recent STAAR assessments, from the Texas accountability system and many of the assessments required of other public schools throughout the state. Flexibility and innovation are important, but we will not compromise academic rigor or student outcomes.

“The Texas Commissioner of Education, guided by input from stakeholders and changes in statute by House Bill 5, is developing a new accountability system that will allow districts to innovate without sacrificing important accountability.”

RESPONSE: **Rep. Bennett Ratliff**, the bill’s author, said: “This bill would have established a research and development opportunity for our public schools. Like all successful businesses, our public school students deserve access to the latest ideas, cutting edge technology integration, and creative ideas in the classroom. This bill would have allowed a small fraction of our school districts to develop these ideas and show how their implementation could position Texas as a national leader in education, by reducing regulations and mandates on those districts in exchange for alternate accountability measures. I’m disappointed that our students will have to wait for new

ideas to be developed elsewhere instead of in Texas, and that our vision for the future of public education will take a back seat to national agendas that may not align with our values.”

Sen. Ken Paxton, the Senate sponsor, had no comment.

NOTES: The HRO analysis of HB 2824 appeared in the *May 7 Daily Floor Report*.

Changes to state assessment program for students in grades 3-8

HB 2836 by Ratliff (Patrick)

DIGEST: HB 2836 would have required all statewide standardized tests to be determined valid and reliable by an entity that was independent of the Texas Education Agency (TEA) and any other entity that developed the assessment instrument.

TEA would have been required to ensure that all State of Texas Assessments of Academic Readiness (STAAR) exams were designed primarily to assess the state curriculum for the subject and grade level being tested. Supporting knowledge or skills from a different subject or different grade level would have been assessed only to the extent necessary or helpful for diagnostic purposes.

The bill would have required a study on the essential knowledge and skills of the required curriculum and tests. The study would have evaluated whether the number and scope of readiness or supporting standards should be limited and how the assessments in grades 3-8 assess standards essential for student success. Based on the study and the findings of an advisory committee formed for this purpose, the State Board of Education would have been required to adopt policies and procedures to limit the number and scope of the curriculum standards for each subject and grade level to correspond with readiness standards capable of being accurately assessed by the applicable STAAR exam.

The bill would have limited districts to administering two benchmark tests to help students prepare for the corresponding STAAR exam. It would have required that STAAR exams administered to students in grades 3-5 be designed so that 85 percent of students could finish in two hours and STAAR exams administered to students in grades 6-8 be designed so that 85 percent of students could finish in three hours. It would have allowed students up to eight hours to complete an exam.

GOVERNOR'S REASON FOR VETO: “The State Board of Education (SBOE) is responsible for developing the curriculum standards required to be taught in Texas schools. House Bill 2836 has the potential to deemphasize the majority of these important curriculum standards in the classroom, and would also circumvent the responsibilities of the elected SBOE. The SBOE has initiated a process to streamline the scope of the curriculum standards required to be taught in classrooms, addressing concerns about the number of curriculum standards taught and assessed.

“Maintaining our rigorous standards is crucial to ensuring Texas students have the fundamental building blocks necessary to succeed in their education and ultimately compete in a global economy.”

RESPONSE: **Rep. Bennett Ratliff**, the bill’s author, said: “This bill focused the accountability program on the critical skills in each grade and course while reducing the impact of the tests on learning. I do not believe that it is appropriate for our third grade children to have to endure a four-hour test, for our struggling learners to fail because they cannot complete the test within a specified time limit, or for our special education students to be labeled as failures because the tests cannot be adapted to show their progress. This bill would have addressed those issues and thus provided parents, taxpayers and the State of Texas with a more accurate evaluation of how our public schools are performing.”

Sen. Dan Patrick, the Senate sponsor, had no comment on the veto.

NOTES: The HRO analysis of HB 2836 appeared in the April 29 *Daily Floor Report*.

Enterprise zones within defense base development authorities

HB 3063 by Menéndez (Van de Putte)

DIGEST: HB 3063 would have stipulated that a commercial aircraft under construction within a defense base development authority was temporarily within the state for the purposes of Tax Code, secs. 11.01 and 21.02, and therefore exempt from property taxation. Tangible personal property within the authority also would have been exempt from taxation if the owner had demonstrated to the tax appraisal district that the property was designed to be attached or incorporated into the aircraft under construction.

The bill also would have designated as an economic enterprise zone an area within a defense base development authority that was immediately adjacent to five or more block groups in which at least 20 percent of the residents had an income no greater than 100 percent of the federal poverty level.

GOVERNOR'S REASON FOR VETO: “The Texas aerospace industry contributes billions of dollars to our economy and generates thousands of jobs. House Bill 3063 would give a state-sponsored competitive advantage to some Texas communities over others.

“I am instead signing House Bill 3121, which provides a reasonable statewide solution for all Texas cities. HB 3121 will apply equally to aerospace manufacturers throughout the state, strengthening the commercial aerospace industry to meet the challenges posed by the current economic environment and competition from other states.”

RESPONSE: **Rep. José Menéndez**, the bill’s author, said: “While I agree with the governor that all Texas cities should be equally competitive in pursuing aerospace industry development opportunities, a ‘one size fits all’ solution may not work in every situation. That is why we pursued the alternative provided in HB 3063 and why I respectfully disagreed with the governor’s veto of this bill.”

Sen. Leticia Van de Putte, the Senate sponsor, had no comment on the veto.

NOTES: HB 3063 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Increased civil penalty for violations by certain auto salvage yards

HB 3085 by Walle (Garcia)

DIGEST:

HB 3085 would have increased the civil penalty that can be assessed certain auto wrecking and salvage yards in unincorporated areas of Harris County for noncompliance with Transportation Code regulations of their operations. The maximum civil penalty would have been increased from \$1,000 to \$5,000 per violation, per day.

GOVERNOR'S REASON FOR VETO:

“House Bill 3085 increases the maximum civil penalty from \$1,000 to \$5,000 a day for violations of the Transportation Code concerning salvage yards in the unincorporated areas of Harris County, which are defined as an area where three or more vehicles are being used for parts, or are kept for the purpose of an automotive repair or rebuilding business.

“This low threshold means someone repairing vehicles as a side business, or even someone who owns a few cars with the intent to sell, could be subjected to these unnecessarily high daily penalties.”

RESPONSE:

Rep. Armando Walle, the bill’s author, said: “I am disappointed that the governor vetoed a simple bill intended to protect my constituents in unincorporated Harris County. There are a number of automotive and salvage yards that continually violate the law and believe these class C misdemeanors and civil penalties are just a cost of doing business. The bill would have given the county discretion to pursue stronger penalties to deter bad actors who disregard state statute so egregiously.

“While the governor brought up the concern of those operating a small side business or with the purpose to sell components from the three or more cars on their land, the court can easily continue to assess the minimum civil penalty of \$500 as it sees appropriate.”

Sen. Sylvia Garcia, the Senate sponsor, said: “Many of my constituents live, pray, go to school, and work near junkyards. These junkyards lower property values, diminish quality of life, and present health risks to residents. With this in mind I sponsored HB 3085, which would have provided increased penalties for junkyard owners who fail to maintain a proper distance from residential areas and keep their facilities clean and safe. This would have been a big step toward protecting the integrity of our neighborhoods and the safety of Harris County residents. I am very disappointed with Gov. Perry for protecting business owners who operate outside of the law at the expense of working families.”

NOTES:

HB 3085 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

State coordination of endangered species conservation

HB 3509 by D. Bonnen (Seliger)

DIGEST: HB 3509 would have expanded the membership and duties of the Task Force on Economic Growth and Endangered Species, which assesses the impact of endangered species regulations and facilitates state and local government efforts to implement them in a cost-effective manner.

The bill would have required that the task force select holders of federal permits issued under the Endangered Species Act in connection with habitat conservation plans or similar plans authorized or required by federal law in connection with an endangered or candidate species. The task force would have been authorized to coordinate for state agencies the comments, positions, and responses to listings and potential listings of endangered species.

A state agency could have applied for or held a federal permit in connection with a habitat conservation plan or similar plan authorized or required by federal law in connection with an endangered, threatened, or candidate species. A state agency represented on the task force also would have been authorized to hold a permit.

Before undertaking the development of a habitat or candidate conservation plan or similar activity, a state agency would have been required to provide notice and solicit comments from members of the task force, as well as landowners, conservation interests, business interests, and mineral owners affected by the activity.

The permit holder would have had to inform the task force of any mitigation plans, including costs, at least 10 days before the plan was submitted to the U.S. Fish and Wildlife Service for approval.

The task force would have been required to conduct a study to determine state policies to defend against the overreaching inclusion of species on the Endangered Species List by the U.S. Fish and Wildlife Service.

HB 3509 also would have created the Habitat Protection and Research Fund to receive appropriations, grants, and gifts. The money would have funded research grants, personnel, and capital expenditures.

GOVERNOR'S REASON FOR VETO: "House Bill 3509 would make substantial changes to a process that has been efficiently overseen since 2009 by the Comptroller of Public Accounts. This process should remain at a single agency rather than a nine-member panel."

RESPONSE: **Rep. Dennis Bonnen**, the bill’s author, had no comment on the veto.

Sen. Kel Seliger, the Senate sponsor, said: “I am disappointed that the governor has decided to veto an agreed-to bill that many people, including members of his own staff, helped negotiate. As a leader who prides himself on being pro-business, I can’t understand why Gov. Perry would reject a piece of legislation that addresses the federal government’s assault on Texas through the overreach of the Endangered Species Act.

HB 3509 is a thoughtful piece of legislation that develops a statewide approach to the handling of threatened and endangered species listings while ensuring that the state’s economic engine, the oil and gas industry, is not crippled. I first became involved in this issue when the dunes sagebrush lizard was proposed for listing in 2011 and worked closely with Rep. Bonnen, stakeholders, industry, and landowners to not only craft a coordinated statewide policy but also establish and allocate dollars to a new dedicated fund for biological research. I am proud of the work and foresight of the Legislature, especially in light of the fact that over 100 species are being considered for listing in Texas in the next five years.”

NOTES: The HRO analysis of HB 3509 appeared in the May 8 *Daily Floor Report*.

Governing boards, administrators of higher education institutions

SB 15 by Seliger (Branch)

DIGEST: SB 15 would have added to the management responsibilities of boards of regents of institutions of higher education and would have expanded the training requirements of individual regents.

Under SB 15, to the extent practicable, communication between the board of regents of a university system or between members of the board and the employees of an institution under its governance would have been conducted through the university system.

The governing board of a university system would have been able to terminate the employment of an institution's president only after receiving a recommendation from the system administration. A board would not have been required to act on such a recommendation. SB 15 would have removed the board's responsibility to evaluate the chief executive officer of each component institution and the responsibility to assist the officer in the achievement of performance goals. This oversight would have transferred to the system administration.

SB 15 would have made governing boards responsible for preserving institutional independence and defending each institution's right to manage its own affairs through its chosen administrators and employees.

The bill would have required that each report, recommendation, or vote of the governing board or of a committee, subcommittee, task force, or similar entity reporting to the governing board have been made available to the public on the board's website by the end of the next business day after the date of the report, recommendation, or vote.

SB 15 would have required individual board members to receive training before voting on issues before the board and would have imposed further rules against conflicts of interest.

GOVERNOR'S REASON FOR VETO: "As governor, I have focused on making higher education more affordable, accountable and accessible, and I will continue to support innovative ideas that will improve the quality of our universities.

"Limiting oversight authority of a board of regents, however, is a step in the wrong direction. History has taught us that the lack of board oversight in both the corporate and university settings diminishes accountability and provides fertile ground for organizational malfeasance.

“I am committed to improving higher education and making sure students and taxpayers receive the greatest value for the investment they make in higher education. We have achieved great success to that end, and must continue to build upon it.

“Strengthening our institutions is crucial to keeping Texas competitive and a magnet for business relocation, expansion and start-ups, which provide jobs and allow our citizens to prosper and build better lives for themselves and their families. Texas institutions of higher education have the opportunity to make our state even greater than it is today, and we must insist on finding ways to utilize innovative techniques and technology to make college more attainable for all. By implementing efficiencies designed to improve access and lower the cost to students, including reducing tuition, and providing an accountable and quality education we can prepare our students for a successful future.”

RESPONSE: **Sen. Kel Seliger**, the bill’s author, said: “I am very disappointed by Gov. Perry’s decision to veto SB 15, a bill that not only puts into statute best practices, but also adds much needed transparency to higher education governance. Given the continued lack of transparency and persistent conflicts, this legislation clearly was necessary, due in no small part to some of Gov. Perry’s appointees. The decision to veto SB 15 ensures that the conflicts, controversies, and lack of transparency will continue. It harms the reputation of Texas’ world class public universities and hinders their ability to attract the best students, faculty, and administrators to this great state.”

Rep. Dan Branch, the House sponsor, said: “The work of the 82nd Legislature’s Joint Oversight Committee for Higher Education Governance, Excellence, and Transparency brought to light the fact that portions of the Education Code related to higher education governance are unclear.

“The committee also found that, among other things, the lack of clarity in state law has been a significant factor in the ongoing conflict between The University of Texas System Board of Regents and The University of Texas at Austin.

“SB 15 would have given statutory guidance to governing boards, systems, chancellors, presidents, and institutions of higher education by codifying numerous current and best practices. The veto of SB 15 puts Texas higher education systems and institutions at risk of facing less clarity about their respective governing roles and could lead to more unnecessary conflict.”

NOTES: The HRO analysis of SB 15 appeared in the May 13 *Daily Floor Report*.

Training educators to carry concealed handguns on school premises

SB 17 by Patrick (Fletcher)

DIGEST: SB 17 would have created a safety training program for school employees licensed to carry concealed handguns. Authorized and trained employees could have carried concealed weapons at schools and certain interscholastic events.

The Texas Department of Public Safety (DPS) and Advanced Law Enforcement Rapid Response Training Center at Texas State University would have developed the training program. Each school campus that did not have security personnel or a full-time commissioned peace officer could have sent two employees for training at no charge.

The bill would have allowed DPS to solicit donations to fund the program. Any additional state funds for training could not have exceeded \$1 million per fiscal biennium.

GOVERNOR'S REASON FOR VETO: "A safe, secure learning environment is essential to all Texas students. To provide adequate security, we must ensure school safety planning and preparation for all levels of emergencies and threats.

"SB 17 falls short of clearly expressing the role armed school employees would play during times of crisis and emergencies and the qualifications and standards they would have to meet, fails to address secure weapon storage, and carries a \$10 million fiscal note.

"I have signed HB 1009 and SB 1857, which take a far more measured approach to school safety, and do not impose a large fiscal burden on taxpayers."

RESPONSE: **Sen. Dan Patrick**, the bill's author, had no comment on the veto.

Rep. Allen Fletcher, the House sponsor, said: "I respect Gov. Perry's decision to veto SB 17. HB 1009, a similar bill authored by Rep. Villalba which I joint-authored, did pass and was signed into law by the governor. The purpose of SB 17 was to give school districts without a police presence an additional option and program to allow faculty members to carry a concealed weapon in the classroom upon completing an additional training course. I believe with the passage of either bill, classrooms will be a safer place. I am proud to have supported HB 1009 and grateful that it was signed into law."

NOTES: The HRO analysis of SB 17 appeared in the May 20 *Daily Floor Report*.

Functions and duties of the Texas Ethics Commission

SB 219 by Huffman (D. Bonnen)

DIGEST: SB 219 would have changed Texas Ethics Commission procedures and requirements primarily in four areas: investigation and enforcement, personal financial reporting, campaign finance reporting, and lobbying.

The bill would have revised required procedures for investigating complaints — called “inquiries” under the bill — that had been filed with the commission, including procedures for preliminary review and resolution of an inquiry. The commission would have been allowed to hold formal hearings as it currently does or to delegate them to the State Office of Administrative Hearings. The commission would have had to adopt guidelines to follow when civil penalties were assessed.

The bill also would have revised what was considered confidential and to what the public had access. This would have included allowing a notice of dismissal or a decision that no violation had occurred to be made available on the Internet if requested by a respondent.

SB 219 would have required filing by electronic transfer for personal financial statements filed with the commission by a state officer, a candidate for an office as an elected officer, and a state party chair. Filings would have been made using computer software that met the commission’s specifications or that was provided by the agency.

The bill would have required an annual fee from each candidate, office holder, and political action committee filing documents under Election Code, Title 15, which regulates political funds and campaigns. The requirement would not have applied to candidates, officeholders, or specific-purpose committees that file reports with an authority other than the commission or to candidates or officeholders who filed petitions in lieu of filing fees with applications for places on the ballot. The commission would have determined the amount of the fee, which could not have exceeded \$100.

SB 219 would have amended provisions relating to lobby registration and lobbyist expenditure reports. It also would have restricted for two years certain types of political contributions and expenditures from officeholders who became lobbyists.

The bill would have required a member of the Texas Railroad Commission who became a candidate for another office to resign from the commission.

SB 219 would have limited the current privilege under the Civil Practices and Remedies Code that prevents journalists from being compelled to testify about certain information and their sources by judicial, legislative, administrative, or other bodies. Under the bill, this privilege could have been limited if the journalist had made certain types of political expenditures.

Other changes would have included:

- expanding disclosure requirements for radio, television, and Internet political advertising;
- prohibiting the name of a political action committee from including the name of a candidate supported by the committee if the candidate had not consented; and
- requiring the Texas Ethics Commission to study whether the Travis County Public Integrity Unit's law enforcement authority should be transferred to another entity.

**GOVERNOR'S
REASON FOR
VETO:**

“SB 219 contains several important changes to the state’s ethics laws, especially those relating to the sworn complaint process. However, these positive changes are outweighed by several provisions added late in the legislative process without an open and honest discussion.

“The last-minute addition of a resign-to-run requirement for members of the Railroad Commission would change the structure of a constitutional agency without the consent of Texas voters. Any effort to amend a constitutional office should go to a vote of the people.

“This bill would also strip a journalist’s testimonial privilege if the journalist has made direct political expenditures, or is affiliated with entities that make such expenditures.

“SB 219 also allows the Ethics Commission to set an annual document filing fee for candidates and groups who file campaign finance reports. Candidates should not be charged for participating in a process intended to be transparent, to pay for a state agency. The legislature should continue to set the fee to run for office in a transparent and open way, rather than leave that to a state agency.

“The Legislature had an opportunity, through the Sunset review process, to make needed changes to our campaign finance, lobby and financial disclosure laws — changes that are needed to modernize laws while still protecting our rights and

providing for transparency. I urge the Legislature to look closely at our ethics laws during the interim in an open, deliberative and transparent way, so that all voices are heard and all proposals are thoroughly discussed.”

RESPONSE: Neither **Sen. Joan Huffman**, the bill’s author, nor **Rep. Dennis Bonnen**, the House sponsor, had a comment on the veto.

NOTES: The HRO analysis of SB 219 appeared in the May 20 *Daily Floor Report*.

Allowing certain practitioners to dispense aesthetic pharmaceuticals

SB 227 by Williams (Zerwas)

- DIGEST:** SB 227 would have allowed physicians and therapeutic optometrists to dispense to their patients certain prescription drugs, known as “aesthetic pharmaceuticals,” without obtaining a license to practice pharmacy. Aesthetic pharmaceuticals, including bimatoprost, hydroquinone, and tretinoin, are typically prescribed to treat skin pigmentation conditions or promote eyelash growth.
- GOVERNOR’S REASON FOR VETO:** “SB 227 would circumvent existing safeguards for the dispensing of certain prescription cosmetic drugs by allowing physicians and optometrists to sell these medications directly. It is the role of pharmacists — who are trained specifically in drug interactions, side effects and allergies — to dispense the medications. Additionally, the State Board of Pharmacy has the authority to inspect pharmacies to ensure drugs are stored securely and at safe temperatures.
- “I share concerns from within the health care community that though these drugs are used for aesthetic purposes, they are still prescription-strength drugs with potentially dangerous side effects and interactions, and therefore should remain subject to existing safety protocols and oversight.”
- RESPONSE:** Neither **Sen. Tommy Williams**, the bill’s author, nor **Rep. John Zerwas**, the House sponsor, had a comment on the veto.
- NOTES:** The HRO analysis of SB 227 appeared in the May 20 *Daily Floor Report*.

Political contribution reporting requirements of certain persons

SB 346 by Seliger (Geren)

DIGEST: SB 346 would have created political contribution reporting requirements for a person or group of persons that:

- did not meet the definition of a political committee;
- accepted political contributions; and
- made one or more political expenditures, with certain exceptions, that exceeded \$25,000 during a calendar year.

The bill would not have applied to labor organizations or their subordinate entities.

Under the bill, a person or group would have been considered to have accepted political contributions if its members or donors made payments, including dues, that the members or donors had a reason to know at the time could have been used or commingled with other funds used to make political contributions or political expenditures.

A person or group of persons would not have been required to file a report if they were required to disclose the expenditures or contributions in another report under Election Code, Title 15 within the same time frame, or if no reportable activity occurred during the reporting period.

Itemization of contributions required under the existing reporting provisions would have been required only if the contribution exceeded \$1,000 during the reporting period.

The first report required to be filed in a calendar year in which the \$25,000 threshold was exceeded would have had to include all political contributions accepted and all political expenditures made in that year.

GOVERNOR'S
REASON FOR
VETO:

“Freedom of association and freedom of speech are two of our most important rights enshrined in the Constitution. My fear is that Senate Bill 346 would have a chilling effect on both of those rights in our democratic political process. While regulation is necessary in the administration of Texas political finance laws, no regulation is tolerable that puts anyone’s participation at risk or that can be used by any government, organization or individual to intimidate those who choose to participate in our process through financial means.

“At a time when our federal government is assaulting the rights of Americans by using the tools of government to squelch dissent it is unconscionable to expose more Texans to the risk of such harassment, regardless of political, organizational or party affiliation.”

RESPONSE: **Sen. Kel Seliger**, the bill’s author, said: “This is a sad day for integrity and transparency in Texas. Gov. Perry’s veto of SB 346 legalizes money laundering in Texas elections. The governor’s veto is ironic since money laundering is illegal in other endeavors. As other states have stepped forward to ban election money laundering by dark money 501c4 non-profit corporations, it is embarrassing that the Lone Star State is now an official safe haven for political money launderers. Again, the 2010 Supreme Court decision in the *Citizens United v. FEC* case clearly stated that disclosure of contributions was critical to the right of corporations to participate in our system of democracy. The court said: ‘The First Amendment protects political speech; and disclosure permits citizens and shareholders to react to the speech of corporate entities in a proper way. This transparency enables the electorate to make informed decisions and gives proper weight to different speakers and messages.’”

Rep. Charlie Geren, the House sponsor, said: “Texas law requires transparency in the political process as it pertains to political campaign disclosure of their donors, requiring political action committees to file reports with the Ethics Commission, and requiring lobbyists to register whom they represent. A number of groups use an exception in the Election Code (form as a nonprofit organization) to avoid compliance with these requirements. SB 346 was filed to remove the loophole provided by this exception, thereby increasing transparency in the political process.

“SB 346 required nonprofit groups that spend \$25,000 or more in political expenditures to disclose to the public their expenditures and donors who contribute more than \$1,000. In the famous 2010 case of *Citizens United v. FEC*, the U.S. Supreme Court made it clear that disclosure of money in politics furthers important First Amendment values and is a necessary component of our electoral process. I look forward to working with the governor in the future to expand transparency in our political system.”

NOTES: The HRO analysis of SB 346 appeared in the May 13 *Daily Floor Report*.

Factors in dismissal of suits to terminate parent-child relationship

SB 429 by Nelson (Raymond)

- DIGEST: SB 429 would have required a court considering a dismissal or nonsuit of a suit to terminate a parent-child relationship filed by the Department of Family and Protective Services to consider certain factors, including:
- whether the dismissal or nonsuit was in the best interest of each child affected; and
 - whether orders for the conservatorship, possession of or access to, or support of each child would continue after the dismissal or nonsuit.
- Before approving a dismissal or nonsuit, the court would have been authorized to issue an order for the conservatorship, possession of or access to, or support of each child that would continue in effect after the dismissal or nonsuit.
- GOVERNOR'S REASON FOR VETO: "SB 429 would create another law to address an issue judges already have the ability to address. The Texas Family Code already authorizes judges in suits affecting the parent-child relationship to consider whether a child custody or child support order is appropriate to protect the child's best interest."
- RESPONSE: Neither **Sen. Jane Nelson**, the bill's author, nor **Rep. Richard Peña Raymond**, the House sponsor, had a comment on the veto.
- NOTES: SB 429 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Modifying the requirement for scoliosis screenings in grades 6-9

SB 504 by Deuell (S. King)

DIGEST: SB 504 would have required each public school to choose either to screen sixth graders and ninth graders for abnormal spinal curvature or to provide the parents or guardians of students in grades 6-9 with information about abnormal spinal curvature.

GOVERNOR'S REASON FOR VETO: "SB 504 would remove the state's requirement that schools screen all students in the 6th and 9th grades for spinal abnormalities.

"This screening detects spinal curvatures, helping avoid extensive surgery, scoliosis or abnormal curvatures later in life.

"To ensure children receive the attention and treatment they need for abnormal curvatures, Texas must remain vigilant and retain this required screening."

RESPONSE: **Sen. Bob Deuell**, the bill's author, said: "Mass screenings for scoliosis are an unfunded mandate and they are not supported by science. In 2004, the United States Preventative Services Task Force (USPSTF) recommended these screenings no longer be mandated in schools, and the Texas Medical Association issued a similar statement in 2006. Five states have repealed this requirement since 2002 while none have added it.

"Texas currently mandates only two other health screenings in its schools: vision and hearing. Those screenings are related to a child's ability to learn. Scoliosis screenings are not. They result in a high number of false positives, and many parents never follow up with a doctor when they are told that a curve in the spine has been seen.

"Students can be checked for scoliosis when they get sports physicals or see a doctor for any reason — it is the standard of care for physicians to perform this test when they see children. It is often parents who detect the curve first.

"Texas now requires school nurses add this to the long list of duties they must perform. If the school does not have a nurse, as many do not, they have to bring people in from the outside.

"SB 504 would simply have allowed schools to decide this for themselves, rather than a one-size-fits-all command from Austin. If they chose not to do the screenings, they would send information on scoliosis home with the parents. This is currently the law in Virginia.

“School districts should be given flexibility in setting their own priorities when it comes to children’s health. In an era when we face a crisis in childhood obesity and diabetes, this outdated mandate that was passed in the 1980s simply does not make sense.”

Rep. Susan King, the House sponsor, said: “SB 504 by Sen. Deuell would have removed an unfunded mandate on our schools by allowing school districts the local option to retain the screening or provide education to parents and students on spinal curvatures and where to go to be screened. While the screening may be effective, evidence suggests that the school is not the best setting to conduct these screenings. The testimony of witnesses during the committee process and the voices of school nurses and school districts were the main factors that substantiated the need for this legislation.”

NOTES:

The HRO analysis of SB 504 appeared in the May 20 *Daily Floor Report*.

Eligibility to serve as an interpreter in an election

SB 722 by Ellis (Johnson)

DIGEST: SB 722 would have changed requirements for a person serving as an interpreter between a voter and election officers during an election. Such an interpreter could have been selected by the voter, as under current law, or by the authority ordering the election.

To be eligible to serve as an interpreter, a person would have been required to be a registered voter of either the home county of the voter who needed the interpreter or of an adjacent county. An interpreter selected by the voter could not have been the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belonged.

GOVERNOR'S REASON FOR VETO: "Ensuring the integrity of our state's election process is a key component of providing a system of fair, open and honest elections. Under current law, if a voter cannot communicate with poll workers in a common language, the voter is entitled to use an interpreter of the voter's choice who is a registered voter in that county. Often, this is a family member or other person in whom the voter personally has confidence.

"SB 722 would allow the authority conducting the election to select the interpreter, thus subjecting the voter to someone with whom they are not familiar. While an interpreter selected by the voter could not be the voter's employer, agent of the employer or agent of the voter's labor union, there would be no such bar on interpreters appointed by the entity conducting the election. In an election where the entity is an employer of many voters, such as a school bond election, this could lead to the perception of undue influence, as an administrator or other person with authority over likely voters is allowed to be present at the polls.

"Moreover, the elimination of the requirement that an interpreter selected by the voter be from the county will lead to the likelihood of undue influence being placed on the voter to agree to 'select' activists from outside the area with whom the voter is not familiar.

"The current system provides appropriate safeguards and ensures the integrity of our election system. This system should be retained."

RESPONSE: **Sen. Rodney Ellis**, the bill's author, said: "I am disappointed that Gov. Perry chose to veto SB 722, which passed the Senate 26-4 and the House 142-6. SB 722 was simply meant to clarify sec. 61.033 of the Election Code, which defines persons eligible to serve as an interpreter for a voter.

“Currently, sec. 61.033 of the Election Code says to be eligible to serve as an interpreter, a person must be a registered voter of the county in which the voter needing the interpreter resides. However, this provision is in direct conflict with sec. 64.032(c) of the Election Code, which says on a voter’s request, a voter may be assisted by any person selected by the voter other than the voter’s employer, an agent of the voter’s employer, or an officer or agent of a labor union to which the voter belongs.

“We worked hand-in-hand with the Texas Secretary of State on this language. Their office interprets sec. 61.033 in the instance when a person, who is unable to speak English, is provided an interpreter by an election official. The provision does not apply to an instance in which a person brings someone with them to serve as their interpreter, in which case the person can bring anyone regardless of whether the interpreter is registered in that particular county or not.

“The apparent issue of the bill is the difference between a person assisting a voter outlined in sec. 64.032(c) and a person interpreting a ballot outlined in sec. 61.033. If a voter comes to vote and says they need assistance then they can use anyone they want to. But if a person asks for an interpreter, that person has to be registered in that particular county. This was something that never came up during any debate or discussion.

“I will work over the interim to further clarify the language and intent of this legislation and bring it back before the Legislature next session, because this is a very important issue that must be resolved.”

Rep. Eric Johnson, the House sponsor, said: “SB 722, had it become law, would have brought some much-needed clarity to our state’s election laws pertaining to interpreters at the polls.

“In the governor’s veto message, he stated that the bill ‘would allow the authority conducting the election to select the interpreter,’ but that is not correct: the authority conducting the election is already able to select an interpreter under current law. As the Secretary of State’s *Handbook for Election Judges and Clerks* states, ‘The interpreter may be a person provided by the authority conducting the election.’ SB 722 would have clarified that the requirement of being a registered voter in the same county only applies to those interpreters selected by the authority conducting the election.

“Currently, sec. 61.033 of the Election Code states that ‘to be eligible to serve as an interpreter, a person must be a registered voter of the county in which the voter needing the interpreter resides.’ The Secretary of State’s office interprets this as

applying to any interpreter in an election, including a person chosen by the voter. As their office's *Handbook for Election Judges and Clerks* states, 'The voter may select an interpreter who must be a registered voter of the county.'

"However, this provision clashes with sec. 64.032(c) of the Election Code, which says: 'On the voter's request, the voter may be assisted by any person selected by the voter other than the voter's employer, an agent of the voter's employer, or an officer or agent of a labor union to which the voter belongs.'

"This means that a voter can ask a person of their choice to assist them in reading the ballot, but not to serve as an interpreter.

"SB 722, which passed the Senate 26-4 and the House 142-6, would have simply brought these two conflicting sections in harmony with one another, and made clear that the requirement to be a registered voter within the county in which the election is being held only applies to interpreters chosen by the county to serve in an official capacity, and not interpreters chosen by the voter.

"This requirement as it currently exists is an excessively restrictive barrier on voters who speak other languages but would prefer to choose their own interpreter. Often, people that voters trust the most to serve as their interpreter, such as children or grandchildren, do not meet this requirement. This bill, had it become law, would have fixed an existing example of what the governor refers to in his veto message as 'subjecting the voter to someone with whom they are not familiar.'

"SB 722 would also have allowed for registered voters in adjacent counties to serve in this official capacity as interpreter, to give more flexibility to counties (particularly rural ones) which may have trouble finding an interpreter within their county lines."

NOTES:

SB 722 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Adding members to the Physician Assistant Board

SB 889 by Uresti (Laubenberg)

DIGEST: SB 889 would have increased the members on the Texas Physician Assistant Board from nine to 13, adding four members with at least five years of clinical experience as a physician assistant. The bill would have required the presiding member of the board to be a physician's assistant.

GOVERNOR'S REASON FOR VETO: "SB 889 would increase the size of the Texas Physician Assistant Board from nine members to 13, representing an unnecessary expansion of government.

"The board currently has three physician assistant members, three physician members, and three public members. Though most regulatory boards consist of a majority of members from the occupation they oversee, this board does not afford that advantage to physician assistants. However, physician assistants could be given a majority on their own board by amending the makeup of the existing, nine-member board. Expansion of board membership is not needed."

RESPONSE: **Sen. Carlos Uresti**, the bill's author, said: "SB 889 would have increased the number of licensed physician assistants on the Texas Physician Assistant Board, making the board more efficient and more representative of a profession that has experienced significant growth in Texas. The current make-up of the board often prevents it from meeting with a quorum, hindering its ability to perform its duties on behalf of the medical profession and the people of Texas. Gov. Perry's veto will prevent the board from conducting its business in an efficient manner and adequately address a growing number of issues associated with physician assistants. It should also be noted that the veto was made despite support for the bill by the Texas Medical Board, whose members are appointed by the governor."

Rep. Jodie Laubenberg, the House sponsor, had no comment on the veto.

NOTES: SB 889 passed on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Truancy prevention and the offense of failure to attend school

SB 1234 by Whitmire (Price)

DIGEST: SB 1234 would have required school districts to adopt truancy prevention measures designed to intervene before students ages 12 to 17 violated the Education Code offense of failure to attend school. Measures could have included a behavior improvement plan, school-based community service, referral to counseling, and other services. The bill would have required districts to employ a truancy prevention facilitator or to designate an existing employee to implement the measures.

The bill would have allowed a district to impose a behavior improvement plan as an alternative to revoking the enrollment of a student age 18 or older voluntarily attending school who had accrued more than five unexcused absences in a semester. It also would have prohibited a district from revoking the enrollment of such a student on a day when he or she was physically present.

SB 1234 would have implemented a graduated schedule of fines for failure to attend school ranging from \$100 for a first offense and increasing by \$100 per offense up to \$500 for a fifth or subsequent offense.

GOVERNOR'S REASON FOR VETO: "Senate Bill 1234 attempts to change how truancy is handled by placing progressive sanctions on students based on recommendations established in a behavioral improvement plan. While these plans are meant to hold students accountable for attendance and behavior management, they do not track the child from district to district and are lost as a student transfers from one school to another, which is common for chronically truant students.

"Senate Bill 1234 will hurt established local programs and prevent schools from identifying and helping address the issues students are facing. Additionally, SB 1234 conflicts with other legislation, such as SB 393, concerning which truanancies are considered a ticketable offense."

RESPONSE: **Sen. John Whitmire**, the bill's author, said: "I am very disappointed with the decision to veto SB 1234. I know the veto will delay a solution to a very serious school issue. The mismanagement of truancy in the state of Texas is affecting many Texas families. SB 1234 was a collaboration between different courts that hear truancy cases, school associations, and case managers. Significant time and effort went into authoring a bill that would allow the courts and schools that are handling it properly to continue without interruption, while guiding the ones that are mismanaging these cases to a stronger model. I will continue to work hard to make truancy a school issue and not a criminal justice matter. I will request additional interim studies in preparation for pursuing similar reform next session."

Rep. Four Price, the House sponsor, said: “I am disappointed Gov. Perry chose to veto SB 1234, which would have helped Texas public schools keep more kids in the classroom by putting proactive and preventative measures in place to reduce truancy. The legislation had overwhelming bipartisan support in both the Senate (28 to 3) and the House (145 to 3). Sen. John Whitmire and I had crafted the bill’s final language with collaborative input from and the support of the public education community, including the Texas School Alliance, Fast Growth School Coalition, Texas Association of School Boards, Texas Association of School Administrators, and Texas Association for Truancy and Dropout Prevention. Regular attendance is a critical component to ensuring children are successful in school, and I intend to continue working with Sen. Whitmire to offer meaningful solutions to this issue.”

NOTES: The HRO analysis of SB 1234 appeared in the May 20 *Daily Floor Report*.

Ad valorem tax liens on personal property

SB 1606 by Zaffirini (Strama)

DIGEST: SB 1606 would have allowed for the assessment of a tax lien on inventory, furniture, equipment, or other personal property, irrespective of whether the personal property was located within the boundaries of the taxing unit that owned the lien.

GOVERNOR'S REASON FOR VETO: "Senate Bill 1606 would provide that a taxing authority has an annual lien that automatically attaches to all business personal property that the business owns in the state, including property outside the taxing authority's jurisdiction. Current law gives taxing units authority to deal with taxpayers who move property around the state in an attempt to avoid taxation, while also protecting taxpayers from overly aggressive taxing authorities. By providing taxing authorities with an automatic lien on property they do not have the authority to tax, this bill could lead to abusive taxing authorities overextending their reach, to the detriment of smaller taxing units and taxpayers."

RESPONSE: **Sen. Judith Zaffirini**, the bill's author, said: "Gov. Rick Perry's veto of SB 1606 is disappointing. His objection states that the bill 'could lead to abusive taxing authorities overextending their reach, to the detriment of smaller taxing units and taxpayers.' This is inaccurate.

"The purpose of the proposed legislation was to clarify that a property tax lien validly placed on property applies regardless of whether that property is later moved outside of the taxing entity's boundaries. There is nothing overreaching or abusive about taxing authorities using a lien as one tool to collect taxes that have been assessed validly but not paid. Taxing units of all sizes have historically cooperated with one another; indeed, multiple taxing units often have overlapping boundaries and concurrent jurisdiction. The governor's statement that smaller taxing units would be harmed by the legislation is incorrect, as is the claim that taxpayers would be harmed by it.

"The enforcement of a tax lien outside of a taxing unit's geographical boundaries would be applicable only in instances in which taxpayers were attempting to evade taxation or in some other way refusing to comply with their duty to remit taxes. Citizens who voluntarily pay their taxes would not be harmed by this legislation, which would have increased the success rate of taxing units' efforts to collect delinquent taxes from those who do not comply voluntarily with Texas tax laws."

Rep. Mark Strama, the House sponsor, had no comment on the veto.

NOTES:

SB 1606 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

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