

Vetoed Legislation

78th Legislature

Gov. Rick Perry vetoed 48 bills approved by the 78th Legislature during its 2003 regular session. The vetoed measures included 31 House bills and 17 Senate bills.

This report includes a digest of each vetoed bill, the governor's stated reason for the veto, and a response concerning 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.

A summary of the governor's line-item vetoes to HB 1 by Heflin, the general appropriations act, will appear in the upcoming House Research Organization State Finance Report Number 78-3, *The General Appropriations Act for Fiscal 2004-05*.

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Allowing subsequent writs of habeas corpus for a time-served credit error

HB 32 by Hodge (Deuell)

DIGEST: HB 32 would have allowed a criminal defendant to make a second or subsequent application for a writ of habeas corpus, a type of appeal, if the application was based solely on a claim of an error in the calculation of the defendant's time served, which is used to determine parole eligibility. Writs of habeas corpus are used to challenge criminal convictions by raising issues outside of the trial record and generally are limited to one per conviction, unless specific conditions outlined in Code of Criminal Procedure, art. 11.07 exist.

GOVERNOR'S REASON FOR VETO: "House Bill No. 32 would allow inmates to file an unlimited number of applications for a writ of habeas corpus when complaining about time credits on their sentences. That is a waste of time in the trial and appellate courts of this state. Current law allows a subsequent application when an inmate produces facts that could not have been previously presented."

RESPONSE: Rep. Terri Hodge, the bill's author, said: "I was surprised at the veto, since there was no opposition to this bill from any group. This legislation addressed an important failure in our criminal justice system — the chance for error when time served behind bars is calculated.

"The veto proclamation misstates an inmate's options. The Texas Court of Criminal Appeals, in *Ex parte Whiteside*, explicitly denies an inmate the chance to address a time credit dispute if the inmate had first filed a writ challenging his or her conviction.

"There is no way that an individual could predict a clerical error might happen years in the future, so it is absurd to expect everyone to postpone their right to appeal their conviction in case a calculation error ever occurs. Furthermore, errors do occur — for example, my office is aware of one individual who will be serving 50 years instead of 10 years at taxpayer expense, due to a typo on a court document.

"The state of Texas needs this law enacted, and I intend to continue working for its passage."

Sen. Bob Deuell, the Senate sponsor, had no comment.

NOTES: HB 32 was analyzed in the April 2 *Daily Floor Report*.

Creating an offense for trafficking of persons and expanding circumstances for aggravated kidnaping

HB 59 by Wise (Van de Putte)

DIGEST: HB 59 would have created a new criminal offense called trafficking of persons. It would have been a first- or second-degree felony knowingly to transport another person or to entice, recruit, harbor, provide, or otherwise obtain another person for transport by deception, coercion, or force with the intent that the victim engage in forced labor or services or in conduct that is a crime under the public indecency statutes.

The bill also would have increased the penalty for kidnaping from a third-degree felony to a second-degree felony if the victim was exposed to a risk of serious bodily injury and would have added new circumstances to the actions that are considered aggravated kidnaping, including holding the victim to coerce a third person to perform an act, holding the victim in a condition of involuntary servitude, and abducting someone younger than 18 years old or incompetent.

GOVERNOR'S REASON FOR VETO: "House Bill No. 59 must be vetoed to avoid confusion for law enforcement, prosecutors, and courts. House Bill No. 2096 [by Pickett], which I signed, creates a new chapter in the Penal Code regarding trafficking of persons. Therefore, the similar but not identical provisions in House Bill No. 59 are unnecessary."

RESPONSE: Rep. Miguel Wise, author of HB 59, said: "I am disappointed that Gov. Perry would take an antivictim stance and continue to ignore the wishes of the Legislature in vetoing HB 59, an important piece of legislation which received overwhelming and bipartisan unanimous support both in the House of Representatives and Senate before reaching his desk.

"The passage of this legislation would have meant added protections for victims of kidnapings and aggravated kidnapings in Texas, especially when it involves young, innocent children who many times fall prey to vicious acts of violence at the hands of criminals every year. This legislation was intended to strengthen current Texas law in the Penal Code pertaining to the prosecution of and punishment for the offenses of kidnaping and aggravated kidnaping. HB 59 would have increased the penalty for kidnaping from a third-degree felony to a second-degree felony if the person abducted is exposed to a risk of serious bodily injury. Contrary to what the governor stated in his justification to veto, current Texas law does not address this matter adequately enough. Current law is so weak that it does not elaborate on the risk factor of 'serious bodily injury' at all. Furthermore, the issue is covered in current law so vaguely that it is difficult to prosecute criminals who commit such horrific crimes in Texas.

"HB 59 also expanded the definition of aggravated kidnaping to include when the person committing the crime abducted a person: 1) with the intent to hold the abducted person in a condition of involuntary servitude; 2) under 18 years of age;

or 3) who was incompetent. It also defined and set a penalty for human trafficking. Given the recent tragedies surrounding the issues of human trafficking and the increased attention on kidnaping, we can only view these vetoes as the governor, once again, choosing the route of politics over policy.

“HB 59 was intended to close gaping loopholes in current law and thus make it clear to criminals that kidnaping and human trafficking will not be tolerated in Texas, especially when children are involved. For the second time, the governor has chosen to ignore the will of the Legislature (this bill was vetoed in 2001 as well) to protect innocent children and immigrants who are simply seeking a better life. I cannot understand how Gov. Perry and his policy people would take a pro-sexual predator stance and turn a blind eye to suffering such as HB 59 would have helped to address.”

Sen. Leticia Van de Putte, the Senate sponsor, said: “As sponsor of the bill and advocate of children’s issues, I am disappointed in the veto of HB 59 by Rep. Miguel Wise, which would have provided that an aggravated kidnaping of a person is a felony of the second degree. This bill provided a punishment for the offense of kidnaping and the offense of trafficking in persons.... HB 59 was intended to close the loopholes in current law and thus make it clear that kidnaping and human trafficking will not be tolerated in Texas, especially when children or immigrants are involved.”

NOTES:

HB 59 was analyzed in Part One of the *May 7 Daily Floor Report*.

Monitoring and enforcing employment preferences for veterans

HB 76 by Wise (Van de Putte)

DIGEST: HB 76 would have required public entities to prepare and make available a statement of measures they take to ensure that veterans receive the employment preferences required by Government Code, ch. 657, and of any remedies the entity has for veterans who are not hired. Prosecutors would have been required, upon application by a person who the prosecutor reasonably believed was entitled to a benefit under laws requiring employment preferences for veterans, to represent the person in an amicable adjustment of the claim or to file or prosecute a case to require compliance with the provisions. District courts could have required public officials to comply with provisions for employment preferences for veterans.

GOVERNOR'S REASON FOR VETO: "House Bill No. 76 would require county or district attorneys to represent veterans in claims they were not given employment preference allowed under current state law. This is an unfunded mandate and would potentially create a specific hardship in Travis County, where the majority of state employment is available. Further, this bill unnecessarily increases litigation in the state.

"I fully support efforts to employ qualified military veterans, and I encourage all state agencies, boards, and commissions to be mindful of the state law that requires veterans to be given hiring preference."

RESPONSE: Rep. Miguel Wise, the bill's author, said: "I am disappointed that Gov. Rick Perry would ignore the wishes of the Legislature in addressing the needs of Texas veterans by vetoing House Bill 76, an important piece of legislation which received unanimous bipartisan support both in the House of Representatives and Senate before reaching his desk. The measure, which was overwhelmingly supported by votes of 143-0 in the House and 31-0 in the Senate, is a slap in the face to the 1.6 million veterans who reside in Texas, the second largest veteran population in the entire United States.

"Veterans represent an important part of the overall demographics of Texas, especially within the workforce. In addition to the millions of veterans who reside in Texas, there are over 108,000 active-duty personnel who call Texas their home. The veteran population alone brings in approximately \$3 billion to the state economy every year. Many veterans have returned to their respective homes and assumed vital roles in their communities, applying the refined skills they developed in the military to their new jobs. Veterans are highly trained individuals who know the value and rewards of hard work. As the largest employer in the state, it only makes sense that state agencies give special attention to these highly skilled, highly motivated workers who obviously have a passion for public service and a deep love of country. Unfortunately, employers are sometimes reluctant to hire newly-discharged veterans because they have been away from 'formal employment' for so many years.

“HB 76 was designed to improve benefits for Texas veterans by making state agencies accountable for their preferential hiring practices of veterans. HB 76 would have required state agencies to make available for public inspection some type of statement or plan which outlines their preference procedures when it comes to considering veterans for employment. According to his policy staff, the governor was worried that this bill would lead to increased lawsuits by veterans — seemingly supporting the notion that state agencies were in fact not complying with current statutes requiring preferential hiring practices for veterans. We must not be doing enough currently to help our veterans if that is Gov. Perry’s fear. If this is the case, you would think that the governor would have supported rather than vetoed the legislation.

“The governor’s apparent antiveteran stance sends the wrong message to our proud veterans. This veto loudly declares that while veterans are to be courted and honored during the election cycle, the sacrifices they have made for our country are not quite worthy of recognition when it comes to finding a job with the state. Moreover, in light of all the recent military activity in Iraq and the millions of soldiers returning to Texas, it is inexcusable that Gov. Perry would turn his back on our military men and women like this.”

Sen. Leticia Van de Putte, the Senate sponsor, said: “As sponsor of the bill and chair of the Veteran Affairs and Military Installations Committee, I am very disappointed in the veto of HB 76 by Rep. Miguel Wise, which would have ensured employment preference for veterans...

“Careful consideration was given to the potential impact HB 76 may have on county or district attorneys, who were contacted proactively about the bill and who suggested language reflected in the enrolled version.

“If we had the opportunity to discuss the governor’s concerns regarding increased litigation, I would have been happy to point out Section 657.052 of the bill, which spells out that an attorney is only directed to file suit on behalf of individuals they ‘reasonably believe’ are entitled to the recourse. I trust those professionals would have been able to use their discretion to prevent frivolous suits from occurring.

“Further, it is important to point out that the bill establishes an enforcement mechanism identical to one currently in Chapter 613 of the Government Code, which requires that the state rehire employees returning from active duty. Neither the Travis County District Attorney’s Office nor the Texas County and District Attorneys Association were able to recall an instance in which they had been asked to file suit under the law. Additionally, to my knowledge, only one suit regarding enforcement of the veterans employment preference has been filed in Texas since the law was established.”

NOTES:

HB 76 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Granting eminent domain to regional mobility authorities

HB 156 by Krusee (Ogden)

DIGEST: HB 156 would have specified that regional mobility authorities (RMAs) have the same powers and duties as the Texas Transportation Commission and the Texas Department of Transportation to condemn or purchase real property. The bill also would have allowed RMAs' governing bodies to condemn property without TTC concurrence. Generally, eminent domain is the legal doctrine allowing governments to use their sovereign power to acquire private property for legitimate public uses.

GOVERNOR'S REASON FOR VETO: "House Bill No. 156, which would give Regional Mobility Authorities the ability to condemn real property, conflicts with other legislation. House Bill No. 3588 [by Krusee], which I have signed, covers eminent domain authority for Regional Mobility Authorities in a more comprehensive manner. I am vetoing this bill at the author's request."

RESPONSE: Rep. Mike Krusee, author of HB 156, said: "The issues addressed by this bill were more than covered with the passage of HB 3588, which went even further in regard to condemnation. HB 156 primarily was a backup measure that no longer is necessary."

Sen. Steve Ogden, the Senate sponsor, said: "HB 156 was vetoed by the governor because similar provisions were passed in HB 3588."

NOTES: HB 156 was analyzed in Part Two of the March 25 *Daily Floor Report*. HB 3588 was analyzed in Part One of the May 9 *Daily Floor Report*.

Granting express bonding and tolling authority to regional mobility authorities

HB 157 by Krusee (Ogden)

- DIGEST:** HB 157 would have granted regional mobility authorities (RMAs) the same fiscal powers and duties as the Texas Transportation Commission and the Texas Department of Transportation in regard to financing turnpike projects. The bill expressly would have authorized RMAs to issue turnpike revenue bonds, impose turnpike tolls, and obtain revenue from any other source to repay all or part of the principal and interest on their turnpike revenue bonds.
- GOVERNOR'S REASON FOR VETO:** "House Bill No. 157, which would give Regional Mobility Authorities the ability to issue turnpike revenue bonds and charge tolls, conflicts with other legislation. House Bill No. 3588 [by Krusee], which I have signed, covers bonding and toll authority for Regional Mobility Authorities in a more comprehensive manner. I am vetoing this bill at the author's request."
- RESPONSE:** Rep. Mike Krusee, author of HB 157, said: "The issues addressed by this bill were more than covered with the passage of HB 3588, which went even further in regard to bonding. HB 157 primarily was a backup measure that no longer is necessary."

Sen. Steve Ogden, the Senate sponsor, said: "HB 157 was vetoed by the governor because similar provisions were passed in HB 3588."
- NOTES:** HB 157 was analyzed in the April 1 *Daily Floor Report*. HB 3588 was analyzed in Part One of the May 9 *Daily Floor Report*.

Confidentiality of addresses of Texas Parks and Wildlife customers

HB 298 by Miller (Nelson)

- DIGEST:** HB 298 would have prohibited the Texas Parks and Wildlife Department (TPWD) from disclosing, except in certain circumstances involving private landowners, the email address of a person who bought products, licenses, or services from TPWD. The bill also would have required TPWD to adopt policies prohibiting the sale of mailing lists of the agency’s noncommercial customers.
- GOVERNOR’S REASON FOR VETO:** “House Bill No. 298 would prohibit the disclosure of information on hunting and fishing licenses except for zip codes. This legislation is unnecessary because such disclosure already is prohibited by Texas Parks and Wildlife Department regulations from the state Transportation Code.”
- RESPONSE:** Rep. Sid Miller, author of HB 298, had no comment. Sen. Jane Nelson, the Senate sponsor, was unavailable for comment.
- NOTES:** HB 298 was analyzed in Part Three of the April 22 *Daily Floor Report*.

Exception to tenant representation on some housing authority boards

HB 424 by Christian (Staples)

DIGEST: HB 424 would have exempted, under certain circumstances, a municipality that has a housing authority with 300 or fewer units from the requirement that the municipality appoint at least one tenant as a commissioner of the housing authority. To be exempt, a municipality would have had to make a reasonable effort to recruit eligible tenants to serve as commissioners, receive no positive response from tenants within 30 days, repeat the recruitment effort annually, and notify the Texas Department of Housing and Community Affairs of the results.

The bill would have prohibited a housing authority from using funds to pay lobbying expenses. A person who violated this prohibition would have committed a Class A misdemeanor, punishable by up to one year in jail and/or a maximum fine of \$4,000.

GOVERNOR'S REASON FOR VETO: "As originally filed, House Bill No. 424 would have appropriately provided local public housing authority boards with more flexibility and would have made state standards for tenant representation conform with current federal standards.

"An amendment added to House Bill No. 424 would have imposed a restriction on a housing board's ability to hire legal counsel. This overly broad and unnecessary restriction could lead to the boards receiving less effective, and more costly, legal representation."

RESPONSE: Rep. Wayne Christian, the bill's author, said: "I was disappointed that this bill was vetoed, but I understand that an amendment added to the bill went beyond the original intent of the legislation."

Sen. Todd Staples, the Senate sponsor, had no comment on the veto.

Rep. Eddie Rodriguez said: "The governor's veto of HB 424 comes as no surprise. The purpose of the offending amendment (which was also filed as HB 2814 [by Rodriguez]) was to cast a standard statutory net over activities of public housing authorities which waste public funds and which result in inappropriate political activity. When stating the issue for our Legislative Council attorney, we wrote: 'Public housing authorities (PHAs) in Texas receive almost all of their operating subsidies from federal funding sources, while at the same time authority over policy relating to their activity has substantially been reserved to the Texas Legislature. In their effort to influence legislation in Texas, PHAs often use their federally funded resources to hire attorneys (lobbyists) to advocate against state efforts to improve their efficiency or otherwise increase the public benefit of their activity.'

"In an effort to provide direction to PHAs which is consistent with other subdivisions of government and proximate to that of Texas state agencies, the Legislative Council attorney used language which is identical to the lobbying

prohibition now in law concerning every county of the state, as well as every Texas municipality, school district, water district, transit authority, junior college or hospital district.

“There is one difference. My provision created a criminal penalty for using public funds to influence the legislature. Apparently the existing prohibition is something big law firms feel that they can deal with. A misdemeanor, on the other hand, makes big law firms, and apparently this governor, a little squeamish.”

NOTES:

HB 424 was analyzed in Part Two of the April 28 *Daily Floor Report*.

Requiring state agencies to consider legislative intent in rulemaking

HB 425 by Christian (West)

DIGEST: HB 425 would have required a state agency, in developing new rules to implement legislation, to research the legislative intent of the law that authorized the proposed rule, write a legislative history document to be included with notice of the proposed rule, and establish an internal review process for ensuring that the proposed rule was consistent with its legislative history. If the bill author and sponsor were still members of the Legislature, the agency would have had to inform them of its intention to adopt a rule before the agency gave public notice. The bill would have authorized the Legislative Budget Board to issue a letter of legislative intent to clarify the intent behind the general appropriations act or any other legislation related to appropriating funds.

GOVERNOR'S REASON FOR VETO: “House Bill No. 425 would disregard the constitutional doctrine of separation of powers. Set forth in Article II of the Texas Constitution, this doctrine establishes that there be three distinct departments of our government — legislative, executive, and judicial — and that no department ‘shall exercise any power properly attached to either of the others.’ This bill would allow the Legislative branch to improperly infringe upon the powers and duties of the Executive branch, dictating to the Executive branch how it should exercise its duties.

“The bill also would improperly allow the legal opinion of an unelected government staff employee to supersede the expressed will of the Legislature, by giving that unelected staff employee the ability to issue independent opinions on the legislative intent of bills already passed by the Legislature. House Bill No. 425 also would disregard numerous opinions issued by the courts, which have ruled clearly that post-enactment statements of individual legislators should be given little weight in the determination of legislative intent.

“Finally, the bill requires executive branch state agencies to determine legislative intent, a function constitutionally left to the courts.”

RESPONSE: Rep. Wayne Christian, author of HB 425, said: “I was very disappointed in the veto because the bureaucracy of the state has gained more control than the signers of the Constitution ever intended. Legislative intent should be directly followed by agencies.”

Sen. Royce West, the Senate sponsor, had no comment on the veto.

NOTES: HB 425 was analyzed in Part One of the May 2 *Daily Floor Report*.

Electronic reporting of political contributions and expenditures

HB 999 by Madden, et al. (Ellis)

DIGEST: HB 999 would have repealed the exemption that allows candidates, officeholders, and political committees to file campaign finance reports in written form rather than by electronic transfer because they do not use a computer to track their records of political contributions, expenditures, or contributions.

GOVERNOR'S REASON FOR VETO: "The author of House Bill No. 999 requested that this bill be vetoed because it conflicts with House Bill No. 1606 [by Wolens], which requires political candidates and officeholders to file reports electronically as part of a major effort to strengthen the state's ethics laws. I have signed House Bill No. 1606."

RESPONSE: Rep. Jerry Madden, author of HB 999, said: "I asked the governor to veto HB 999 since HB 1606 effectively eliminates the computer exemption from electronic filing requirements. After being on the ethics reform bill conference committee, I did not want duplicative and conflicting statutory provisions to muddy the waters on that more precise and comprehensive work."

Sen. Rodney Ellis, the Senate sponsor, said: "I have no problem with the veto because the important elements were wrapped into HB 1606."

NOTES: HB 999 was analyzed in the March 24 *Daily Floor Report*. HB 1606 was analyzed in Part One of the May 5 *Daily Floor Report*.

Making social security numbers confidential under certain circumstances

HB 1053 by Rodriguez, et al. (Ellis)

DIGEST: HB 1053 would have prohibited a person from:

- publicly displaying an individual's social security number;
- requiring transmission of a social security number over the Internet unless using a secure connection or encryption;
- requiring a social security number for a person to obtain access to a website, unless a password or other authentication device also was required for access;
- printing a social security number on an access card; or
- printing a social security number on mailed materials, unless they were part of an application process, amending an account, or confirming the accuracy of the social security number itself.

Beginning January 1, 2006, companies using social security numbers in a prohibited manner would have had to notify annually the people whose social security numbers they used of their right to stop public use of their social security numbers. An entity that received a written request from a person to stop using his or her social security number in a prohibited manner would have had to comply, at no cost to the requestor, within 30 days of receipt and could not have denied products or services to the requestor. The bill would not have applied to a governmental body as defined under the Public Information Act, nor to a person who used social security numbers as required by federal or state law, including state public information laws.

GOVERNOR'S REASON FOR VETO: "I support the intent of House Bill No. 1053 to prevent identity theft by protecting the confidentiality of Social Security numbers. However, this bill conflicts with Senate Bill No. 473 [by Ellis], which I have signed and which addresses the confidentiality of Social Security numbers in a more comprehensive manner."

RESPONSE: Rep. Eddie Rodriguez, author of HB 1053, said: "The governor's veto of HB 1053 was well considered and an appropriate action. I doubt that there is conflict between the two bills in question, but the overlapping language (which is identical) would have been placed in separate codes of Texas law. The other bill was authored by the same member of the Senate who sponsored this vetoed bill for me. Texans are better off by the passage of this new protection. The veto of HB 1053 does not compromise its effect."

Sen. Rodney Ellis, the Senate sponsor, said he had no problem with the veto because important elements of HB 1053 also appear in SB 473, which takes effect September 1, 2003.

NOTES: HB 1053 was analyzed in the May 2 *Daily Floor Report*. SB 473 was analyzed in Part One of the May 23 *Daily Floor Report*.

Extending expiration dates of renewed alcoholic beverage permits and licenses

HB 1232 by Geren (Brimer)

- DIGEST:** HB 1232 would have required the Texas Alcoholic Beverage Commission to extend the expiration date for a class of renewed permits or licenses for alcoholic beverages by two years from the date the permit or license otherwise would expire, if the permit or license fee was raised proportionately.
- GOVERNOR'S REASON FOR VETO:** "House Bill No. 1232 is unnecessary. I believe the current licensing system at the Texas Alcoholic Beverage Commission is sufficient."
- RESPONSE:** Neither Rep. Charlie Geren, the bill's author, nor Sen. Kim Brimer, the Senate sponsor, had a comment on the veto.
- NOTES:** HB 1232 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Allowing use of state bond fund for losses of lottery sales agents

HB 1241 by Homer (Janek)

DIGEST: HB 1241 would have allowed the state's pooled bond reserve fund, currently used to protect the state from losses due to defaults, bankruptcies, or other uncollectable debts by lottery ticket sales agents, to be used to cover losses of a sales agent due to bankruptcy, theft, or loss of lottery tickets, supplies, or equipment.

GOVERNOR'S REASON FOR VETO: "House Bill No. 1241 would require the Texas Lottery Commission to use state funds to protect individual lottery retailers from financial liability for bankruptcy, theft, or the loss of lottery equipment and merchandise. Under current law, the Lottery Commission can use these funds to protect the state's interest. However, House Bill No. 1241 shifts responsibility and would require the state to cover losses of a private entity. Participation in the Texas lottery system is voluntary, and retailers must accept responsibility for protecting and managing the equipment."

RESPONSE: Rep. Mark Homer, author of HB 1241, said: "I respectfully disagree with Gov. Perry. Currently, monies in the fund are derived from a fee on retailers and are used to protect the state from loss due to bankruptcy or fraud. The intent of HB 1241 was to add coverage for theft or loss of lottery equipment and merchandise so that a retailer would not have to pay twice in such instances, as is currently lottery policy. No money would have gone to the retailers."

Sen. Kyle Janek, the Senate sponsor, said he agreed with Rep. Homer's response.

NOTES: HB 1241 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Collecting signatures on petition for candidate’s application for a place on ballot

HB 1274 by Geren (Nelson)

- DIGEST:** HB 1274 would have removed the requirement that people gathering signatures on petitions to place candidates on a ballot point out and read to each signer statements on the petition that affect the signer.
- GOVERNOR’S REASON FOR VETO:** “House Bill No. 1274 would repeal the requirement that persons gathering signatures on petitions to place candidates on the ballot inform the signer of provisions which affect the signer. However, there are some very specific consequences to signing a candidate’s petition, and it therefore is in the public interest to make sure that the public understands what they are signing. For example, a voter who signs a petition for one party’s candidate for public office becomes ineligible to vote in any other party’s primary. This is a serious ramification which restricts the voter’s right to choose the primary in which he or she wishes to participate, and it is important that the voter have that information when deciding whether to sign the petition.”
- RESPONSE:** Neither Rep. Charlie Geren, author of HB 1274, nor Sen. Jane Nelson, the Senate sponsor, had a comment on the veto.
- NOTES:** HB 1274 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Declaring unopposed candidate elected and omitting candidate from the ballot

HB 1344 by Uresti (Van de Putte)

- DIGEST:** HB 1344 would have authorized the certifying authority in a general or special election to declare a candidate elected to an office of a political subdivision, including a county, if the candidate was the only person who qualified to appear on the ballot for the office and there were no declared write-in candidates for the office. The election for that office would have not been held, and no votes would have been cast for that office or candidate. The office would have not have been listed on the ballot. If the certifying authority had declared an unopposed candidate elected, it would have had to declare elected every qualifying unopposed local candidate in that election. The declaration would have had to be posted during the early voting period and on election day at each applicable polling place. Candidates declared elected would have received a certificate of election, as if they had been elected by vote.
- GOVERNOR'S REASON FOR VETO:** “House Bill No. 1344 would omit from the ballot any unopposed candidate. Under Sec. 2.053 of the Texas Election Code, an unopposed candidate for public office in a political subdivision may be declared elected without a vote. This bill, however, would eliminate the candidate’s name from the ballot entirely, preventing voters from seeing the candidates and offices for which the election has been decided without a vote.
- “The better practice is that prescribed in House Bill No. 1476 [by Truitt], which I have signed into law. House Bill No. 1476 permits unopposed candidates for state and county offices to be declared elected without a vote if no one is eligible to serve as a write-in candidate, but it continues to place the names of the unopposed candidates on the ballot so voters can see who was elected without a vote.”
- RESPONSE:** Rep. Carlos Uresti, author of HB 1344, was unavailable for comment. Sen. Leticia Van de Putte, the Senate sponsor, had no comment on the veto.
- NOTES:** HB 1344 and HB 1476 were analyzed in the May 1 *Daily Floor Report*. HJR 62 by Truitt/Nelson, the proposed constitutional amendment for which HB 1476 is the enabling legislation, will be submitted to voters as Proposition 8 at an election on September 13, 2003. HJR 59 by Uresti/Van de Putte, the proposed constitutional amendment for which HB 1344 would have been the enabling legislation, will be submitted to voters as Proposition 18 at the same election. The latter proposition would not be implemented, even if approved by voters, because the governor vetoed the enabling legislation.

Noncredit insurance and service contracts financed by consumer loans

HB 1380 by Thompson (Harris)

DIGEST: HB 1380 would have allowed a lender to offer noncredit insurance and certain other products either contemporaneously with or subsequent to certain nonreal property loans. The loan would have been subject to all applicable insurance laws of the state. A lender could have offered life insurance, disability income insurance, accident insurance, loss of income insurance, mechanical breakdown insurance, home security plans and club memberships, automobile security plans and automobile club memberships, and service contracts. A lender could not have required the purchase of such a product as a condition for loan approval.

The lender would have had to obtain written acknowledgment of the borrower's intent to buy the product, and any benefit payable as a result of owning the product would have had to be paid directly to the borrower. The borrower would have been entitled to cancel the purchase and receive a full refund of purchase price within 30 days, or within 10 to 20 days for a service contract, depending on whether it was delivered or mailed. A separate notice to the customer would have had to state that the product was not credit insurance, nor a condition for loan approval; that the borrower would pay a finance charge on the product's cost if financing the purchase; and that the borrower could cancel the purchase.

The consumer credit commissioner would have had to adopt rules providing for a version of the disclosure information in Spanish and establish a disclosure form meeting statutory requirements for plain language and readability.

GOVERNOR'S REASON FOR VETO: "House Bill No. 1380 would fail to protect consumers from unreasonable interest rates. It would allow lenders to finance the charges for noncredit insurance covering life, disability income, accident, loss of income, and mechanical breakdown. Lenders could also finance home security plans, club memberships, and service contracts. The rates for these types of noncredit insurance and other products are not regulated and only some of the policy forms have oversight."

RESPONSE: Rep. Senfronia Thompson, the bill's author, was unavailable for comment. Sen. Chris Harris, the Senate sponsor, had no comment on the veto.

NOTES: HB 1380 was analyzed in Part Two of the May 10 *Daily Floor Report*.

Requiring review of the unemployment compensation insurance program

HB 1496 by Solomons (Duncan)

- DIGEST:** HB 1496 would have required the state auditor to review the state unemployment compensation insurance program to identify trends in benefit fraud and claim overpayments and the possible causes. The review would have had to study fraudulent schemes detected by other states, identify strategies to reduce fraud and claim overpayments, and include recommendations to the Texas Workforce Commission (TWC) on job search and placement strategies for claimants who exhausted their benefits. TWC would have had to implement strategies recommended by the state auditor that the commission could perform with its existing staff and budget.
- GOVERNOR'S REASON FOR VETO:** “House Bill No. 1496 would disregard the constitutional doctrine of separation of powers. Set forth in Article II of the Texas Constitution, this doctrine establishes that there be three distinct departments of our government — legislative, executive, and judicial — and that no department ‘shall exercise any power properly attached to either of the others.’ House Bill No. 1496 would violate this principle by inappropriately granting a legislative agency authority over an executive branch agency. It would require the Texas Workforce Commission to adopt directives of the State Auditor.
- “However, I support the intent of House Bill No. 1496. Therefore, by executive order, I am directing the Texas Workforce Commission to develop and implement innovative unemployment insurance fraud detection and collection strategies.”
- RESPONSE:** Rep. Burt Solomons, the bill’s author, said: “HB 1496 would have required the State Auditor’s Office to perform a review of the Texas Workforce Commission’s Unemployment Insurance (UI) Trust Fund and to recommend methods for improving fraud detection. The bill further required the Texas Workforce Commission to implement all strategies that were fiscally feasible and to report back to the Legislature on funds necessary to complete all recommendations.
- “In his veto proclamation, the governor recognizes the need to improve UI fraud detection and is ‘directing the Texas Workforce Commission to develop and implement innovative unemployment insurance fraud detection and collection strategies.’ However, the governor stated the bill was unconstitutional in that it would be ‘inappropriately granting a legislative agency authority over an executive branch agency. It would require the Texas Workforce Commission to adopt directives of the State Auditor.’
- “While I am disappointed that the governor has chosen to veto HB 1496, I understand his constitutional concern and would have been happy to address it if given the opportunity. I am encouraged that the governor plans to address this issue and am confident that the estimated \$8.6 million in savings to the state will still be realized under his direction.”

Sen. Robert Duncan, the Senate sponsor, was unavailable for comment.

NOTES:

HB 1496 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Requiring publicizing a list of voters' rights in each polling place

HB 1517 by J. Jones (West)

DIGEST: HB 1517 would have required the secretary of state to adopt rules providing for publicizing a notice of voters' rights. The notice would have had to be posted prominently in each polling place, on the secretary's Internet website, in material published by the secretary, or in another effective manner. It would have had to state that a voter has, among other rights, the right to:

- receive a ballot with written instructions on how to vote, if the ballot is a paper ballot or an electronic system ballot that uses a punching system;
- vote in secret and free from intimidation;
- receive up to two additional ballots if the voter mismarks, damages, or spoils the original ballot;
- request instructions on how to cast a ballot;
- bring an interpreter to translate the ballot and voting instructions;
- receive assistance in voting if the voter has a physical disability that renders him or her unable to write or see or cannot read the ballot language;
- cast a ballot, even if the voter's eligibility is in question, upon executing the affidavit required by law; and
- vote at any early-voting location in the voter's county of residence.

**GOVERNOR'S
REASON FOR
VETO:**

"House Bill No. 1517 would mandate a notice of voters' rights which is inconsistent with requirements of House Bill No. 1549 [by Denny, et al.], which I have signed and which will implement the federal Help America Vote Act of 2002 in Texas.

"House Bill No. 1549 requires that a poster containing general information on voting rights and prohibited acts of fraud and misrepresentation under state and federal [law] be posted at every polling place. House Bill No. 1517 does not reference federal law nor does it list prohibited acts of fraud and misrepresentation as required by House Bill No. 1549. Accordingly, House Bill No. 1517 does not comply with federal law and is in conflict with House Bill No. 1549."

RESPONSE:

Rep. Jesse Jones, author of HB 1517, said: "The federal Help America Vote Act requires states to educate voters of their rights as voters. HB 1517, as adopted by the Legislature, accomplished the directive of the HAVA law by requiring the secretary of state to publish and post a 'voter's bill of rights.' Although the law provided the secretary of state with a minimum listing of such rights, the intent of the measure was to give the secretary of state broad latitude to expand on this information as required by future federal or state legislation.

"Gov. Perry's veto of HB 1517 limits the state's ability to effectively carry out the directive of the federal HAVA legislation. The measure did not specifically require that the posting contain information regarding voting fraud and the consequences of such action. The provision, however, did provide the office the latitude to provide

additional information than what was required by the legislation. Furthermore, HB 1549 required the secretary of state to provide general information on prohibited acts of fraud and misrepresentation under state and federal law. The intent of HB 1517 was to work in conjunction with HB 1549, the state's enacting HAVA legislation. On the other hand, HB 1517 provided the secretary of state with a blueprint to carry out the directive of the federal law effectively. Without a legislative directive requiring that certain voters' rights be posted, the decision on which rights to be posted can vary from one election to another. Therefore, the failure to enact this legislation can lead to voter confusion from one election cycle to the next.

“The purpose of the HAVA law was to eliminate voters' confusion and increase voters' confidence in the voting process. Consequently, Gov. Perry's veto of HB 1517 will hinder Texas' ability to meet this goal.”

Sen. Royce West, the Senate sponsor, had no comment on the veto.

NOTES:

HB 1517 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*. HB 1549 was analyzed in the April 23 *Daily Floor Report*.

Revising requirements for reporting school district dropouts

HB 1518 by Dutton (West)

DIGEST: HB 1518 would have required school districts to evaluate the effectiveness of each program described in campus and district improvement plans aimed at reducing dropout rates. The Texas Education Agency's (TEA) standards and definitions for dropouts and for students completing school would have been subject to review by the Legislative Budget Board, the state auditor, and the comptroller before TEA could implement them. TEA would have had to evaluate systematically the effectiveness of accelerated instruction and support programs and to share with local districts the information it collected. If this evaluation could not be done with existing resources, the education commissioner would have had to withhold evaluation funds from total compensatory education allotments.

The commissioner could have granted a one-year exemption from audit requirements to districts that consistently reduced the disparity in performance between students at risk of dropping out and other students. No exemptions would have been granted to districts that did not make consistent progress in reducing dropout rates.

GOVERNOR'S REASON FOR VETO: "House Bill No. 1518 would require the review of the Texas Education Agency's dropout data definitions by the comptroller of public accounts, the state auditor, and the Legislative Budget Board. However, I am signing Senate Bill No. 186 [by Janek], which will require the Texas Education Agency to use the federal dropout definitions adopted by the National Center for Education Statistics. Senate Bill No. 186 removes all state agency discretion regarding the adoption of dropout definitions for use in the state's education accountability system, eliminating the need for a review of the state's dropout definitions.

"The bill also seeks to grant mandate relief to school districts relating to compensatory education funding audits. However, I have signed House Bill No. 3459 [by Pitts and McCall] and Senate Bill No. 894 [by Bivins] to provide greater opportunities for relief from compensatory education audits by exempting school districts that succeed in improving the performance of students at risk of dropping out of school. The approach taken by these bills is consistent with my desire to provide mandate relief to school districts and my High School Completion Initiative's goal of ensuring that students do not drop out on life by dropping out of school."

RESPONSE: Rep. Harold Dutton, author of HB 1518, was unavailable for comment. Sen. Royce West, the Senate sponsor, had no comment on the veto.

NOTES: HB 1518 was analyzed in Part Two of the April 29 *Daily Floor Report*. Analyses of the following bills also appeared in the *Daily Floor Report*: HB 3459 (May 10, Part One), SB 186 (May 26, Part One), and SB 894 (May 19).

Setting a uniform limit on the population of a county election precinct

HB 1701 by Taylor (Jackson)

- DIGEST:** HB 1701 would have required that a county election precinct contain at least 100 but not more than 5,000 registered voters. It would have repealed the maximum number of registered voters a precinct may contain based on the population of the county.
- GOVERNOR'S REASON FOR VETO:** "House Bill No. 1701 would allow counties to combine election precincts, which would make them much larger and would limit the number of polling places. As a result, the bill would move many voters' polling places further from their homes. The bill would allow some precincts which are currently capped at 2,000 voters to grow to 5,000 voters, making people leave their neighborhoods to vote and increasing lines at polling places.
- "We should work to allow people to vote in their neighborhoods and to make it easier, not harder, for Texans to vote on Election Day."
- RESPONSE:** Rep. Larry Taylor, the bill's author, had no comment on the veto. Sen. Mike Jackson, the Senate sponsor, was unavailable for comment.
- NOTES:** HB 1701 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Submission of electronic data on pawn transactions to law enforcement

HB 1839 by Solomons (Armbrister)

DIGEST: HB 1839 would have allowed a county sheriff or city police chief to place a hold order on goods held by a pawnbroker if the officer reasonably suspected that the goods had been stolen or otherwise misappropriated. The pawnbroker would have had to retain the goods until the order expired, was released, or was overturned by a court order. A pawnbroker who generated computerized pawn and purchase tickets would have had to transmit electronically data about the transaction to either a law enforcement agency or a third-party provider within seven days of the transaction. The bill would have specified that a third-party provider could establish a secure repository for transaction data and charge law enforcement agencies a reasonable fee for access to the data. For 180 days after electronically transmitting data, a pawnshop would have had to make paper copies of pawn or purchase transaction documents available for on-site inspection by a requesting law enforcement officer. After the 180-day period, a pawnshop would have had to make paper copies available to law enforcement only for specifically requested evidentiary purposes or for transactions that had been conducted during a computer malfunction.

GOVERNOR'S REASON FOR VETO: “House Bill No. 1839 would reduce local control by mandating the use of private third-party providers in gathering pawnbroker’s transaction information. This legislation also diminishes an important criminal investigation tool by limiting the type and extent of pawn transaction information available to local law enforcement.

“For example, local law enforcement currently has the ability to receive pawn transaction information upon request. This bill limits their access to paper transaction documents to on-site inspection if the pawnbroker releases the transaction data electronically to a private company. As a result, police officers will no longer receive paper copies but will be required to use a portable photocopier to generate admissible records. Also, pawnbrokers are no longer required to share the paper ticket with the police after 180 days, unless it is sought pursuant to a criminal investigation. The unintended consequence of these provisions is that local law enforcement may not be able to access any pawn transaction information during the seven days permitted by the bill for the transfer of electronic information. This limitation places severe restrictions on very time-sensitive information.”

RESPONSE: Rep. Burt Solomons, the bill’s author, said: “I am disappointed that the governor has chosen to veto HB 1839. This bill was the result of several years of interim studies, and it represented a fair and balanced approach to helping police departments investigate property crimes while protecting the privacy rights of the millions of innocent pawnshop customers in this state.

“In his veto proclamation, the governor said HB 1839 ‘would reduce local control by mandating the use of private third-party providers in gathering pawnbroker’s transaction information.’ The plain language of the bill provides otherwise.

Pawnbrokers transmit data electronically to a third-party provider *only if the police department chooses this option* (see Section 371.352).

“The bill provides four means of providing data to a police department in an electronic format. First, the pawnbroker can use a third-party provider, if the police department chooses this option. Second, the pawnbroker can transfer a subset of the data to the police department directly, if the police department chooses this option. Third, the pawnbroker may agree to transfer the complete data to the police department. Finally, the pawnbroker and police department may agree on any other means of sharing information. This is hardly a reduction in local control.

“The governor reports that the bill ‘limit[s] the type and extent of pawn transaction information available to local law enforcement.’ Again, the plain language of the bill suggests otherwise. In order to balance the privacy rights of innocent customers with the need to improve law enforcement’s ability to investigate property crimes, the bill limits the information available to a police officer *unless the officer suspects an item to be stolen* (see Section 371.355). It is not unreasonable to ask that a police officer have suspicion that an item is stolen before providing that officer with the private information about an individual.

“Finally, the governor objects to ‘the unintended consequence’ of provisions limiting the time during which a pawnbroker must make paper copies of pawn transaction tickets available for on-site inspection. The bill provides that a pawnbroker does not have to provide access to paper copies of a ticket after 180 days following the date that the data on that ticket was electronically reported. There is no unintended consequence of denying police officers access to paper tickets during the seven days (or fewer) that a pawnbroker has to report the data electronically.

“HB 1839 would have made the jobs of law enforcement significantly easier by providing police officers with access to electronic data, instead of the paper copies used today. However, it apparently did not provide access to enough data to satisfy the police chiefs association, which has decided that the current, inefficient paper process is better than the fair and balanced approach HB 1839 takes.

“Because the police chiefs association has goaded the governor into vetoing this bill, there will continue to be very little, if any, sharing of pawnshop data electronically. Because of this veto, there will continue to be informal and uncertain procedures directing pawnbrokers to hold merchandise that is suspected of being stolen. Because the police chiefs association decided it must have fully searchable access to the private customer information of the more than 99 percent of pawn transactions that do not involve stolen goods, the governor has vetoed the best bill the legislature could pass to assist law enforcement officials’ investigations of property crimes.”

Sen. Ken Armbrister, the Senate sponsor, was unavailable for comment.

NOTES:

HB 1839 was analyzed in Part Two of the April 30 *Daily Floor Report*.

Requiring secretary of state to post a list of candidate names on the Internet

HB 2089 by Geren (Nelson)

- DIGEST:** HB 2089 would have required the secretary of state (SOS) to post the name, address, and occupation of each candidate nominated for statewide or district office in the general election for state and county officers on the SOS’s website on the Internet as soon as practicable after it became available.
- GOVERNOR’S REASON FOR VETO:** “House Bill No. 2089 would require the Secretary of State to post the name and certain information of each candidate who is nominated for statewide or district office in the general election for state and county officers on the secretary’s website as soon as practicable after it becomes available.
- “As the chief election officer of Texas, the Secretary of State already exercises her power to post the names and identifying information of each candidate on the official website.”
- RESPONSE:** Neither Rep. Charlie Geren, author of HB 2089, nor Sen. Jane Nelson, the Senate sponsor, had a comment on the veto.
- NOTES:** HB 2089 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Allowing Kickapoos to hunt certain deer for religious rites on any day

HB 2159 by Garza (Madla)

DIGEST: HB 2159 would have allowed a documented member of the Kickapoo Traditional Tribe of Texas who held a hunting license to hunt antlerless white-tailed deer for religious ceremonial purposes on any day of the year between one-half hour before sunrise and one-half hour after sunset.

GOVERNOR'S REASON FOR VETO: "House Bill No. 2159 would require the Texas Parks and Wildlife Department (TPWD) to issue a year-round license to only a member of the Kickapoo Traditional Tribe of Texas for hunting antlerless white-tailed deer. This would circumvent TPWD authority to regulate hunting and wildlife management in the State of Texas."

RESPONSE: Rep. Timoteo Garza, the bill's author, said: "Governor: The concern your staff had and the reason given for the vetoing of HB 2159 was also a concern of mine. It is for this same reason that I asked the Department of Parks and Wildlife to draft language that they could administer, thus the language of the bill.

"Governor, America represents liberty. When the settlers from Europe first came to this great country of ours, many were fleeing from religious persecution. What they found were native Indians that were free, they could practice their religion as the Lord taught them without fear of reprisals. The hunting of deer by the Kickapoo Traditional Tribe of Texas is strictly religious; but for the deer, the Kickapoo cannot pray. Unintentionally, we as Americans have denied them what our forefathers sought in establishing the United States of America. By them not being able to hunt year-round, their prayer in the U.S. is limited to deer hunting season. Governor, I know that you will not be against this invaluable principle. May God bless you."

Sen. Frank Madla, the Senate sponsor, had no comment on the veto.

NOTES: HB 2159 was analyzed in Part Three of the May 2 *Daily Floor Report*.

Requirements for municipalities in public improvements and purchasing

HB 2295 by Thompson (Ellis)

- DIGEST:** HB 2295 would have amended the limitation on participation by a municipality in a contract for public improvements. Under current law, developers build the improvements and municipalities participate in the cost, but they are limited to 30 percent of the total contract price. HB 2295 would have increased that maximum participation rate to 70 percent for municipalities with a population of more than 1.8 million, currently only Houston. The bill also would have amended the list of factors a municipality must consider when awarding a contract for acquisition, sale, or lease of property to include minority- and women-owned businesses, in addition to historically underutilized businesses and nonprofit organizations employing people with disabilities, as under current law.
- GOVERNOR'S REASON FOR VETO:** “A late amendment to House Bill No. 2295 is problematic and lacks the criteria needed to guide municipalities in establishing and administering a program similar to the state’s Historically Underutilized Business (HUB) program. Without criteria needed to certify and verify minority-owned and women-owned businesses, this bill would inject ambiguity into the bid selection process and could undermine the success of the state HUB program.”
- RESPONSE:** Rep. Senfronia Thompson, author of HB 2295, was unavailable for comment. Sen. Rodney Ellis, the Senate sponsor, said: “This was a good piece of legislation and I was surprised by the veto.”
- NOTES:** HB 2295 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Requiring disclosure of investigations to Houston police and firefighters

HB 2361 by Bailey (Gallegos)

DIGEST: HB 2361 would have required that an investigator, within 30 days after receiving a complaint against a firefighter or police officer, inform the firefighter or police officer in writing of the nature of the investigation and the name of each person who complained about the firefighter or police officer. The investigator would not have had to make this disclosure if a criminal investigation had been initiated as a result of the complaint or if the disclosure would hinder a criminal investigation.

GOVERNOR'S REASON FOR VETO: "House Bill No. 2361 requires Houston police and firefighters to be given the names of complainants, if known, and the basis of complaints made against firefighters and police officers within 30 days of the complaint being filed. Labor relations between the City of Houston and its police officers and firefighters are governed by meet-and-confer agreements. Under the specific terms of those agreements, any issues affecting the labor relations of the City of Houston, on the one hand, and its police officers or firefighters, on the other hand, should be resolved through the meet-and-confer process. The Texas Legislature is not the appropriate forum to address this issue."

RESPONSE: Rep. Kevin Bailey, author of HB 2361, had no comment on the veto.

Sen. Mario Gallegos, the Senate sponsor, said: "I am encouraged by Gov. Perry's endorsement of the meet-and-confer process as an effective means for addressing municipal labor relations. While I agree that meet-and-confer often opens the door to negotiations, the legislative process also provides an avenue for individuals who haven't had their concerns addressed through a contract. HB 2361 represented a compromise by the City of Houston and its first responders regarding when they should be informed about an investigation into their conduct. This bill represents the collective will of all parties involved and should not have been subject to a veto by the governor."

NOTES: HB 2361 was analyzed in the April 28 *Daily Floor Report*.

Considering a bidder's principal place of business in awarding local contracts

HB 2493 by Isett (Duncan)

DIGEST: HB 2493 would have allowed local governments of a certain size to consider the location of a bidder's place of business when purchasing goods and property. Local bidders could have been chosen if their bid was within 5 percent (rather than 3 percent, as in current law) of the lowest bid received. The bill would have redefined "local government" to include a municipality with a population of 225,000 or less (rather than 200,000 or less), a county with a population of 400,000 or less, or another political subdivision authorized to buy real or personal property. It also would have authorized school districts to buy from local bidders under these terms.

GOVERNOR'S REASON FOR VETO: "In 1999, the Legislature allowed certain local governments to avoid purchasing goods from the lowest bidder and instead to buy from a local business which came within three percent of the best bid. Current law applies to municipalities with populations of 200,000 or less that wish to buy real property or goods from a seller whose principal place of business is in the municipality.

"Now, just two sessions later, House Bill No. 2493 would greatly expand the formerly limited exception. This bill would allow the local government to use the exception for services rather than just goods, increase the size of governments which could circumvent the lowest bid, further erode taxpayer protection by allowing local governments to purchase from a local bidder whose bid is five percent higher than the best bid and would extend the exception to school districts at a time when expenditures for schools are already straining local property taxpayers' ability to pay.

"With this veto message, I hope to discourage legislators from further attempts to bypass competitive bid requirements."

RESPONSE: Rep. Carl Isett, the bill's author, said: "The governor's veto proclamation makes a lot of sense if you live in an urban area where there are lots of buyers and sellers. But in a rural area, like in Lubbock, local governments are forced to go outside the area for major purchases. This takes money out of the region, so essentially this is an economic development issue for my district and many others. Further, because local elected officials would have been held accountable for how they spent taxpayer resources, it is also a local control issue."

Sen. Robert Duncan, the Senate sponsor, was unavailable for comment.

NOTES: HB 2493 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Setting conditions for adding territory to a public improvement district

HB 2924 by Geren (Brimer)

- DIGEST:** HB 2924 would have allowed a municipality or county to add territory to a public improvement district only if requested by a petition signed by owners of taxable real property representing more than 50 percent of the appraised value of the area to be added and by property owners representing more than half of the owners or more than half of the area of taxable real property in the territory to be added.
- GOVERNOR'S REASON FOR VETO:** "House Bill No. 2924 permits municipalities and counties to include additional land within a public improvement district if certain petition procedures are followed. Because landowners who are included in the district are subject to assessments for improvements that are provided by the district, a majority vote of the landowners to be included within the district is preferable over simple petition procedures. The safeguard of voter review is necessary to ensure that district landowners have the final word on inclusion in any public improvement district."
- RESPONSE:** Rep. Charlie Geren, the bill's author, had no comment on the veto. Sen. Kim Brimer, the Senate sponsor, was unavailable for comment.
- NOTES:** HB 2924 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Allowing cash transfers from comptroller-managed funds outside the treasury

HB 3175 by Pitts (Bivins) and part of HB 2425 by McCall (Duncan)

- DIGEST:** HB 3175 would have authorized the comptroller to transfer available cash into general revenue from funds outside the treasury that are under the comptroller's management or custody, other than the Texas Tomorrow Fund. The comptroller would have had to repay to the funds the same amount transferred and to maintain the funds' equity. Cash transferred into general revenue could not have been included in the comptroller's biennial revenue estimate for appropriation purposes, except to reimburse the funds from which it was transferred. HB 3175, as well as a portion of HB 2425, would have appropriated to the comptroller sufficient general revenue to repay funds with interest for any cash transfers made during fiscal 2004-05.
- GOVERNOR'S REASON FOR VETOES:** "I hereby veto House Bill No. 3175, which makes cash management appropriations for state fiscal years 2004 and 2005. I have also used my line-item veto authority to veto a similar provision in Section 122 of House Bill No. 2425. These appropriations exceed the amount necessary at this time to reimburse anticipated borrowing."
- RESPONSE:** Neither Rep. Jim Pitts, author of HB 3175, nor Sen. Teel Bivins, the Senate sponsor, had a comment on the veto.
- NOTES:** HB 3175 was analyzed in the April 14 *Daily Floor Report*. HB 2425 was analyzed in Part One of the May 9 *Daily Floor Report*.

Requiring Tarrant County property-tax bills to include municipal cleanup costs

HB 3232 by T. Smith (Brimer)

- DIGEST:** HB 3232 would have required the Tarrant County tax assessor-collector to include, on request of a municipality, a separate item on annual property-tax bills for expenses incurred by the municipality for improving the sanitary condition of an owner's property. A property owner would have had to pay those expenses and any accrued interest at the time of paying annual property taxes.
- GOVERNOR'S REASON FOR VETO:** "House Bill No. 3232 would require Tarrant County tax assessor-collectors to implement a costly system whereby fines written by City of Fort Worth officials for health and safety violations could be specifically listed on annual property tax bills sent to landowners. Current law provides adequate means for all Texas cities to enforce the collection of fines associated with violations of health and safety ordinances. In addition, the bill does not address the effect unpaid health and safety fines have on the status of title of the underlying property. Moreover, the bill does not adequately address issues concerning how fines would be paid by people who choose to escrow their property taxes and insurance with third parties."
- RESPONSE:** Neither Rep. Todd Smith, the bill's author, nor Sen. Kim Brimer, the Senate sponsor, had a comment on the veto.
- NOTES:** HB 3232 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Using reverse auction procedure for certain state purchasing

HB 3242 by Pitts (Estes)

- DIGEST:** HB 3242 would have required the Texas Building and Procurement Commission to use the reverse auction procedure for at least 10 percent of the dollar value of open-market purchases, except for certain professional services, and to report to the governor and Legislature if that requirement were not met. Under current law, the reverse auction procedure takes anonymous bids during a scheduled period, from an hour to two weeks. The bill would have prohibited the commission from using the reverse auction procedure in purchasing construction, remodeling, repair, or maintenance services for buildings or other public work projects.
- GOVERNOR'S REASON FOR VETO:** "House Bill No. 3242 would mandate that all state agencies use a reverse auction to make 10 percent of all purchases, other than professional services. I believe the Texas Building and Procurement Commission, which generally makes state agency purchases, should have the flexibility to determine the most efficient and cost effective means of making purchases."
- RESPONSE:** Neither Rep. Jim Pitts, the bill's author, nor Sen. Craig Estes, the Senate sponsor, had a comment on the veto.
- NOTES:** HB 3242 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Appropriations-related changes to Article 1 agencies

HB 3441 by Pickett (Staples)

DIGEST: HB 3441 would have changed the statutes governing various agencies under Article 1 of the general appropriations act to help achieve objectives of the budget act for fiscal 2004-05. It would have transferred the Commission on Human Rights to the civil rights division of the Texas Workforce Commission; established a seven-member commission to govern the division; required training and continuing education for investigators; and required the division to collect and report statewide information on employment and housing discrimination complaints. The bill also would have specified that the headquarters of the Crime Victims' Institute were at Sam Houston State University and would have placed the institute under the direction and supervision of the university's president. It would have specified that certain money from two State Preservation Board trust funds held outside the treasury under current law be deposited to general revenue accounts. It also would have allowed certain savings or revenues from other agencies to be transferred to the Texas Incentive and Productivity Commission; made distribution of a premarital education handbook for applicants for marriage licenses permissive, rather than mandatory; and repealed requirements that the Texas Ethics Commission prepare and provide certain forms.

GOVERNOR'S REASON FOR VETO: "Some of the provisions of House Bill No. 3441 have been accomplished in other legislation that I have signed. However, House Bill No. 3441 also would have the unintended consequence of not providing the State Preservation Board with access to funds currently used for emergencies or unexpected maintenance in and around the Capitol Complex.

"Transfer of the Human Rights Commission to the Texas Workforce Commission already has been accomplished by House Bill No. 2933 [by Flores], and Senate Bill No. 1245 [by Armbrister] gives oversight of the Crime Victims' Institute to Sam Houston State University."

RESPONSE: Rep. Joe Pickett, author of HB 3441, said: "HB 3441 was a technical bill filed on behalf of the House Appropriations Committee. The veto will have no impact on the budget."

Sen. Todd Staples, the Senate sponsor, had no comment on the veto.

NOTES: HB 3441 was analyzed in Part One of the May 10 *Daily Floor Report*.

Requiring local approval of motor-vehicle inspection facilities on the border

HB 3554 by Raymond (Zaffirini)

DIGEST:	<p>HB 3554 would have allowed the City of Laredo to choose the site for one of eight “one-stop” motor-vehicle inspection facilities being built along the Texas-Mexico border by the Texas Department of Transportation (TxDOT). If a facility serving a bridge that had more than 900,000 commercial border crossings during fiscal 2002 were to be located within municipal limits or extraterritorial jurisdiction (ETJ), the municipality would have had 180 days to select a site after TxDOT requested a location. Laredo would have had to pay for an independent transportation study identifying commercial truck traffic patterns for the chosen site and ensuring that it could conduct a sufficient number of meaningful vehicle safety inspections as required by federal law. TxDOT would have had to implement intelligent transportation systems for commercial vehicle operations, based on an existing state business plan.</p>
GOVERNOR’S REASON FOR VETO:	<p>“House Bill No. 3554 would allow the City of Laredo to bypass federal regulations and state safety objectives in selecting the location of a border safety inspection facility. Congress implemented these facilities to inspect commercial vehicles crossing the border and intended the facilities to be located at border crossings. Similarly, the Texas Department of Public Safety has selected a site near Laredo’s border with Mexico to improve roadway safety.</p> <p>“The City of Laredo has already objected to the site selection for the border inspection facility through its lawsuit against the state and federal government. The city’s desire to locate the facility some 30 miles away from the border crossing not only violates federal regulations but also would undermine highway safety.</p> <p>“I have consistently supported roadway safety and measures to ensure that commercial vehicles crossing our border with Mexico meet the same standards that other commercial vehicles must meet.”</p>
RESPONSE:	<p>Rep. Richard Raymond, the bill’s author, said: “Gov. Perry’s veto of HB 3554, which passed both the House and Senate with overwhelming support, is based on a complete misrepresentation of the truck safety inspection issue and a profound lack of understanding of the pattern of international trade crossing north and south each day over Laredo’s World Trade and Columbia Solidarity bridges.</p> <p>“TxDOT’s opposition to HB 3554 and the governor’s veto action completely fails to consider the City of Laredo’s reasons for requesting that inspection stations be placed 28 miles outside the city, where traffic from the two international bridges intersect at an existing border security checkpoint.</p> <p>“We believe that locating a safety inspection station for Mexican trucks crossing into Texas within the city limits at the bridge — at the point where both commercial and personal vehicle traffic is heaviest — will create massive traffic jams, long lines, and</p>

delays in normal commuter traffic, as well as greatly increasing the environmental hazards associated with truck fumes from thousands of idling trucks.

“I am convinced that placing an inspection station at the bridges will create massive traffic jams that will actually impede thorough truck inspections. The inspectors have testified they are likely to quickly wave the trucks through with only a brief inspection because of the pressure they feel to keep traffic flowing.

“Opponents of HB 3554 argue that the bill would allow the City of Laredo to bypass federal regulations and state safety objectives in selecting the location of a border safety inspection facility. In fact, it does the opposite. By locating safety inspection stations on Texas highways away from the bridge, you actually ensure the safety of Texas drivers by enabling safety inspectors to do a much more thorough, in-depth inspection of the trucks.

“TxDOT’s argument that allowing the City of Laredo to choose an inspection station site violates regulations in the federal transportation measure that opened U.S. highways to Mexican trucks is clearly wrong. Federal regulations do not state exactly where an inspection station should be located. It states that commercial vehicles that travel into the interior of the United States must meet federal safety requirements, and HB 3554 incorporates the federal language.

“In an effort to compromise and meet TxDOT’s objections, the City of Laredo suggested safety inspection sites closer to the border than the 28-mile checkpoint. TxDOT refused to even consider these locations.

“If the governor’s real concern was safe highways, he should have signed HB 3554. The bill guarantees that all trucks (Mexican, U.S., and Canadian) that travel into the interior of the United States would be safe before it entered any city in the interior of the United States. The only way to guarantee that trucks meet the same standards is by having all trucks inspected for the same safety criteria in a thorough and unhurried manner.”

Sen. Judith Zaffirini, the Senate sponsor, said: “HB 3554 would have allowed the City of Laredo to help select the site for the border inspection facility, instead of allowing the Texas Department of Public Safety and the Texas Department of Transportation to make the decision singlehandedly. The governor’s veto flies in the face of ‘local control,’ undermines a local municipality’s authority, and erroneously assumes that the city would bypass federal regulations and state safety objectives. This veto will result in state agencies making wrongful decisions that will cause problems related to congestion, pollution, and inefficiency. It negatively will impact border business at the nation’s largest inland port.”

NOTES: HB 3554 was analyzed in in Part Two of the May 6 *Daily Floor Report*.

Creating a new municipal utility district in Caldwell County

SB 24 by Armbrister (Rose)

- DIGEST:** SB 24 would have created the Ranch at Clear Fork Creek Municipal Utility District No. 1 in Caldwell County, subject to approval by the City of Umland. It would have prescribed the district’s boundaries and would have specified that the district was located wholly within the city’s extraterritorial jurisdiction and was subject to the requirements of applicable ordinances, unless the municipality’s governing board waived compliance.
- GOVERNOR’S REASON FOR VETO:** “Senate Bill No. 24 would have created the Ranch at Clear Fork Creek Municipal Utility District No. 1. The boundaries of the utility district extend outside the extraterritorial jurisdiction of the City of Umland. Accordingly, the representation contained in Section 7(b) of the bill is incorrect. I encourage the author and the sponsor of the bill to correct the technical defect in this legislation and to continue to pursue the creation of this local utility district.”
- RESPONSE:** Neither Sen. Ken Armbrister, the bill’s author, nor Rep. Patrick Rose, the House sponsor, had a comment on the veto.
- NOTES:** SB 24 passed the House on the Local, Consent, and Resolutions Calendar was not analyzed in the *Daily Floor Report*.

Requiring state agencies to adopt risk management plans

SB 147 by Barrientos (Elkins)

DIGEST: SB 147 would have required the governing body of each state agency to adopt a risk management plan as part of the agency's strategic plan. The bill would not have expanded, superseded, or replaced the State Office of Risk Management's (SORM) authority to provide risk and insurance management services for state agencies, including the government employees worker's compensation insurance program. It also would not have superseded or replaced a state agency's duty to manage risks actively.

A risk management plan would have had to contain information required by SORM, including a risk assessment, risk control strategies, a report on the agency's achievement in implementing risk management and control strategies, and other information. SORM would have assisted and provided information for agencies preparing risk management plans.

GOVERNOR'S REASON FOR VETO: "Senate Bill No. 147 would require each state agency to adopt a risk management plan that includes risk assessment and risk control strategies as part of the agency's strategic plan. Current law already permits the State Office of Risk Management to assist state agencies in risk assessments and risk control strategies. This legislation would impose a burdensome mandate on all agencies, thereby creating additional paperwork and diverting scarce agency resources from our agencies' main purposes."

RESPONSE: Sen. Gonzalo Barrientos, the bill's author, said: "I was frankly shocked and disappointed that Gov. Perry vetoed SB 147, especially during a time when all unnecessary costs should be more closely scrutinized. SB 147 passed unanimously out of both chambers, because members recognized that state agencies should be doing what private entities have been successfully doing for years, planning ahead and minimizing loss. This legislation was based on the Turnbull report, which has saved millions if not billions of dollars in the U.K. I believe that SB 147 would have saved the taxpayers money here in Texas, and that's why I filed this bill. I'll file this legislation again."

Rep. Gary Elkins, the House sponsor, said: "SB 147 was brought to me by the State Office of Risk Management. As of now, state agencies are not required to have a risk management plan. I believe that good risk management planning would help the Legislature identify state agencies' most important functions and would reduce the state's exposure to risk and reduce potential losses."

NOTES: HB 147 was analyzed in the May 22 *Daily Floor Report*.

Annexation by junior college districts of territory in a district's service area

SB 315 by Hinojosa (Luna)

- DIGEST:** SB 315 would have allowed certain junior college districts to annex contiguous territory outside the district for taxing purposes if a majority of registered voters in the area to be annexed voted for the expansion in a general election. If the governing body of the affected district was elected from single-member districts, the annexed territory would have been assigned to one or more of those single-member districts before the next board election. The bill would have been bracketed to affect only Del Mar College within the City of Corpus Christi Junior College District.
- GOVERNOR'S REASON FOR VETO:** "Senate Bill No. 315 would allow one junior college to alter current state requirements for annexing counties into its taxing district."
- RESPONSE:** Sen. Juan Hinojosa, the bill's author, said: "I'm very disappointed that the governor vetoed SB 315. Study after study shows that an educated community creates a healthy economy and a well-trained workforce. I will continue looking at the issue of community college financing and how these colleges can best expand their service districts."
- Rep. Vilma Luna, the House sponsor, said: "This is a huge blow for education for our area. The state has not stepped up to the task of funding community colleges in recent years. The Coastal Bend's economic development is tied to the quality of our workforce. My hope is that the governor will identify funding for Del Mar and economic development for Corpus Christi in the near future. We cannot afford to wait and let Corpus Christi lag behind other communities."
- "I will continue to work on this issue in the next session. Del Mar plays too important a role in the Coastal Bend to let this go. At the same time I was working on the Del Mar bill, I had filed a similar bill with statewide effect. Sen. Bill Ratliff had worked with me on the statewide version of the bill. I have been in constant communication with the Governor's Office throughout the review of this bill, and I intend to pursue this issue in the next session."
- NOTES:** SB 315 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Liability when governmental units contract for fire and emergency services

SB 407 by Deuell (Harper-Brown)

DIGEST: SB 407 would have allowed governmental units contracting with each other for fire or emergency services to determine by contract which party was responsible for civil liability relating to the services. In the absence of a contract addressing liability, the unit that requested and obtained the services would have been responsible for civil liability. Current law applies only to fire services and holds accountable the unit that would have been responsible for providing the services in the absence of a contract.

GOVERNOR'S REASON FOR VETO: "Senate Bill No. 407 attempts to encourage cities with fire departments and emergency services to make those services available to neighboring local government entities that do not have them. Unfortunately, the bill would have the exact opposite effect.

"Current law provides that when two governmental units contract to furnish or obtain fire services, the city furnishing the services cannot be sued for injuries or property damage that might be caused by the services.

"The city receiving the services 'is responsible for any civil liability that arises from the furnishing of those services.' This is more than merely an indemnity between the two governmental entities; it means that a plaintiff can only recover damages from the entity which receives the services.

"The bill replaces this statutory ban on lawsuits with a provision that inadvertently allows the city providing the services to be sued.

"The only protection the city would have under the bill is an indemnity agreement with the entity which receives the services. That means the city providing the services can be sued; once it pays a judgment, it must try to recover the amount it pays plaintiff by suing the entity which received the services.

"Further, in the event that the city provides fire or emergency services to another local governmental entity without a contract, the bill gives the city which provides the services the same shield from lawsuits that current law gives to a city which provides fire services under a contract.

"However, the wording of this provision makes the governmental unit which receives the services without a contract liable for any civil liability. School districts or hospital districts within the same city as the fire department would be liable for any damages that occur any time the fire or emergency services departments respond to an alarm at their facilities."

RESPONSE: Sen. Bob Deuell, author of SB 407, said: “I look forward to working with the governor next session to address concerns he has about SB 407. Approval of the governor is part of the process in passing legislation, and I was pleased to get SB 407 to his desk. Hopefully, next session, we will be able to adjust SB 407 to benefit all Texans.”

Rep. Linda Harper-Brown, the House sponsor, had no comment.

NOTES: SB 407 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Amending coverage under the Texas Windstorm Insurance Association

SB 463 by Janek (Eiland)

DIGEST: SB 463 would have allowed those insured by the Texas Windstorm Insurance Association (TWIA) to make incidental repairs — those costing less than 5 percent of the total property coverage — in a manner that returned the structure to its condition immediately before the loss without affecting the structure’s eligibility for insurance coverage. The bill also would have deleted a sunset date for a rate-setting provision, thus permanently limiting certain rate increases set by the insurance commissioner for TWIA, while allowing the commissioner to raise rates beyond the limits if necessary to respond to catastrophic events.

GOVERNOR’S REASON FOR VETO: “Senate Bill No. 463 conflicts with language contained in Senate Bill No. 14 [by Jackson], which I have already signed into law. At the author’s request, I am vetoing the bill.”

RESPONSE: Sen. Kyle Janek, author of SB 463, said: “All of the statutory changes that we were going for in SB 463 were accomplished in SB 14.”

Rep. Craig Eiland, the House sponsor, said he agreed that the veto was appropriate.

NOTES: SB 463 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed an HRO *Daily Floor Report*.

Bypassing competitive bidding requirements for local governments using local vendors

SB 733 by Ratliff (Farabee)

- DIGEST:** SB 733 would have allowed a local government located in a county with a population of 50,000 or less to buy items from a local vendor without going through competitive bidding if the vendor's price was equal to or less than the price at which the local government could have bought the item under certain state government purchasing programs. It would have defined a local vendor as a vendor who had a place of business located in a county in which any part of the local government seeking to purchase an item under the bill was located, or in a contiguous county.
- GOVERNOR'S REASON FOR VETO:** "The intent of Senate Bill No. 733 was to allow local governments in rural areas to purchase an item from a local vendor without following competitive purchasing procedures if the vendor's price is equal to or less than the price provided by the state. However, a technical flaw in the bill's language would have broadened the bill's scope to cover every county in the state except Dallas County. Under this bill, local governments throughout the state would be free to buy an item without following competitive purchasing procedures from every county in the state, except Dallas. Therefore, Dallas vendors would be held at a competitive disadvantage. While this exemption to competitive purchasing may be appropriate in a rural area where there are few vendors offering the same item, it could open the door for abuse of state purchasing requirements. With this veto message, I hope to discourage legislators from further attempts to bypass competitive bid requirements."
- RESPONSE:** Sen. Bill Ratliff, the bill's author, said: "I do not agree that the final version of SB 733 contains a technical flaw that applies the provisions of SB 733 to every county in the state except Dallas County. There are two aspects of the legislation: one specifies which local governments are eligible to use the purchasing option outlined in SB 733; the second defines 'local vendor.'"
- "Only a local government located in a county of 50,000 or less would have been able to utilize the purchasing option outlined in SB 733. According to the most recent federal census, there are 54 counties that exceed 50,000 population, and therefore those 54 counties would not have been able to use the purchasing option."
- Rep. David Farabee, the House sponsor, said he agreed with Sen. Ratliff's response.
- NOTES:** SB 733 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Creating offense for abandoning or endangering an elderly or disabled person

SB 827 by Whitmire (Keel)

DIGEST: SB 827 would have expanded the criminal offense for intentional abandonment of a child to include abandonment of an elderly or disabled person. It would have made it a second-degree felony (punishable by two to 20 years in prison and an optional fine of up to \$10,000) intentionally or knowingly to fail to provide food, medical care, or shelter to a child or an elderly or disabled person.

The bill would have established a defense to prosecution for intentional abandonment of a child if the child were delivered to a designated emergency infant-care provider. It would have provided a defense to prosecution for failure to provide food, medical care, or shelter by a health-care facility, its employees, or a licensed health-care professional if the failure resulted from: a decision to withhold or withdraw life-sustaining treatment from a terminal or irreversible patient; power of attorney; consent to medical treatment of a minor; consent for emergency care; and other decisions. It would have created an affirmative defense to prosecution for failure to provide medical care if the decision were based on treatment in accordance with a recognized religious method of healing with a generally accepted record of efficacy.

GOVERNOR'S REASON FOR VETO: "I support the intent of Senate Bill No. 827 to provide added protections to individuals who are elderly or disabled. However, the bill's flawed language has the unintended consequence of holding hospitals and hospital staff criminally liable for carrying out a patient's advanced directive to withhold lifesaving treatment. The bill would have provided a defense to prosecution if medical care or food is withheld based on an advanced directive or living will. However, the defense did not extend to hospitals or their personnel."

RESPONSE: Sen. John Whitmire, author of SB 827, said: "While there was significant support for this bill, there was an inadvertent error in the proposed legislation that came out of the House committee. I hope to refile similar legislation in the special session."

Rep. Terry Keel, the House sponsor, said: "The allegation that the language was flawed is untrue. Criminally negligent culpability for intentionally or knowingly failing to provide food, medical care, or shelter was eliminated in committee. The claim that the bill had unintended consequences is unfounded."

NOTES: The companion bill, HB 1426 by Keel, was analyzed in Part Two of the May 26 *Daily Floor Report*.

Regulating sale or transport of certain desert plants and creating a penalty

SB 970 by Shapleigh (Puente)

DIGEST: SB 970 would have prohibited the sale, offer of sale, or transport of certain desert plants, unless those plants were marked with identification prescribed by the Texas Department of Agriculture (TDA). The bill would have applied to agave, ariocarpus, echinocactus, echinocereus, ferocactus, fouquieria, mammillaria, opuntia, and yucca.

A person growing or harvesting a desert plant for sale would have had to register with TDA and provide a statement verifying that the plant either would be harvested from the person's property or from the property of someone who had granted the seller authority to harvest plants from his or her land. Documentation would have been required for each sale involving at least 25 desert plants. TDA could have charged a documentation fee.

It would have been an offense for a person to advertise, sell, or offer for sale plants that were not marked clearly and distinctly. The offense would have been punishable by a fine of up to \$1,000, 180 days in jail, or both. TDA could have issued and enforced an order to stop the sale of unmarked desert plants. and could have seized, with or without process, unmarked plants intended for transfer outside the state.

**GOVERNOR'S
REASON FOR
VETO:**

“Senate Bill No. 970 would establish new fees and regulations for those who produce and harvest various cactus plants. As a result, the practice of xeriscaping would face artificial barriers in the marketplace at a time when government should be encouraging efforts to conserve water. Increasing administrative costs on the nursery industry is not an appropriate way to enforce current statutes.”

RESPONSE:

Sen. Eliot Shapleigh, the bill's author, said: “The Chihuahua Desert is a fragile ecosystem. Several families of cacti are rare, valuable, and threatened. Gov. Perry's veto will encourage further theft and destruction of golden barrels, rainbows, ocotillo, and other Chihuahua Desert cacti. With droughts across the Southwest, millions of dollars of cacti are rustled to feed the tremendous new demand of xeriscapers. Long ago, Arizona moved boldly to protect its Saguaro and Sonora Desert legacy. Texas needs to do the same for the Chihuahua Desert.”

Rep. Robert Puente, the House sponsor, said: “SB 970 was an effort to address a valid problem in this state, namely the stripping of both public and private land of desert plants by individuals without permission. This damages the desert ecosystem and costs private landowners large amounts of money. Perhaps the system established by the bill would have some unintended consequences, and I look forward to working with Sen. Shapleigh on a revised bill next session.”

NOTES:

SB 970 was analyzed in the May 26 *Daily Floor Report*.

Requiring access to agency publications and revising library district criteria

SB 1154 by Shapleigh (Hilderbran)

DIGEST: SB 1154 would have required state agencies to make their printed publications accessible on the Internet via their websites in an electronic format. Agencies without websites would have had to provide electronic source files for their publications to the Texas State Library and Archives Commission. Agencies would have had to furnish the state library with printed copies of their publications if copies were not available from their websites or if the publications were only available electronically.

The bill also would have added a new set of criteria to the funding mechanism that allows municipalities and unincorporated areas without library services to create library districts supported by local sales-tax revenue. It would have made elections on adopting or increasing library district sales and use taxes tantamount to elections to reduce tax rates for industrial development districts if:

- all or any part of the proposed library district lay within the boundaries of an industrial development corporation (IDC) created under Sec. 4B of the Development Corporation Act of 1979 (Art. 5190.6, V.T.C.S.) by a municipality after the original filing date of the petition to create the library district; and
- adopting or increasing library district sales and use taxes would have raised combined local tax rates above 2 percent anywhere in the proposed library district.

Under those conditions, if voters had adopted or increased library district taxes, IDC tax rates would have been reduced to the highest rate possible without exceeding the statutory 2 percent local cap. IDC tax rates would have increased automatically if and when library district taxes decreased or expired. Any increases would have been limited to the amount of reductions caused by adopting or increasing library district taxes. The bill also would have prohibited taxing entities from imposing different tax rates within their boundaries.

**GOVERNOR'S
REASON FOR
VETO:**

“The amendment to Senate Bill No. 1154 concerning library districts would have an adverse effect on the Village of Bee Cave and its citizens by negating a voter-approved sales tax for economic development projects. The bill requires a reduction in the sales-tax rate of a 4B development corporation if a library district and corresponding sales tax is subsequently created within the boundaries of the corporation. This would retroactively override the statutory petition and election process provided in current law.

“The Mayor and City Council of the Village of Bee Cave have committed to providing the Lake Travis area with a fully-accredited library to be open within three years. The library will be available to the public without regard to residency and funded from sales-tax revenues from the 4B development corporation.

“I support the intent of Senate Bill No. 1154 as filed. Therefore, by executive order, I am directing state agencies to make their printed publications accessible from their websites in an electronic format and furnish to the State Library a list of publications as they become available.”

RESPONSE: Neither Sen. Eliot Shapleigh, the bill’s author, nor Rep. Harvey Hilderbran, the House sponsor, had a comment on the veto.

NOTES: SB 1154 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*. HB 1770 by Keel, on which the amendment was based, was analyzed in the April 16 *Daily Floor Report*.

Revising motor-vehicle dealership and titling regulations

SB 1504 by Harris (Krusee)

DIGEST: SB 1504 would have changed various statutes governing motor vehicles. It would have redefined off-road vehicles as physically capable of being titled, and towable recreational vehicles as eligible to be titled and registered, under Texas Department of Transportation (TxDOT) rules. The bill would have allowed a person to operate an automobile dealership whose pending license application to buy an existing dealership was uncontested, substantially complete, and on file with TxDOT's Motor Vehicle Board, and who had notified the board properly. The bill would have set forth conditions under which manufacturers or distributors could own interests in car rental companies. SB 1504 also would have made license applications and other information on file relating to license applicants or holders confidential and not subject to public scrutiny. The information could have been disclosed only if subpoenaed in judicial or administrative proceedings.

GOVERNOR'S REASON FOR VETO: "Senate Bill No. 1504 as engrossed was acceptable, but a problematic amendment would impede access to public records. The bill would limit access to information in an application for a license to operate a motor vehicle dealership from disclosure under the Public Information Act. The owner's name, business address, and phone number should be available to the public. Personal addresses and phone numbers should be protected. These records could only be disclosed in a judicial or administrative proceeding in accordance with a lawful subpoena.

"Restricted access to these records would hinder the filing of legitimate consumer complaints against vehicle dealerships."

RESPONSE: Neither Sen. Chris Harris, the bill's author, nor Rep. Mike Krusee, the House sponsor, had a comment on the veto.

NOTES: SB 1504 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Allowing higher education institutions to raise tuition for graduate schools of business

SB 1521 Zaffirini (Morrison)

- DIGEST:** SB 1521 would have authorized the governing board of a higher education institution to set tuition for its graduate school of business at a rate up to three times the statutory tuition rate prescribed by Education Code, ch. 54, subch. B. Current law allows governing boards to set tuition in this range for law schools.
- GOVERNOR'S REASON FOR VETO:** "I support the goal of increased tuition flexibility for institutions of higher education and have signed House Bill No. 3015 [by Morrison] to accomplish that goal. Senate Bill No. 1521, which would allow institutions to raise the tuition for graduate schools of business to the same level as law schools, does not achieve the comprehensive deregulation already provided in House Bill No. 3015. For that reason, Senate Bill No. 1521 is unnecessary."
- RESPONSE:** Sen. Judith Zaffirini, author of SB 1521, said: "This bill would have allowed the board of regents of institutions of higher education to set tuition rates for graduate business programs in the same manner as they do for law school and pharmacy programs. HB 3015, relating to tuition deregulation, allows a governing board of an institution of higher education to set a different tuition rate for each program and course level offered. The governor's veto indicates that he believes the intent and provisions of SB 1521 are included in the broader language in HB 3015."
- Rep. Geanie Morrison, the House sponsor, was unavailable for comment.
- NOTES:** SB 1521 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*. HB 3015 was analyzed in Part One of the April 28 *Daily Floor Report*.

Confidentiality of information in application for motor-vehicle sales financing license

SB 1526 by Brimer (McCall)

DIGEST: SB 1526 would have made the information in an application for a motor-vehicle sales financing license confidential and not open to public inspection unless it were subpoenaed in a judicial or administrative proceeding. It also would have prohibited the consumer credit commissioner from requiring fingerprints from a person who did not engage regularly in the business of motor-vehicle sales financing or from suspending, revoking, or denying a license for failure to provide the fingerprints of such a person.

GOVERNOR'S REASON FOR VETO: "Senate Bill No. 1526 would impede access to public records. The bill would limit access to information in an application for a license to operate a motor vehicle dealership from disclosure under the Public Information Act. The owner's name, business address and phone number should be available to the public. Personal addresses and phone numbers should be protected. These personal records could only be disclosed in a judicial or administrative proceeding in accordance with a lawful subpoena.

"Restricted access to these records would hinder the filing of legitimate consumer complaints against vehicle dealerships."

RESPONSE: Sen. Kim Brimer, author of SB 1526, said: "This is important legislation and I plan to refile a similar bill in the upcoming special session."

Rep. Brian McCall, the House sponsor, said: "In working with Sen. Brimer, industry representatives, consumer groups, and the Office of Consumer Credit Commissioner, I felt that SB 1526 corrected unintended disclosures of information created by SB 317, the Office of Consumer Credit Commissioner sunset bill, which I sponsored and passed during the 77th legislative session."

NOTES: SB 1526 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Requiring local policies for warrantless arrests for Class C misdemeanors

SB 1597 by Hinojosa (Thompson)

- DIGEST:** SB 1597 would have required a law enforcement agency to adopt a written policy on warrantless arrests for Class C misdemeanors, including traffic offenses. The policy would have had to describe the circumstances in which such arrests were authorized and to provide for the review of each arrest by the arresting officer's immediate supervisor.
- GOVERNOR'S REASON FOR VETO:** "Senate Bill No. 1597 would require a supervisor's review of a Class C misdemeanor arrest, impeding an officer's ability to make arrests. I have consistently opposed any effort to restrict a peace officer's discretionary arrest powers. Arrests for Class C misdemeanor offenses have been supported by the Supreme Court of the United States."
- RESPONSE:** Sen. Juan Hinojosa, the bill's author, said: "This legislation stemmed from an incident where a mother on her way to her child's soccer game was stopped for not wearing a seatbelt. The officer arrested her for the offense and put her in jail. SB 1597 would have allowed a police supervisor to set policies on arrests for Class C misdemeanors to curb these kinds of abuses."
- Rep. Senfronia Thompson, the House sponsor, was unavailable for comment.
- NOTES:** HB 1597 was analyzed in Part Three of the May 26 *Daily Floor Report*.

Using unclaimed class-action funds for civil indigent legal services

SB 1601 by Ellis (Hartnett)

DIGEST: SB 1601 would have allowed a court to order defendants to pay unclaimed settlement or judgment funds resulting from a class action to a trust administered by the Supreme Court, which could have distributed these funds, along with interest earned on them, to programs that provide civil legal services for the indigent.

GOVERNOR'S REASON FOR VETO: "When a class action is settled or the defendant loses at trial, the defendant deposits the amount of the settlement or judgment into a trust fund. Individual plaintiffs may then apply to receive the money from the fund. Usually, a large sum of money is left over which is not needed to settle the claim of any plaintiff. Because the money belongs to the defendant, it reverts back to the defendant when an agreed amount of time has passed.

"Senate Bill No. 1601 would require that all the money in the fund that is not paid to any plaintiff would be transferred to the Supreme Court to pay for indigent civil representation. However, any funds not needed to settle the claim of a plaintiff are still the property of the defendant. No one, including the state, has the right to take this property.

"Senate Bill No. 1601 is an unconstitutional taking of property without compensation."

RESPONSE: Sen. Rodney Ellis, the bill's author, said: "I am disappointed that the governor chose to veto SB 1601, the *Cy Pres* bill. SB 1601 merely sought to add indigent defense services to the list of services or organizations that a court might grant excess or residue money in a class action suit. The governor's veto statement is incorrect when it says that these funds belong to the defendant. When a court enters an order, judgment, or settlement, the court makes a ruling that is final, and those funds or proceeds no longer belong to the defendant.

"The bill did not require or obligate the court to grant any such money or funds to any particular organization, but merely gave the court an additional resource to consider.

"The legal doctrine of *cypres* is a long-standing doctrine that enables a court to grant residue funds or money to other entities if such funds are left over or if other class members cannot be found or located.

"I hope that the Governor's Office will work closely with the legal services community to fashion a compromise during the interim."

Rep. Will Hartnett, the House sponsor, said: "After a court awards funds in a class action lawsuit and the money is disbursed to all affected beneficiaries, there is

sometimes money left on the table. Under current practice, the trial judge makes a *cypres* decision to award the remaining funds for a closely related purpose or charitable interest, such as the lawyer's alma mater. All this bill would have done is give the trial judge another option of where to give the leftover money. The awarded funds are not the property of the defendant because the defendant lost legal custody of the funds when the court rendered the judgment. If for some reason the funds were identified as belonging to the defendant, this bill would not have prohibited their return."

NOTES:

SB 1601 was analyzed in the May 22 *Daily Floor Report*.

Revising property-tax homestead exemption and refund procedures

SB 1659 by Madla (Mercer)

DIGEST: SB 1659 would have made several changes to appraisal district procedures regarding property-tax homestead exemptions and tax payments and refunds. The acceptance/decision date for late homestead exemption applications would have been changed to one year after the date that property taxes on homesteads become delinquent. Homeowners 65 or older who established a different residence homestead during the same tax year could not have qualified for homestead exemptions on the new residences before January 1 of the following tax year. Multiple homeowners could have received over-65 exemptions on only one residence homestead per tax year, because the proration calculation would have been repealed.

Property owners could have designated agents to receive tax refunds. Taxing units could not have required property owners or their agents to provide receipts to corroborate tax payments. Tax refunds would have had to be paid to the person who owned the property as of January 1 of the tax assessment year unless owners specified otherwise. Taxing units could not have required additional action or documentation of owners, agents, or taxpayers to receive refunds.

**GOVERNOR'S
REASON FOR
VETO:**

“Senate Bill No. 1659 would authorize property owners to designate an agent to receive tax refunds on their behalf. It would have allowed property owners to designate an agent to receive tax refunds on their behalf. This change would enable firms that help people obtain tax refunds to receive a person’s refund in order to deduct its fee, usually 50 percent of the amount recovered. While these firms claim to provide a public service, appraisal districts provide this information to homeowners at no cost. The Attorney General has sued some firms of deceiving homeowners about how they can obtain a homestead exemption.

“The bill also requires senior citizens who establish a different homestead in the middle of the year to wait until the following January 1 to qualify their new residence for a homestead exemption and corresponding tax ceiling, or ‘freeze.’ Current law allows citizens who are 65 or over to immediately qualify for the tax exemption on their new residence.”

RESPONSE:

Neither Sen. Frank Madla, the bill’s author, nor Rep. Ken Mercer, the House sponsor, had a comment on the veto.

NOTES:

SB 1659 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Allowing VIA board to repeal tax exemption for telecommunications services

SB 1705 by Wentworth (Martinez Fischer)

- DIGEST:** SB 1705 would have allowed the governing board of VIA Metropolitan Transit Authority (MTA) in Bexar County to repeal a sales and use tax exemption for telecommunications services if the repeal was approved by a committee of San Antonio city council members, county commissioners, and mayors of smaller municipalities. Reinstating the exemption would have required approval in the same manner. If the exemption was repealed, revenue collection would have been tolled during the period in which the MTA board obtained tax receipts for an advanced transportation district.
- GOVERNOR'S REASON FOR VETO:** “Current law allows metropolitan transit authorities (MTAs) to tax telecommunications services if approved by each city that created the authority. Senate Bill No. 1705 would make it easier for VIA MTA in San Antonio to tax telecommunications services by taking the decision away from smaller cities and allowing the City of San Antonio and Bexar County to make the decision. This bill is unnecessary because voters will have an opportunity to approve a sales tax for an advanced transportation district, as proposed in Senate Bill No. 404 [by Madla], which I already have signed into law.”
- RESPONSE:** Sen Jeff Wentworth, author of SB 1705, was unavailable for comment.
- Rep. Trey Martinez Fischer, the House sponsor, said: “A bipartisan effort of the Bexar County House and Senate delegation, SB 1705 was developed to provide the metropolitan transit authority which serves San Antonio and environs immediate access to the same revenues that all other transit systems in Texas have. SB 1705 would have enabled the San Antonio transit system to access revenues from the telecommunications area, which was not a source in SB 404. SB 1705 would have enabled the San Antonio transit system to immediately make needed improvements to provide for those elderly and disabled who depend on public transportation.”
- NOTES:** SB 1705 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*.

Harris County-area highway access policies' precedence over state rules

SB 1782 by Lindsay (Hamric)

- DIGEST:** SB 1782 would have given precedence to the rules or ordinances of the county commissioners courts of Harris, Liberty, Chambers, Galveston, Brazoria, Fort Bend, Waller, and Montgomery counties, and of municipalities within those counties, over all conflicting highway access control orders of the Texas Transportation Commission (TTC), existing or prospective, including designation of controlled access highways. TTC access orders would have prevailed over local rules only if the Federal Highway Administration had notified the Texas Department of Transportation (TxDOT) that enforcement of conflicting municipal rules or ordinances would have impaired the state's or TxDOT's ability to receive federal highway construction or maintenance funds.
- GOVERNOR'S REASON FOR VETO:** "Senate Bill No. 1782 would allow Harris County, a county adjacent to Harris County, or a municipality located in one of these counties to override a Texas Transportation Commission order concerning control of access to the state highway system. All freeways are built as controlled access highways. A drafting error gives a local government the ability to override a Transportation Commission order designating a road as a controlled access highway, which would prohibit the Department of Transportation from building a freeway in these counties. Providing municipalities the ability to decide where access to the state highway system will occur is covered in Senate Bill No. 361 [by Shapiro], which I have signed."
- RESPONSE:** Neither Sen. Jon Lindsay, author of SB 1782, nor Rep. Peggy Hamric, the House sponsor, had a comment on the veto.
- NOTES:** SB 1782 passed the House on the Local, Consent, and Resolutions Calendar and was not analyzed in a *Daily Floor Report*. SB 361 was analyzed in the May 20 *Daily Floor Report*.

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