HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
P.O. Box 2910, Austin, Texas 78768-2910
(512) 463-0752 • http://www.hro.house.state.tx.us

HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, April 24, 2017
85th Legislature, Number 55
The House convenes at 2 p.m.

Fifteen bills are on the daily calendar for second-reading consideration today. They are listed on the following page.

Dwayne Bohac
Chairman
85(R) - 55

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Monday, April 24, 2017
85th Legislature, Number 55

SUBJECT: Issuing commercial gulf shrimp unloading licenses

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 6 ayes — Frullo, Faircloth, Fallon, Gervin-Hawkins, Krause, Martinez

0 nays

1 absent — D. Bonnen

WITNESSES: For — Andrea Hance, Texas Shrimp Association; Buddy Treybig; Tracy Woody; (*Registered, but did not testify*: Shane Bonnot, Coastal Conservation Association-Texas; David Sinclair, Game Warden Peace Officers Association; John Shepperd, Texas Foundation for Conservation)

Against — None

On — Brandi Reeder and Robin Riechers, Texas Parks and Wildlife Department

BACKGROUND: Parks and Wildlife Code, sec. 77.035 governs commercial gulf shrimp boat licenses, which authorize commercial boats to catch shrimp in salt water in the portion of the Gulf of Mexico under Texas jurisdiction (i.e., "outside water"), as well as in salt water outside the state's jurisdiction. The Texas Parks and Wildlife Commission sets the cost of a resident commercial gulf shrimp boat license at $495. A non-resident commercial gulf shrimp boat license costs $1,485.

SB 454 by Arbrister, enacted in 2005 by the 79th Legislature, established a moratorium on the issuance of new commercial gulf shrimp boat licenses.

DIGEST: HB 1260 would create a commercial gulf shrimp unloading license, which would allow a person who also held a federal commercial shrimp vessel permit to unload shrimp in Texas that had been caught in salt water outside the state without previously having been unloaded in another state or country. This requirement would not apply to the holders of valid

resident or non-resident commercial gulf shrimp boat licenses.

The bill would require a vessel operating under a commercial gulf shrimp unloading license to travel nonstop through Texas' outside waters to a place of unloading. By September 1, 2018, the Parks and Wildlife Commission would be required to adopt rules governing the storage of trawl gear when the vessel was in transit to an unloading site, as well as specifications for the sign attached to boats with unloading licenses.

HB 1260 would allow commercial gulf shrimp unloading license holders to sell their catch in Texas and would add them to the list of license holders from whom wholesale and retail fish dealers and restaurant owners, operators, and employees would have to purchase their aquatic products.

The fee for the unloading license would be $1,485, or a larger amount set by the Texas Parks and Wildlife Commission.

The bill would take effect September, 1, 2017.

SUPPORTERS SAY:

HB 1260 would create a commercial gulf shrimp unloading license that would allow out-of-state shrimpers to unload and sell shrimp at Texas docks, bringing more economic activity to the state. Due to a moratorium on new shrimp boat licenses, commercial shrimpers currently cannot buy a license to unload their catch at Texas ports. The commercial gulf shrimp unloading license would permit commercial fishing vessels operating in federal waters to travel nonstop through outside waters to a port in Texas to unload and sell their shrimp.

When operators of these out-of-state vessels arrived at Texas docks to unload shrimp, they could purchase supplies, repairs, and fuel from Texas businesses. Restocking and refueling a vessel can cost an estimated $20,000 to $30,000. The bill would encourage out-of-state shrimp boats to conduct more of this business in Texas.

HB 1260 would open up markets and give restaurants, shrimp wholesalers, and dealers access to another 7 million pounds of shrimp that

could be brought to the Texas market from out-of-state boats operating in federal waters in the gulf. This could bring an additional $100 million in annual sales for the shrimp industry.

The bill would not harm the Texas shrimping industry because it would not permit unloading license holders to catch shrimp in Texas waters. It merely would give unloading license holders the ability to bring ashore in Texas the shrimp they caught in federal waters, which begin nine miles off the coast.

The bill would set the licensing fee for a commercial gulf shrimp unloading license at a minimum of $1,485, which is the same amount charged for a non-resident commercial shrimp boat license. The fees collected would help fund the Texas shrimp marketing assistance program, which is designed to promote Texas shrimp both nationally and internationally.

The bill would not increase the price of shrimp for Texas retailers, wholesalers, and consumers but could lower prices.

OPPONENTS SAY:

HB 1260 would create another unnecessary occupational license and fee. Licenses should not be required for fishermen, whether from Texas or from a neighboring state, simply to unload or sell shrimp caught in federal waters. Excessive licensing can lead to increased prices for consumers.

NOTES:

A companion bill, SB 2017 by Creighton, was referred to the Senate Committee on Agriculture, Water, and Rural Affairs on March 27.

SUBJECT: Excluding certain students in juvenile facilities from dropout rates

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

WITNESSES: For — Julie Pruitt, Harris County Juvenile Probation; (*Registered, but did not testify*: Robert McLain, Channing ISD; Addie Gomez, Texans for Quality Public Charter Schools; Courtney Boswell and Molly Weiner, Texas Aspires; Grover Campbell, Texas Association of School Boards; Justin Yancy, Texas Business Leadership Council; Veronica Garcia, Texas Charter Schools Association; Paige Williams, Texas Classroom Teachers Association; Amanda List, Texas League of Community Charter Schools; Ellen Arnold, Texas PTA; Tami Keeling, Victoria ISD and TASB)

Against — (*Registered, but did not testify*: Danielle King)

On — (*Registered, but did not testify*: Kara Belew and Shannon Housson, Texas Education Agency)

BACKGROUND: Students held in juvenile detention facilities may be served by a local school district or charter school. Education Code, sec. 39.053(g-1) requires the commissioner of education to exclude certain students from dropout and completion performance indicators for the public school accountability system. Among the excluded students are those who are in a school district exclusively as a function of being detained at a county detention facility but are otherwise not students of the district in which the facility is located. Some have suggested that charter schools serving students held in juvenile detention facilities should receive the same exemptions for computation of dropout and completion rates that currently exist for districts.

DIGEST: HB 3075 would exclude from the computation of dropout and completion

rates students detained at a county pre-adjudication or post-adjudication juvenile detention facility if the students were:

- in the school district exclusively as a function of being detained at a the facility but otherwise were not students of the district in which the facility was located; or
- provided services by an open-enrollment charter school exclusively as a result of having been detained at the facility.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017. It would apply beginning with the 2017-18 school year.

NOTES:

A companion bill, SB 727 by Garcia, was referred to the Senate Education Committee on February 21.

SUBJECT: Establishing a veterans services coordinator, reentry program for TDCJ

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 7 ayes — Gutierrez, Blanco, Arévalo, Cain, Flynn, Lambert, Wilson

0 nays

WITNESSES: For — Lashondra Jones, Catholic Charities; (*Registered, but did not testify*: Olivia Bush, Catholic Charities of the Archdiocese of Galveston Houston; Gyl Switzer, Mental Health America of Texas; Deborah Rosales-Elkins, NAMI Texas; Ellen Arnold, Texas Association of Goodwills; Jim Brennan, Texas Coalition of Veterans Organizations; James Cunningham, Texas Coalition of Veterans Organizations, Texas Council of Chapters of the Military Officers Association of America; Joseph Green, Travis County Commissioners Court; James Thurston, United Ways of Texas; CJ Grisham; Sacha Jacobson)

Against — None

On — April Zamora, Texas Department of Criminal Justice

DIGEST: CSHB 865 would require the Texas Department of Criminal Justice (TDCJ) to establish a veterans service coordinator and a veterans reentry dorm program for certain state-jail defendants.

Veterans services coordinator. The coordinator would support all of the department's divisions and coordinate responses to the needs of veterans under TDCJ's supervision. In cooperation with the community justice division, the coordinator would have to provide information to community supervision and corrections departments to help veterans placed on community supervision.

The coordinator, in collaboration with the attorney general's office, would have to provide each incarcerated veteran with a child support modification application.

Veterans reentry dorm program. TDCJ would be required to coordinate with the Texas Veterans' Commission to establish and administer a voluntary rehabilitation and transition program for certain veterans confined in state jails. Participation would be open to veterans who suffered from a brain injury or mental illness or disorder or were victims of sexual trauma that was related to military service and could have contributed to the defendant's criminal activity.

The program would be required to:

- verify the veteran status of each defendant confined in a state jail;
- be available to male and, depending on resources, female defendants;
- include provisions for interviewing and selecting defendants for participation;
- allow a defendant to decline participation or withdraw at any time;
- design housing that mimicked a squadron structure; and
- coordinate and provide department-approved services, including individual and group support, access to military trauma-informed licensed mental health counseling, evidence-based rehabilitation programming, and reemployment services.

At least 60 days before a participant's release or discharge, the program, to the extent feasible, would have to:

- match the defendant with community-based veteran peer support services to assist with transitioning into the community; and
- transfer the defendant to a state jail located near the defendant's home or desired community.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 865 would address concerns about the frequency of veterans entering the criminal justice system with untreated, military-related mental health issues. Many veterans face challenges when returning to civilian life that often are exacerbated by a mental illness or disorder resulting from their military service. Without proper support and guidance, these

conditions can lead to substance abuse issues and involvement in the criminal justice system. The bill would help facilitate reentry into society for certain veterans with mental health issues and connect them with much-needed services.

Establishing a veterans services coordinator would benefit veterans and service providers. The coordinator would advocate for incarcerated veterans and act as a liaison between them and service providers in the community. Many programs across the state are available to help veterans transition from service to civilian life, but many veterans are unaware of them. The coordinator could help service providers spread awareness to incarcerated veterans to assist their transition back into the community and reduce recidivism.

The dorm program would provide incarcerated veterans a chance to receive rehabilitative services in a familiar environment. By mimicking a squadron setting, the program would leverage what the veteran acquired while in the military — a structured lifestyle, habits and routines, and the value of peer support — by living with people who had been through similar experiences. This structure and social support would benefit a person in recovery and could encourage their transition back into society as law-abiding citizens.

CSHB 865 also would ensure that the reentry dorm program was available to both male and female incarcerated veterans, depending on resources. This is critical because female veterans currently do not have a dedicated reentry program. Mental health issues afflict both male and female veterans, so they experience similar challenges when transitioning into civilian life.

The Department of Criminal Justice, Veterans' Commission, and attorney general's office have indicated that any costs associated with implementing the bill could be absorbed within existing resources. The department already has a staff member dedicated to veterans services, and the Travis County Jail already runs a veterans dorm reentry program. HB 865 would codify current practices and ensure that these services continued and were made available throughout the system.

OPPONENTS SAY:

No apparent opposition.

NOTES:

CSHB 865 differs from the filed bill in several ways, including that the committee substitute would:

- require TDCJ to work in coordination with the Veterans' Commission to establish the dorm program;
- require the veteran status of all state-jail defendants to be verified, as well as procedures to interview and select participants;
- add a victim of military sexual trauma to the criteria that could make a veteran eligible for the program;
- extend the program to female defendants, if resources allowed;
- expand the programming available to participants; and
- require defendants to be connected with transition resources 60 days, rather than 30 days, before their release.

SUBJECT: Expunging certain misdemeanor arrests after a deferred adjudication

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Moody, Canales, Gervin-Hawkins, Hefner, Lang, Wilson

0 nays

1 absent — Hunter

WITNESSES: For — David Gonzalez, Texas Criminal Defense Lawyers Association; Michael Haugen, Texas Public Policy Foundation; (*Registered, but did not testify:* Kathryn Freeman, Texas Baptist Christian Life Commission; James Cunningham, Texas Coalition of Veterans Organizations and Military Officers Association of America-Texas; Kathy Mitchell, Texas Criminal Justice Coalition; Chris Howe)

Against — (*Registered, but did not testify*: Clay Taylor, Department of Public Safety Officers Association; David Sinclair, Game Warden Peace Officers Association; Ray Hunt, Houston Police Officers' Union)

On — Shannon Edmonds, Texas District and County Attorneys Association

BACKGROUND: Code of Criminal Procedure, art. 55 allows individuals who have been acquitted of a crime or had certain charges dismissed to seek an expunction of their records.

Article 42A.101 allows judges in criminal cases to establish the conditions of community supervision (probation) for a defendant on deferred adjudication. Deferred adjudication is a form of probation under which a judge postpones the determination of guilt while the defendant serves probation. It can result in the defendant being discharged and dismissed upon successful completion of that probation.

DIGEST: CSHB 670 would entitle an individual who had been arrested for certain misdemeanors to an expunction if the individual:

- had successfully completed deferred adjudication community supervision and subsequently received a discharge and dismissal;
- was not required to register as a sex offender;
- had not subsequently been convicted of or placed on deferred adjudication community supervision for a Class A or Class B misdemeanor or a felony;
- had no charges pending for any offense other than an offense punishable only by a fine; and
- had waited five years from the date on which the individual received the discharge and dismissal.

Misdemeanors against public order, or involving organized crime, weapons, indecency, or crimes against persons would not be eligible for expunction.

The bill would require the individual to submit a petition to the court stating that the individual had met the conditions for expunction.

If the court found that the applicant had satisfied all the conditions required, then the applicant would be entitled to an expunction and the court would issue an order of expunction.

The bill would require courts to waive any costs associated with applying for an expunction for eligible indigent applicants.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 670 would help individuals placed on deferred adjudication who complied with all of a court's instructions to receive an expunction and avoid the stigma of having a conviction on their record. Currently, due to the way the expunction statute is worded, defendants who are placed on deferred adjudication are unable to get an expunction even if all of the terms were successfully completed. This makes deferred adjudication a less attractive option for defendants and can make some cases more difficult to resolve. The bill would give defendants a powerful incentive to comply with all of the terms of a deferred adjudication and reduce their

likelihood of reoffending.

The bill is narrow in scope and would keep the public safe. Registered sex offenders would be ineligible, as would anyone seeking to expunge an offense involving weapons, organized crime, indecency, or crimes against persons or the public order. Prosecutors and judges already ensure that only deserving defendants receive deferred adjudication. The limits imposed by the bill on who would be eligible for this type of expunction make it abundantly clear that public safety is always the paramount concern in the criminal justice system.

While orders of nondisclosure are available in some cases, those orders are discretionary, and law enforcement agencies still may disclose criminal history information to state professional licensing boards and many other public entities. The bill would remove this potential career obstacle for individuals who have had minor brushes with the law and have demonstrated a commitment to rehabilitation.

CSHB 670 would not have a significant impact on the ability to vet candidates for sensitive employment positions. Background investigations are no substitute for good training and sound judgment. Individuals with clean criminal histories also commit crimes, and background checks under current law have cleared candidates who have gone on to commit serious acts of violence and abuses of power. By requiring a five-year waiting period with no new offenses, the bill would ensure that only those who have demonstrated a serious commitment to rehabilitation would be eligible for an expunction.

OPPONENTS SAY:

Lawmakers should be cautious about expanding the scope of expunctions, as proposed by CSHB 670. Expunged records are destroyed, and this traditionally has been limited to cases involving acquittal or in which the prosecution has decided not to pursue the case. Eligible individuals already can apply for orders of non-disclosure that provide the same benefits but still allow law enforcement and other agencies to access criminal history when necessary.

Law enforcement agencies routinely conduct thorough background investigations as part of their hiring process. There would be no way for

the agencies to properly vet peace officer candidates if records of the applicant being placed on community supervision could be expunged.

NOTES:

CSHB 670 differs from the filed bill in that the committee substitute would prevent an individual from applying for an expunction if the individual:

- was required to register as a sex offender as part of the individual's supervision or release; or
- was charged with offenses against public order, organized criminal activity, weapons offenses, or indecency.

SUBJECT: Allowing anonymity for certain lottery winners

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 7 ayes — Kuempel, Frullo, Geren, Goldman, Herrero, Paddie, S. Thompson

0 nays

2 absent — Guillen, Hernandez

WITNESSES: For — None

Against — (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas)

On — (*Registered, but did not testify*: Michael Anger and Deanne Rienstra, Texas Lottery Commission)

BACKGROUND: Government Code, ch. 466.022 exempts the street address and telephone number of a lottery prize winner from disclosure under the Public Information Act if the prize winner has not consented to the release of the information.

Government Code, ch. 466.407 requires the executive director of the Texas Lottery Commission to deduct from lottery winnings delinquent tax debt, student debt, and child support payments.

DIGEST: HB 59 would allow a natural person, or the owner of a beneficial interest in a legal entity, who won a lottery prize of $1 million or more and accepted the prize in one payout to choose to remain anonymous and prohibit all personally identifiable information from being released to the public. The winner could choose to remain anonymous and prohibit the release of information on the date the prize was claimed.

The commission could disclose the personal information of a natural

person who requested anonymity and chose to receive winnings in periodic installments 30 days after the winner claimed the prize.

The bill would define the $1 million prize as the total amount to be paid to a prize winner for a single lottery prize claim, whether paid in one payment or in periodic installments, before deducting any federal taxes or other deductions required by law.

HB 59 would not prohibit the release of a winner's city or county of residence or prevent the Texas Lottery Commission from releasing personally identifying information to the Health and Human Services Commission or as necessary to comply with laws regarding delinquent child support, tax, or student loan deductions.

The Texas Lottery Commission would adopt rules necessary to implement the bill's provisions by December 1, 2017.

The bill would take effect September 1, 2017, and apply only to a claim for a prize submitted to the Texas Lottery Commission on or after January 1, 2018.

SUPPORTERS SAY:

HB 59 would help protect lottery winners who win $1 million or more from predatory actors and unwanted attention. Currently, a lottery winner's name, city of residence, prize money and other details about the winning lottery game are available to the public, with only an individual's street address and telephone number exempt from a Public Information Act request.

This bill would expand the ability of lottery winners to protect their privacy. Although winners may create a trust and use a trustee to collect the prize money, this only protects winners who have consulted a lawyer before collecting their prize. Winners often do not realize that a trust would have helped protect their identity until it is too late. Even using a trust does not guarantee anonymity because certain identifying information can be acquired through Public Information Act requests.

Large lottery winners often become the subject of significant media scrutiny, which can become a matter of personal safety for these

individuals. HB 59 appropriately would permanently prohibit the release of personally identifiable information at the request of winners who received the prize in a single payment. Such winners are more likely to be bothered or harmed than those who accept payment in installments.

The bill also would ensure that winners with child support and tax obligations could not keep their identities hidden from authorities through the anonymity option.

OPPONENTS SAY:

HB 59 would reduce transparency in the lottery process, which involves a state agency making large payouts to individuals. Granting anonymity to lottery winners could harm the public perception of the Texas Lottery Commission and lead to skepticism about how fairly the lottery is run and where the money is going. This in turn could negatively impact lottery sales and revenue to the state.

The anonymity granted by the bill for winners would be unnecessary. Lottery winners already can maintain privacy by creating a trust to collect their winnings. A 2014 letter opinion from the Office of the Attorney General indicated that a trust agreement reflected personal financial decisions and therefore was not subject to disclosure requirements.

HB 59 also could diminish the effectiveness of investigations into people who claimed prizes through fraudulent or criminal activity. In the past, fraud has been reported because the public knew the identity of the lottery winner and witnesses came forth with evidence of misconduct.

The bill also would make it more difficult for the Texas Lottery Commission to conduct its "winner awareness" campaigns, which help increase participation in the lottery.

SUBJECT: Revising the Cancer Prevention and Research Institute of Texas

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Price, Sheffield, Arévalo, Burkett, Cortez, Guerra, Klick, Oliverson

0 nays

3 absent — Coleman, Collier, Zedler

WITNESSES: For — (*Registered, but did not testify*: Cam Scott, American Cancer Society Cancer Action Network, Texas Public Health Coalition, and Texas Cancer Partnership; Kathy Hutto, AstraZeneca; Drew Scheberle, Austin Chamber of Commerce and 2050 Group; Tom Kleinworth, Baylor College of Medicine; Amanda Martin, Texas Association of Business; Thomas Kowalski, Texas Healthcare and Bioscience Institute; Marilyn Doyle, Texas Medical Association; Thomas Parkinson)

Against — None

On — Kristen Doyle and Wayne Roberts, Cancer Prevention and Research Institute of Texas (*Registered, but did not testify*: Gary Thompson, Leukemia and Lymphoma Society; Paul Ballard, Texas Treasury Safekeeping Trust Company)

BACKGROUND: The Cancer Prevention and Research Institute of Texas (CPRIT) was established by a voter-approved constitutional amendment in 2007 that authorized the state to issue $3 billion in bonds to fund cancer research and prevention programs and services in Texas. Under the guidance of the CPRIT oversight committee, the institute accepts applications and awards grants for cancer-related research and the delivery of cancer prevention programs and services by public and private entities in Texas.

Health and Safety Code, sec. 102.256 directs the CPRIT oversight committee to establish standards that require all grant awards to be subject to an intellectual property agreement that allows the state to collect

royalties, income, and other benefits, including interest or proceeds resulting from securities and equity ownership realized as a result of projects undertaken with money awarded by the state's cancer prevention and research fund. This fund is a general revenue dedicated account.

DIGEST:

CSHB 63 would add the Cancer Prevention and Research Institute of Texas (CPRIT) to the list of agencies whose members are considered an "appointed officer of a major state agency" under Government Code, ch. 572, which prescribes requirements for state officers including personal financial disclosure, standards of conduct, and conflicts of interest, including the requirement to file a verified financial statement with the Texas Ethics Commission.

The bill would repeal a requirement in statute that appointed members of the CPRIT oversight committee be required to disclose to the institute each political contribution to a candidate for a state or federal office over $1,000 made by the person in the five years preceding the person's appointment and each year after the person's appointment until the person's term expired. It would repeal a requirement that the institute post on the internet a report of the political contributions made by oversight committee members.

CSHB 63 would allow the CPRIT oversight committee to conduct a closed meeting, in accordance with the Texas Open Meetings Act, to discuss issues related to managing, acquiring, or selling securities or other revenue-sharing obligations realized under established standards as required by Health and Safety Code, sec. 102.256, which addresses patent royalties and license revenues paid to the state.

The bill would require that no more than 10 percent of the money appropriated by the Legislature for CPRIT grants in a state fiscal year, rather than no more than 10 percent of the money awarded by the Cancer Prevention and Research Fund, be used for cancer prevention and control programs during that year.

CSHB 63 would allow the CPRIT oversight committee to transfer its management and disposition authority over the state's interest in securities, equities, royalties, income, and other benefits realized as a

result of projects undertaken with money awarded by the Cancer Prevention and Research Fund to the Texas Treasury Safekeeping Trust Company. If this authority was transferred, the trust company would have any power necessary to accomplish the purpose of sec. 102.256, which addresses patent royalties and license revenues paid to the state.

In managing CPRIT-related patent royalties and license revenues through procedures and subject to restrictions that the Texas Treasury Safekeeping Trust Company considered appropriate, the trust company could acquire, exchange, sell, supervise, manage, or retain any kind of investment that a prudent investor, exercising reasonable care, skill, and caution, would acquire, exchange, sell, or retain in light of the purposes, terms, distribution requirements, and other circumstances then prevailing pertinent to each investment, including the requirements prescribed by Health and Safety Code, sec. 102.256(b), which addresses the determination of the state's interest in any intellectual property rights, and the purposes of CPRIT as described in Health and Safety Code, sec. 102.002. The trust company could charge a fee to recover the reasonable and necessary costs incurred in managing these assets.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 63 would allow for responsible management of state assets, ensure appropriate allocation of prevention funding, and further align the Cancer Prevention and Research Institute of Texas (CPRIT) with other state agency requirements.

The bill would allow for responsible management of state assets by allowing the CPRIT oversight committee to transfer management and disposition authority for interests in royalties, income, and other benefits to the Texas Treasury Safekeeping Trust Company. The CPRIT oversight committee does not have the expertise to oversee the institute's complex portfolio, but the trust company has this specific expertise and is the logical choice to oversee these assets. The transfer would allow for better asset management for those obligations owed to the state from CPRIT grant projects and would ensure that the trust company could retain management of assets if CPRIT were ever discontinued. The bill would specify that the trust company exercise reasonable care, skill, and caution

with these investments.

CSHB 63 would ensure prevention funding was allocated properly by requiring that 10 percent of the money appropriated by the Legislature for grants in a fiscal year, rather than 10 percent of the money awarded by the Cancer Prevention and Research Fund, be used for prevention and control programs during that year. This would allow for full funding of prevention grants, which is especially important considering that money invested in these grants produces a significant financial return for the state.

Allowing the CPRIT oversight committee to conduct a closed meeting relating to investment ownership would protect the state's fiduciary interests. To preserve transparency, the bill would allow a closed meeting only for discussions related to managing, acquiring, or selling securities or other revenue-sharing obligations. In this meeting, CPRIT and the Texas Treasury Safekeeping Trust Company might discuss whether they would invest in a company or sell a security. Such matters must be addressed in a closed meeting so as to not affect the market or the value of an affected company. Other meetings of the oversight committee would be open.

CSHB 63 would further align CPRIT with the requirements of other state agencies by holding members of the oversight committee to the same ethical reporting standards for personal financial disclosure, standards of conduct, and conflict of interest as other appointed officers of a major state agency. Currently, some CPRIT oversight committee members voluntarily report their financial information to the Texas Ethics Commission, and CSHB 63 would make this mandatory to increase accountability and ethical standards for committee members.

It would be duplicative and a waste of resources for CPRIT to report to the Texas Ethics Commission and also file a report on its website. CPRIT has stringent conflict of interest requirements that would not be affected by requiring the institute to follow the same rules as major state agencies. CPRIT produces the majority of its reports online and has given ample evidence that it is not beholden to political interests or political endeavors.

OPPONENTS SAY:

CSHB 63 should not allow the CPRIT oversight committee to hold a closed meeting relating to investment ownership. Closed meetings reduce

transparency and accountability regarding CPRIT operations.

While it would be a positive step forward in transparency to require CPRIT oversight committee members to file personal financial statements with the Texas Ethics Commission, members still should be required to disclose campaign contributions on the internet. Information filed with the Texas Ethics Commission is not available online, and the personal financial statement does not include information on campaign contributions. It would be prudent to continue to require oversight committee members' campaign contribution information to be publicly available online.

NOTES:

The companion bill, SB 81 by Nelson, was approved by the Senate on April 19.

The committee substitute differs from the introduced bill in several ways, including by removing previsions that would: allow an oversight committee member, program integration committee member, or institute employee to serve in an unpaid position on the board of a grant recipient after the grant was awarded; extend CPRIT's Sunset expiration date; extend the period for awarding grants; and prohibit the institute from awarding a grant to an applicant that had on its board a member of a CPRIT committee or a CPRIT employee.

CSHB 63 contains other provisions not in the filed bill, including one governing Texas Treasury Safekeeping Trust Company management of CPRIT assets.

SUBJECT: Changing the dates for CPRIT Sunset review and the awards period

COMMITTEE: Public Health — favorable, without amendment

VOTE: 8 ayes — Price, Sheffield, Arévalo, Burkett, Cortez, Guerra, Klick, Oliverson

0 nays

3 absent — Coleman, Collier, Zedler

WITNESSES: For — Cam Scott, American Cancer Society Cancer Action Network, Texas Public Health Coalition, and Texas Cancer Partnership; Gary Thompson, Leukemia and Lymphoma Society; Amanda Martin, Texas Association of Business; Thomas Kowalski, THBI Texas Healthcare and Bioscience Institute; (*Registered, but did not testify*: Greg Parkington, American Cancer Society; JoAnna Strother, American Lung Association; Kathy Hutto, AstraZeneca; Drew Scheberle, Austin Chamber of Commerce and 2050 Group; Tom Kleinworth, Baylor College of Medicine; Max Jones, Greater Houston Partnership; David Lofye, LIVESTRONG Foundation; Jessica Schleifer, Teaching Hospitals of Texas; Marilyn Doyle, Texas Medical Association; Shauna Huffington, ZERO The End Of Prostate Cancer; Thomas Parkinson)

Against — None

On — Kristen Doyle and Wayne Roberts, Cancer Prevention and Research Institute of Texas

BACKGROUND: The Cancer Prevention and Research Institute of Texas (CPRIT) was established by a voter-approved constitutional amendment in 2007, which authorized the state to issue $3 billion in bonds to fund cancer research and prevention programs and services in Texas. Under the guidance of the CPRIT oversight committee, CPRIT accepts applications and awards grants for cancer-related research and for the delivery of cancer prevention programs and services by public and private entities in Texas.

DIGEST:

HB 84 would extend to 2023 from 2021 the date on which the Cancer Prevention and Research Institute of Texas would be abolished unless continued under the Texas Sunset Act. The bill also would extend the awards period after which the institute's oversight committee could not award money to August 31, 2022 from August 31, 2020.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY:

HB 84 is a necessary extension of the Sunset review date for the Cancer Prevention and Research Institute of Texas (CPRIT) that would allow the institute to use its entire constitutional funding authorization for cancer research and prevention. The will of the voters in approving the constitutional amendment in 2007 was to expend the full $3 billion, which cannot be done unless the Sunset review is moved to the 2022-23 cycle. Without an extension of Sunset review and the award period, about $150 million could be left unused.

Early discontinuation would impact the Texas economy negatively. Every dollar granted for product development research has generated a significant return for private sector follow-on investment, which now totals more than $1 billion. The Perryman Group also found that the awards generated hundreds of millions in revenue at the state and local levels. Screenings and prevention services provided with the awards lead to significant treatment cost savings and prevent a potentially expensive population from entering the already costly health care system.

Early discontinuation also would have a negative effect on the strides made in preventing cancer and in cancer research. CPRIT prevention programs have identified thousands of cancers or cancer precursors. Through the institute, Texas has become a leader in both cancer research and the biomedical industry, and three National Cancer Institute-designated Comprehensive Cancer Centers are now functioning in the state, benefitting Texas patients.

Texans approved the investment of these dollars in preventing and researching cancer, and the institute has been working effectively,

efficiently, and ethically. Delaying the Sunset review and extending the award period would allow these funds to be used for their intended purpose.

As a Texas institute, CPRIT is dedicated to upholding the state's best interest when granting funding, including its mission to eradicate cancer and also to stimulate the Texas economy. CPRIT makes three types of grants, one of which is academic, which has allowed it to partner with numerous research institutions to benefit Texans. Because private organizations may have different goals, grant requirements, and funding levels, their efforts might not generate the same positive impact as CPRIT's.

OPPONENTS SAY:

CPRIT has not met its potential to find the causes of and cures for cancer. With past issues regarding conflicts of interest and mismanagement, CPRIT could benefit from Sunset review in 2020-21, rather than waiting until 2022-23. Undergoing Sunset review does not necessarily mean that the institute would be discontinued.

OTHER OPPONENTS SAY:

CPRIT should not be extended until 2023. The duties of the institute are more appropriately handled by private organizations than by state government.

NOTES:

The companion bill, SB 224 by Watson, was approved by the Senate on April 19.

According to the Legislative Budget Board's fiscal note, no significant fiscal implication to the state from HB 84 would be anticipated through fiscal 2020. Beginning in fiscal 2021, the Legislative Budget Board projects a negative impact of $11.4 million in general revenue each fiscal year through fiscal 2041 for additional debt service payments by the Texas Public Finance Authority.

SUBJECT: Requiring health benefit plans to cover hearing aids and cochlear implants

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Phillips, Muñoz, R. Anderson, Gooden, Oliverson, Paul, Sanford, Turner, Vo

0 nays

WITNESSES: For — America Ririe, Let Texas Hear; Caitlin Sapp, Seton/Ascension Health; Karen Ditty, Texas Academy of Audiology; Leslie Lestz, Texas Pediatric Society; Abbie Hrncir; Laryssa Korduba Hrncir; Jennifer Peterson; Audra Stewart; Madison Wright; (*Registered, but did not testify*: Cheryl Ford and Luckie Ford, Cody's Crusade; Edward Olmeda, Seton Healthcare Family; Bradford Shields, Texas Academy of Audiology; Mark Hanna, Texas Speech Language Hearing Association; and 13 individuals)

Against — Jamie Dudensing, Texas Association of Health Plans; (*Registered, but did not testify*: Annie Spilman, National Federation of Independent Business/Texas; Amanda Martin, Texas Association of Business)

On — (*Registered, but did not testify*: Pat Brewer, Texas Department of Insurance)

DIGEST: CSHB 490 would require certain health benefit plans to provide coverage for the cost of a medically necessary hearing aid or cochlear implant and related services and supplies for a covered individual who was 18 years old or younger.

The coverage would have to include:

- fitting and dispensing services and the provision of ear molds to maintain optimal fit of hearing aids;
- any treatment for hearing aids and cochlear implants, including habilitation and rehabilitation as necessary for educational gain;

and

- for a cochlear implant, an external speech processor and controller with necessary components replacement every three years.

The bill would limit the required coverage to one hearing aid in each ear every three years and one cochlear implant in each ear with internal replacement as medically or audiologically necessary. The required coverage, including applicable durational limits and coinsurance factors, could not be less favorable than a plan's physical illness coverage.

CSHB 490 would specify the health benefit plans to which it would and would not apply. The state Medicaid program, including the Medicaid managed care program, would not be required to provide the coverage described in the bill.

The bill would take effect September 1, 2017, and would apply to a health benefit plan delivered, issued, or renewed on or after January 1, 2018.

SUPPORTERS SAY:

CSHB 490 would alleviate out-of-pocket expenses for families with hearing-impaired children. Many health insurance plans in Texas consider hearing aids and cochlear implants as cosmetic devices and, as a result, do not cover these items. Children's hearing aids can cost up to $6,000 per pair and must be replaced every three to five years. Cochlear implant upgrades also are costly. Removing financial barriers to these devices and related services would allow families to seek the care their hearing-impaired child needs to thrive in society.

The bill would ensure children received medically necessary hearing aids and cochlear implants in a timely manner. Hearing aids provide immediate access to sound, which is crucial during a child's developing years. Failing to address hearing loss in children early on can result in delayed speech and language acquisition, as well as social, emotional, and behavioral issues.

Lack of early intervention in hearing-impaired children also can lead to lags in academic development and potential placement in special education. The coverage required in the bill would help improve educational outcomes for hearing-impaired children and would help divert

hearing-impaired children from special education courses, which could save the state millions of dollars.

OPPONENTS SAY:

CSHB 490 would increase health care expenses for employers, who ultimately bear the cost of mandated health care benefits. Such mandates can mean higher premiums and co-pays and reduced wages and benefits. Texas already has a significant number of mandated health care benefits, which in the end can hurt the people they were designed to help.

NOTES:

A companion bill, SB 552 by Kolkhorst, was referred to the Senate Committee on Business and Commerce on February 8.

CSHB 490 differs from the bill as filed in that the committee substitute would remove:

- certain health benefit plans from the list of those that would have been required to provide coverage for hearing aids and cochlear implants; and
- a provision that would have prohibited the required coverage from being subject to a deductible requirement or dollar limit.

SUBJECT: Modifying qualifications for UNTHSC president, offering MD degree

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 9 ayes — Lozano, Raney, Alonzo, Alvarado, Button, Clardy, Howard, Morrison, Turner

0 nays

WITNESSES: For — (*Registered, but did not testify*: Ray Martinez, Independent Colleges and Universities of Texas)

Against — David Garza, Texas Osteopathic Medical Association; (*Registered, but did not testify*: Matt Oliver)

On — Lee Jackson, University of North Texas System; Michael Williams, University of North Texas Science Health Center; (*Registered, but did not testify*: Rex Peebles, Texas Higher Education Coordinating Board)

DIGEST: HB 1913 would remove a requirement that the president of the University of North Texas Health Science Center at Fort Worth be a licensed physician who holds a Doctor of Osteopathy (D.O.) degree and has been licensed to practice medicine in Texas or another state for at least five years.

The bill also would repeal a provision that currently prohibits the University of North Texas System board of regents from awarding a doctor of medicine (M.D.) degree.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2017.

SUPPORTERS SAY: HB 1913 would reverse a law enacted in 1983 that requires the president of the Texas College of Osteopathic Medicine (TCOM) to hold a D.O. degree as required for accreditation. TCOM, then a free-standing institution, has since grown into the University of North Texas Health

Science Center at Fort Worth (UNTHSC), which encompasses several other professional health-related schools.

No longer requiring the health science center president to be an osteopath would expand the pool of possible candidates for this position and would not affect the institution's accreditation. The dean of the college must hold a D.O. degree, which is a requirement for accreditation that would not be affected by the bill. Removing this requirement would be appropriate because no other university system governing board in Texas has similar hiring restrictions for its chief executive positions.

The bill would reverse a law preventing UNTHSC from offering an M.D. degree, which was adopted in 1993 when TCOM expanded into UNTHSC. The law was designed to prevent the delay of creating a similar medical school program at the state's southern border. Since then, medical schools have been established in both El Paso and the Rio Grande Valley, so the law preventing the conferral of an M.D. is no longer needed.

The bill would not have fiscal implications for Texas because UNTHSC and Texas Christian University have agreed to jointly start an M.D. degree program with classes beginning in 2019, and would not seek formula funding from the state. Instead, the program would be funded through money raised from research, philanthropy, and tuition. The House-passed version of the fiscal 2018-19 general appropriations act contains a rider in Article 11 prohibiting the use of funds appropriated for UNTHSC to be spent on the M.D. degree program.

The bill would not impact the fiscal or resource support of TCOM, which remains the cornerstone of the UNTHSC system.

OPPONENTS SAY:

HB 1913 could negatively impact TCOM by reducing the resources available to the college. Creating a new M.D. program at the health science center could divert state funding or funding and resources within the UNT system away from TCOM, which has been training doctors of osteopathy for the past 47 years.

There is no need to create an M.D. school in Fort Worth because doctors of osteopathy are licensed for the unlimited practice of medicine, just like medical doctors. A majority of D.O.s who graduate from TCOM go into

the field of primary care, which helps to address the need for physicians in the local community.

While the intent of the bill is that formula funding would not be used to pay the costs of creating the new M.D. program, it could require state funding in the future. According to Legislative Budget Board estimates, this could be expensive and could lead to even more competition among state-funded medical programs for fiscal resources.

NOTES:

In its fiscal note, the Legislative Budget Board (LBB) projects that HB 1913 would have an indeterminate but significant cost to the state in future biennia. According to the LBB, costs related to formula funding for students in the M.D. program could range from $2.5 million in general revenue funds in fiscal 2020 and increasing to $9.9 million in fiscal 2024.

SUBJECT: Requiring state and local financial reports to follow GASB standards

COMMITTEE: Government Transparency and Operation — favorable, without amendment

VOTE: 7 ayes — Elkins, Capriglione, Gonzales, Lucio, Shaheen, Tinderholt, Uresti

0 nays

WITNESSES: For — Gary D. McIntosh and John Sharbaugh, Texas Society of CPAs

Against — None

BACKGROUND: The Governmental Accounting Standards Board (GASB), an independent private-sector organization, sets accounting and financial reporting guidelines for state and local governments. GASB standards, or generally accepted accounting principles (GAAP), must be followed for an audit to report a "clean" opinion.

GASB Statement No. 45 establishes standards for reporting costs related to "other postemployment benefits" (OPEB), which do not include pensions. These standards require governments to report the future cost of providing OPEB, such as retiree health insurance benefits, as an expense during the years that the employees perform services in exchange for these benefits, rather than reporting the financial effects of OPEB when the benefits are paid (i.e., on a "pay-as-you-go" basis).

Following GASB's adoption of Statement No. 45, the 80th Legislature in 2007 enacted HB 2365 by Truitt, which established Government Code, ch. 2266. Under ch. 2266, to the extent that generally accepted accounting principles require accounting or reporting of OPEB on any basis other than pay-as-you-go, the state and local governments may account for or report those benefits according to principles provided by that chapter.

DIGEST: HB 1930 would repeal Government Code, ch. 2266.

The bill also would prohibit the auditor of a county with a population of at least 190,000 from adopting a regulation inconsistent with generally accepted accounting principles established by the Governmental Accounting Standards Board.

The bill would take effect September 1, 2017, and would apply beginning with an applicable governmental entity's first fiscal year that started on or after September 1, 2018.

SUPPORTERS SAY:

HB 1930 would remove the option for the state and local governments to report financial information related to certain retiree benefits on a "pay-as-you-go" basis rather than following Governmental Accounting Standards Board (GASB) standards by reporting future obligations. This option allows governments to not disclose these benefits as liabilities, misrepresenting government obligations.

This bill would increase government transparency and safeguard investments. Adherence to generally accepted accounting principles (GAAP) would ensure that financial statements were reliable, consistent, and easy for the public and investors to understand.

Retiree health insurance benefits may be difficult to estimate, but citizens and public employees deserve to be aware of the general financial health of their government. If a government entity were to change these benefits in the future, its financial reporting at that time would change accordingly.

Other providers of retiree benefits, such as social security and Medicaid, routinely project the long-term costs of their programs. Any long-term promise to pay should be accompanied by an attempt to estimate the value of that benefit.

Certified public accountants already are obligated to follow GAAP to ensure they receive a "clean" opinion on an audit. Texas is the only state that allows an exemption from GAAP, and the state auditor has declined to use this exemption. Additionally, only one local government currently uses this option.

OPPONENTS SAY:

HB 1930 would repeal an important exemption to GASB standards ensuring that certain postemployment benefits are not listed as liabilities in financial reports. Because local governments are not required to provide health care to retirees, those that do can change or eliminate these benefits at any time, which makes future cost projections impossible to estimate. Requiring local governments to attempt to calculate future obligations with current policy rates could lead to deceptive balance sheets.

OTHER OPPONENTS SAY:

While HB 1930 appropriately would close the loophole allowing governments to not report future OPEB costs, the bill would remove flexibility for local governments. Requiring counties to adhere to GASB standards for all financial reporting would leave them open to increased costs. Some counties could not afford to update their accounting and financial reporting practices if GASB standards suddenly changed.

NOTES:

A companion bill, SB 753 by Perry, was passed by the Senate and reported engrossed on April 19.

SUBJECT: Qualifying spouses of totally disabled veterans for employment preference

COMMITTEE: Economic and Small Business Development — favorable, without amendment

VOTE: 9 ayes — Button, Vo, Bailes, Deshotel, Hinojosa, Leach, Metcalf, Ortega, Villalba

0 nays

WITNESSES: For — Jim Brennan, Texas Coalition of Veterans Organizations; (*Registered, but did not testify*: Robert Flores, National Veterans Outreach Program/AGIF; Joseph Green, Travis County Commissioners Court)

Against — None

On — (*Registered, but did not testify*: Stan Kurtz, Texas Veterans Commission)

BACKGROUND: Government Code, sec. 657.002 qualifies veterans, surviving spouses of veterans who have not remarried, and orphans of veterans killed while on active duty for a veteran's employment preference. Sec. 657.003 requires state agencies to grant preference to job applicants entitled to a veteran's employment preference over other applicants who are not more qualified. Preference must be granted in the following order:

1) a veteran with a disability;
2) a veteran;
3) a veteran’s surviving spouse who has not remarried; and
4) an orphan of a veteran killed while on active duty.

Veterans with disabilities who are hired in accordance with veteran's employment preference policies are required by sec. 657.005 to furnish the official records to an employer.

DIGEST: HB 92 would add to the list of those entitled to a veteran's employment preference spouses of veterans who had a total disability rating based on

having a service-connected disability with a 100 percent disability rating or being individually unemployable. The order of priority for state agencies when considering those entitled to a veteran's employment preference would place spouses of totally disabled veterans third, after veterans and before surviving spouses.

HB 92 also would require spouses of totally disabled veterans who were hired in accordance with veteran's employment preference policies to furnish the official records to an employer.

The bill would take effect on September 1, 2017, and would apply only to an open position with a state agency for which applications were accepted on or after that date.

SUPPORTERS SAY:

HB 92 would provide critical support to veterans whose military service had directly resulted in an injury preventing them from being productive in the workforce. Disabled veterans face substantial obstacles in returning home and transitioning to civilian life, and their spouses may become the family's primary source of income. This bill would offer a much-needed mechanism to help ensure that families of disabled veterans could support themselves.

The bill would not allow the quality of state agency employees to decline. Government Code, sec. 657.003 specifies that a veteran's employment preference can apply only when candidates have equal qualifications, guaranteeing that more qualified applicants would not be passed over. Additionally, the preference already exists for surviving spouses and orphans of veterans, so adding one more group would not substantially affect employee quality.

The bill appropriately would ensure employment preference for spouses of totally disabled veterans regardless of when they married. Even in cases where couples marry after the disabling injury, the veteran's spouse still likely would be providing most of the family's income, so the spouse should be entitled to employment preference.

OPPONENTS SAY:

HB 92, by offering an additional employment preference instead of allowing the free market to select the most qualified and skilled

applicants, could drive away talented candidates and make agencies less effective overall. The bill also would allow a spouse to qualify for employment preference even if he or she married the veteran after the disabling injury. This could allow bad actors to use the law to take advantage of the state's protections for veterans and their families.

SUBJECT: Placing a time limit on recovering overpayments to school districts

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Bohac, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

WITNESSES: For — (*Registered, but did not testify*: Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Lindsay Gustafson, Texas Classroom Teachers Association; Colby Nichols, Texas Rural Education Association; Curtis Culwell, Texas School Alliance; Christy Rome, Texas School Coalition)

Against — None

On — (*Registered, but did not testify*: Leonardo Lopez, Texas Education Agency)

DIGEST: HB 481 would prohibit the Texas Education Agency from recovering an over-allocation of state funds from a school district if the over-allocation occurred more than seven years before the date the over-allocation was discovered and occurred as a result of statutory changes to public education laws and related requirements.

This bill would take effect on September 1, 2017, and would apply to an over-allocation of state funds discovered on or after that date.

SUPPORTERS SAY: HB 481 would place a reasonable seven-year time limit on the ability of the Texas Education Agency (TEA) to recover funds it overpaid to a school district. There currently is no limit on how far back TEA may go to collect overpayments, even if an overpayment happened due to a miscalculation or misinterpretation of statutory changes made by the Legislature.

In one case, an error in calculating the amount of money a district owed in

recapture payments to the state was not discovered until many years had passed. The district did not have the funds on hand at the time to pay TEA and had to pay back the funds over several years. This bill would prevent another district from facing a similar situation.

While there are concerns about recovery of state disaster remediation overpayments, the bill is narrowly tailored to address overpayments resulting from statutory changes. However, it could be amended to make clear that the seven-year time limit did not apply to disaster relief overpayments.

OPPONENTS SAY:

HB 481 could keep TEA from recovering money a school received but did not need. For instance, the bill should be amended to address a potential unintended consequence involving reimbursements to districts that suffer disaster-related damages. Districts may apply to the state for reimbursement of disaster remediation costs and also may qualify for insurance reimbursement or federal disaster relief funds, which could be paid more than seven years after the state funds were allocated.

NOTES:

The author of HB 481 plans to offer an amendment that would allow the state to recover funds that were over-allocated to a district as a result of the district receiving reimbursement through insurance proceeds, federal disaster relief payments, or another similar source.

SUBJECT: Amending licensing and other regulations related to manufactured homes

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: *After recommitted:*
6 ayes — Kuempel, Guillen, Goldman, Hernandez, Herrero, S. Thompson

0 nays

3 absent — Frullo, Geren, Paddie

WITNESSES: *March 20 public hearing:*
For — DJ Pendleton, Texas Manufactured Housing Association

Against — None

On — Michael Mosteit, Texas State Association of Electrical Workers, IBEW; (*Registered, but did not testify*: Joe Garcia, TDHCA Manufactured Housing Division; Sacha Jacobson)

BACKGROUND: The Texas Manufactured Housing Standards Act (Occupations Code, ch. 1201) provides licensing and other requirements for manufacturers, retailers, brokers, salespeople, and installers of manufactured homes. The act is administered by the Manufactured Housing Division and its board, which are under the Texas Department of Housing and Community Affairs.

Established under sec. 1201.401, the Manufactured Homeowners' Recovery Trust Fund is an account in the general revenue fund used to compensate consumers who sustained certain kinds of damage from unsatisfied claims against manufactured housing licensees.

Other statutes related to manufactured housing include Finance Code, ch. 347, which governs credit transactions for the purchase of manufactured homes, and Property Code, ch. 63, which provides requirements for manufactured home liens.

DIGEST:

CSHB 2019 would make various changes to the Texas Manufactured Housing Standards Act and other manufactured housing laws. The bill would revise certain language and definitions, licensing requirements. and provisions related to habitability and abandonment.

Cost benefit analysis. The bill would require the Manufactured Housing Board to conduct a cost benefit analysis for any rule, policy, or process change that would increase a cost to license holders or consumers by more than $50. The board would have to present at its next meeting an analysis detailing whether the need for the change would justify the increase.

Trust fund. CSHB 2019 would change the name of the Manufactured Homeowners' Recovery Trust Fund to the Manufactured Homeowner Consumer Claims Program. It also would remove language identifying the trust fund as an account in the general revenue fund and would repeal its definition and other provisions relating to administration of the trust fund.

The Texas Department of Housing and Community Affairs would administer the consumer claims program to provide a remedy for damages from conduct prohibited by manufactured housing licensees. The department could make a payment under the program only after all other departmental operating expenses were sufficiently funded.

Habitability. CSHB 2019 would prohibit the Department of Housing and Community Affairs from requiring an inspection for habitability of a manufactured home before issuing a statement of ownership if the home was being transferred to a retailer. It still would have to inspect a manufactured home for habitability before issuing a statement of ownership if the home was being converted from real to personal property.

The bill would require a manufactured home to be habitable when sold for business use if the purchaser disclosed that someone would be present in the home for regularly scheduled work shifts of at least eight hours each day. A used home sold or exchanged for nonresidential, nonbusiness use would not have to be habitable.

Abandonment. If a manufactured home was abandoned on an individual's

land and the land owner applied for a statement of ownership of the home, CSHB 2019 would require the land owner to include in the application an affidavit stating that she or he owned the land and was listed in the current real property or tax records as the owner.

Deductions. If a consumer exercised the three-day right of rescission after purchasing a manufactured home, the bill would allow in certain circumstances the retailer to collect from a consumer in advance or deduct from a consumer's deposit or down payment the cost of title and appraisal expenses incurred.

Licensing. CSHB 2019 would require that if the failure rate for manufactured housing licensing examinations exceeded 25 percent, the Manufactured Housing Board would review the examination and its procedures and adopt rules to maintain historical passage rates.

If the approval of a continuing education program, which licensees currently must complete to renew their licenses, expired between board meetings, the director could approve the continued administration of the program until the next board meeting.

The bill also would allow certain unlicensed individuals to act as a retailer, broker, or salesperson for an entity if at least one person listed as an owner, principal, partner, corporate officer, registered agent, or related person of the entity was licensed. Failure to pay the fee to obtain or renew a license as a manufacturer, retailer, broker, salesperson, or installer of manufactured homes would be added to the list of reasons why a license could be denied, revoked, or suspended.

Publication of certain records. CSHB 2019 would require electronic public records to be published on the department's website, including ownership and lienholder information, installation records, license holder records, and enforcement actions.

Language and definitions. CSHB 2019 would repeal the term "lease-purchase" and its definition. It also would change the name of the manufactured home title document from "statement of ownership and location" (SOL) to "statement of ownership" (SO).

The bill would redefine "inventory" to mean new and used manufactured homes that a retailer had designated as inventory for sale and that were not used as residential dwellings when they received that designation. Chief appraisers would be required to appraise retail manufactured housing inventory as provided by the new definition. A licensed retailer acting as a warehouse and warehouseman would satisfy all storage, bonding, insurance, public sale, and security requirements if the storage of a manufactured home occurred on the retailer's lot and the home was secured in the same way the retailer secured manufactured homes held as inventory.

Certain references to federal law also would be amended.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 2019 would codify current industry practice, remove confusing language, and ensure that Texas law properly referenced federal law on manufactured housing.

The bill would add specific language to the manufactured homes laws to ensure current practices were reflected in statute. For example, the Texas Department of Housing and Community Affairs (TDHCA) currently publishes all public information regarding the sale and ownership of manufactured homes on its website, and the industry relies on this publication for business operations. The bill would codify this practice and protect the businesses that have come to rely on it.

CSHB 2019 would rename the Manufactured Homeowners' Recovery Trust Fund because it no longer functions as a trust, and the fees specifically created to fund it no longer are collected. The fund is currently a $300,000 line item in the budget funded by the activities of the department with money remaining after operating expenses are paid. The bill would clarify the misleading name and help set reasonable expectations for consumers regarding payout timing.

The bill would modernize licensing language that was developed when most businesses were owner operated. Now, manufactured home

businesses generally are larger entities, so the bill would define and expand who could act on behalf of a license holder. CSHB 2019 would define the term "inventory" for manufactured homes to clarify that inventory should be taxed as inventory, rather than personal property. The bill also would change the current name of the title to a manufactured home out of respect for buyers and their investment, eliminating an unfortunate acronym, SOL, which has a slang definition that many find offensive. CSHB 2019 would update references to now non-existent federal laws.

The bill would require the board to review the licensing examination if pass rates fell below 75 percent, protecting the industry from overly restrictive examinations. A large percentage of licensees are non-native English speakers, and the bill would help ensure that the exam remained appropriately rigorous but not so difficult that only a limited amount of people could pass.

OPPONENTS SAY:

CSHB 2019 unnecessarily would codify TDHCA's practice of publishing information related to manufactured home records on its website. This information already is made available by other sources to people who need it.

NOTES:

The committee substitute differs from the filed bill in a number of ways, including that CSHB 2019 would remove provisions related to the Manufactured Homeowners' Recovery Trust Fund and in its place establish the Manufactured Homeowner Consumer Claims Program.

CSHB 2019 was reported favorably as substituted by the House Committee on Licensing and Administrative Procedures on April 3, sent to Calendars on April 11, recommitted to committee, and again reported favorably on April 13.

SUBJECT: Creating cybersecurity-related requirements for state agencies

COMMITTEE: Government Transparency and Operation — committee substitute recommended

VOTE: 7 ayes — Elkins, Capriglione, Gonzales, Lucio, Shaheen, Tinderholt, Uresti

0 nays

WITNESSES: For — Sarah Matz, CompTIA; Justin Yancy, Texas Business Leadership Council; (*Registered, but did not testify*: Edward Henigin, Data Foundry, Inc.; Fred Shannon, Hewlett Packard; Wendy Reilly, HID Global; Buddy Garcia, NEC America; Juan Antonio Flores, Port San Antonio, San Antonio Chamber of Commerce; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Caroline Joiner, TechNet; Amanda Martin, Texas Association of Business; Stephanie Simpson, Texas Association of Manufacturers; Michael Goldman, Texas Conservative Coalition; Nora Belcher, Texas e-Health Alliance; Karen Robinson, Texas Technology Consortium; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Todd Kimbriel, Department of Information Resources; Aaron Blackstone and Bryan Lane, Department of Public Safety; Charlotte Willis, Health and Human Services Commission; Sacha Jacobson)

BACKGROUND: Government Code, sec. 2054.133 requires each state agency to develop an information security plan for protecting the security of the agency's information.

Sec. 2054.1125 requires a state agency to disclose any breach of system security as soon as possible to any individual whose sensitive personal information was or is believed to have been compromised.

DIGEST: CSHB 8 would establish the Texas Cybersecurity Act. It would create

certain cybersecurity-related requirements for all state agencies, establish a cybersecurity task force and select legislative committees, and require the production of certain studies and reports.

Cybersecurity task force. CSHB 8 would require the Department of Information Resources (DIR) to establish and lead a cybersecurity task force that included representatives of state agencies, including institutions of higher education, to engage in policy discussions and educate state agencies on cybersecurity issues. The task force would have certain duties, including:

- consolidating and synthesizing existing cybersecurity resources and best practices;
- assessing the knowledge, skills, and capabilities of the existing information technology (IT) and cybersecurity workforce;
- developing guidelines on cyber threat detection and prevention,
- recommending legislation to implement remediation strategies for state agencies; and
- providing opportunities for state agency technology leaders and members of the Legislature to participate in programs and webinars on cybersecurity policy issues.

The task force would be abolished on September 1, 2019, unless extended until September 1, 2021.

Plan to address cybersecurity risks and incidents. The Department of Public Safety (DPS) would be required to develop a plan to address cybersecurity risks and incidents. To develop the plan, the department could partner with a national organization and enter into an agreement that could include provisions to:

- develop and maintain a cybersecurity risks and incidents curriculum and conduct training and simulation exercises for state agencies, political subdivisions, and private entities to encourage coordination in defending against and responding to risks and incidents;
- provide technical assistance services to support preparedness for

and response to cybersecurity risks and incidents; and

- incorporate cybersecurity risk and incident prevention and response methods into existing state and local emergency plans.

In implementing the agreement, the department would be required to avoid unnecessary duplication of its or another agency's existing programs or efforts and consult with institutions of higher education.

Information sharing and analysis center. The bill would require DIR to establish and administer a center for state agencies to share information regarding cybersecurity threats, best practices, and remediation strategies. Persons from appropriate state agencies and the cybersecurity task force would be appointed as representatives to the center.

Information security plan. The bill would require the executive head and chief information security officer of each state agency to review annually and approve in writing the agency's information security plan. The executive head would retain full responsibility for the agency's information security and any risks to that security. An agency would have to file the written approval before submitting a legislative appropriation request.

In addition to what already is included in an information security plan, the bill would require an agency to provide steps taken to identify any information individuals had to provide or that the agency retained that was not necessary for the agency's operations. The plan also would have to include privacy and security standards that require a vendor offering cloud computing services or other IT solutions to demonstrate that data provided to the vendor would be maintained in compliance with state and federal law.

Independent risk assessment. At least once every five years, a state agency would be required to contract with a DIR-recommended independent third party to conduct a risk assessment of the agency's exposure to security risks and practice actions in the event of a breach.

The results of this assessment would be submitted to DIR, which would prepare an annual public report on the general security issues and an

annual confidential report on specific risks and vulnerabilities. DIR also would have to submit an annual comprehensive report to the Legislature providing recommendations to address any identified vulnerabilities.

Meetings to deliberate security devices or audits. The bill would permit all governmental bodies, not only DIR as under current law, to conduct a closed meeting to deliberate security assessments of information resources technology, network security information, or the deployment of personnel, critical infrastructure, or security devices.

Vulnerability reports. The bill would require, rather than permit as under current law, the information resources manager of a state agency to prepare or have prepared a report assessing the extent to which information technology of the agency was vulnerable to unauthorized access or harm.

Data security procedures for online and mobile applications. Except for institutions of higher education, each state agency with a website or mobile application that processes personally identifiable or confidential information would have to submit a data security plan to DIR during development and testing that included relevant security information defined in the bill.

Institutions of higher education would have to submit to DIR a policy for website and mobile application security procedures that included certain requirements for website or application developers.

Each agency would be required to subject a website or application to a vulnerability and penetration test prior to deployment.

Individual identifying information. A state agency would be required to destroy personally identifiable information if the agency was not statutorily required to retain the information for a period of years and develop policy to do so by September 1, 2019. This provision would not apply to a record involving a criminal activity or investigation retained for law enforcement purposes.

Security breach notification. A state agency that handled computerized

data that included sensitive personal information would have to notify DIR within 48 hours after the discovery of a breach or suspected breach of system security or unauthorized exposure of sensitive information. The agency also would be required to disclose a suspected breach of or unauthorized exposure of information to those affected as soon as possible.

Vendor responsibility for cybersecurity. A vendor that provided information resources technology or services for a state agency would be responsible for providing contracting personnel with written acknowledgement of any known cybersecurity risks identified in vulnerability and penetration testing of an agency's website or mobile application and a strategy for and costs associated with mitigating them. A vendor also would have to prove that any individual servicing the contract held certain industry-recognized certifications.

Purchase of cloud computing services. DIR would be required to periodically review guidelines on state agency information that could be stored by a cloud computing or other storage service to ensure that an agency selected the most affordable, secure, and efficient storage service. The guidelines would have to include privacy and security standards that required a vendor who offered storage or other IT-related services to demonstrate that the agency's data would be maintained in compliance with state and federal laws.

Security issues related to legacy systems. A state agency would have to include in a plan to mitigate information security issues related to legacy, or outdated, systems a strategy for mitigating any workforce-related discrepancy in cyber-related positions with the appropriate training and certifications, among other information specified in the bill.

Continuing education and industry-recognized certifications. CSHB 8 would require DIR to provide mandatory guidelines to state agencies regarding continuing education requirements for cybersecurity training and the industry-recognized certifications that would be completed by all information resources employees. A state agency could spend public funds to reimburse fees associated with certification examinations to an employee who served in a cyber-related position.

Study on digital data storage and records management. The DIR and the Texas State Library and Archives Commission would be required to conduct a study that examined state agency digital data storage and records management practices and the associated costs. The agencies would submit a report on the study to the lieutenant governor, the House speaker, and the legislative committees with appropriate jurisdiction by December 1, 2018.

Election cyberattack study. The bill would require the secretary of state to conduct a study regarding cyberattacks on election infrastructure that included an investigation of vulnerabilities and risks for a cyberattack against voting machines or the list of registered voters, information on any attempted attack, and recommendations for protecting voting machines and the list of voters. The secretary could contract with a qualified vendor to conduct the study. A copy of a public summary and a confidential report would have to be submitted to the legislative committees with appropriate jurisdiction by December 1, 2018.

Select committees on cybersecurity. The bill would require the lieutenant governor and the House speaker each to establish a five-member select committee to study cybersecurity in Texas, the information security plans of each agency, and the risks and vulnerabilities of state agency cybersecurity by November 30, 2017. The committees would jointly report to the Legislature any findings and recommendations by January 13, 2019.

Sunset review process. The bill would require the Sunset Advisory Commission to consider an assessment of an agency's cybersecurity practices during the Sunset review process. In this assessment, the commission could use available information from DIR or any other state agency.

Effective date. The bill would take effect September 1, 2017, and would not apply to the Electric Reliability Council of Texas.

SUPPORTERS SAY:

CSHB 8 would reduce Texas' vulnerability to cyberattacks by assessing risk at state agencies, increasing efforts to protect sensitive and

confidential data, closing the workforce skills gap, and ensuring that agencies have incident response plans. As the world becomes more reliant on digitally-connected infrastructure, cyber-related incidents can affect the economy, the government, and the lives of private citizens. Texas currently is behind other states in enacting cybersecurity initiatives. Therefore, it is critical to ensure agencies have the necessary tools to protect the state from the evolving world of sophisticated cyberattacks.

Investing in the state's cyber infrastructure and personnel would help to prevent serious losses of sensitive data, potentially saving millions of dollars in recovery services in the future. A significant state data breach could cost the state money and public trust. While there would be initial costs to implement the bill, these should decrease over time because the cost of maintaining the infrastructure would not be as significant as updating it.

Continuing education and industry-recognized certifications. The human factor is the most important component to cybersecurity. Agencies can expend resources on infrastructure, but if cyber-related personnel lack skills and training, the agency remains vulnerable. Also, workforce demand is high in cyber-related positions. The bill would prioritize workforce development and closing the IT skills gap to help the state build a more confident, skilled workforce by adding routine cyberhygiene training for state agency personnel and requiring continuing education for cyber-related personnel.

Independent risk assessment. Risk assessments are critical for proactively addressing security concerns. The bill would require the assessments to be conducted by a third party to ensure that a biased perspective did not sway the results. Allowing agencies to select from a list of vendors already approved by DIR would eliminate the burden on agencies to find their own vendors and could lead to economies of scale on state purchases while also standardizing the quality of the assessments.

Data security procedures for online and mobile applications. Requiring DIR to advise an agency in the development stage of a website or application would be a positive step for reducing vulnerabilities early in the process. The bill would provide measures to alleviate a potential

burden on DIR by allowing a state agency with a security plan previously approved by DIR to review subsequent plans internally, if the agency also had the sufficient personnel and technology to do so.

Individual identifying information. By requiring agencies to regularly destroy personally identifiable information, the bill would greatly reduce the chances of it being stolen. Spending thousands of dollars to destroy unnecessarily stored information could save agencies millions of dollars in the event of a breach. The bill also would give an agency two years from the effective date to comply, providing ample time for an agency to separate data if needed and to create policies on data storage.

Vendor responsibility for cybersecurity. The bill would ensure that the executive head of an agency retained full responsibility for the agency's information security and any associated risks.

Security breach notification. The bill would standardize reporting for when it was suspected that sensitive data had been compromised. It is important to require all agencies to be in the practice of notification so that DIR would be aware of each actual and suspected incident that occurred.

OPPONENTS SAY:

CSHB 8 would create additional burdens on state agencies that already are overwhelmed and underfunded. DIR already performs some of the functions required by the bill, creating an element of redundancy.

Independent risk assessment. The bill would require agencies to perform an independent risk assessment at least once every five years. By requiring the risk assessment to be performed by a third party, the bill would result in significant costs to agencies and to DIR.

Data security procedures for online and mobile applications. Currently, agencies control their websites and mobile applications, and DIR becomes involved only upon request. The bill would require DIR to review websites and applications during development, which could be burdensome and result in the department needing to seek out vendors and enter into new costly contracts to comply.

Individual identifying information. It could be costly for agencies to

destroy or arrange for the destruction of personally identifiable information. Some agencies do not separate data they collect based on its sensitivity. Thus, in addition to the costs for destruction, agencies would have to expend both time and money separating data.

Vendor responsibility for cybersecurity. The bill would require a vendor that provided cyber-related services for a state agency to submit written acknowledgement of any known cybersecurity risks identified in vulnerability and penetration testing and a strategy for them. However, because it appears the bill would not require agencies to address any discovered vulnerability, it is unclear whether the vendor or the agency would be liable in the event of a breach.

Security breach notification. The bill would require entities to notify the public not only in the event of a breach or suspected breach but also when an unauthorized exposure of information was discovered. An unauthorized exposure of information may not involve confidential information or result in a risk to the public. Requiring notification in these cases could be costly and burdensome for agencies.

OTHER OPPONENTS SAY:

CSHB 8 would be a necessary step for the state to take in creating a holistic approach to cybersecurity. However, if the bill's mandates went unfunded and agencies were not given the resources to comply, the state would be no less vulnerable than it already is.

NOTES:

Fiscal note. According to the Legislative Budget Board, the statewide fiscal implications could not be determined because the impact would be contingent on certain factors, such as an agency's existing IT infrastructure, current practices, and the number of full-time equivalent (FTE) positions currently supporting cyber-related functions. The LBB estimates that some agencies could incur significant costs. The cumulative impact to the Department of Public Safety would be estimated to be a cost of $6.1 million in general revenue funds, including three additional FTEs. Other costs to agencies could involve conducting independent risk assessments, performing vulnerability and penetration tests, and destroying information.

Comparison to bill as filed. CSHB 8 differs from the bill as filed in

several ways, including that the committee substitute would:

- authorize fee reimbursements to certain entities for appropriate industry-recognized certification examinations;
- allowing all governmental bodies to discuss cybersecurity related issues in a closed meeting;
- requiring the cybersecurity task force to address workforce gaps;
- adding in a state agency's information security plan that vendors would have to comply with applicable state and federal law;
- requiring that only high priority vulnerabilities, rather than all vulnerabilities, be identified before deploying a website;
- requiring written acknowledgement to be submitted by a vendor to a state agency;
- not requiring destruction of records kept for law enforcement purposes;
- requiring the secretary of state to study election cyberattacks, rather than the Texas Rangers; and
- other changes to reflect federal standards and current state agency practices.

SUBJECT: Changing certain groundwater permitting processes

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 7 ayes — Larson, Phelan, Ashby, Kacal, Lucio, Nevárez, Price

1 nay — T. King

3 absent — Burns, Frank, Workman

WITNESSES: For — Robert Puente, San Antonio Water System (SAWS); Sarah Schlessinger, Texas Alliance of Groundwater Districts; Bob Harden, Texas Association of Groundwater Owners and Producers; Doug Shaw, Upper Trinity Groundwater Conservation District; (*Registered, but did not testify*: Buddy Garcia, Aqua Texas; Shauna Fitzsimmons, Benbrook Water Authority, North Texas Groundwater Conservation District, Barton Springs Edwards Aquifer Conservation District; Kent Satterwhite, Canadian River Municipal Water Authority; Ed McCarthy, Fort Stockton Holdings LP, Clayton Williams Farms, Inc.; Jay Howard, Guadalupe-Blanco River Authority; Charles Flatten, Hill Country Alliance; Sarah Floerke Gouak, Lower Colorado River Authority; C.E. Williams, Panhandle Groundwater Conservation District; Katherine Carmichael, Panhandle Producers and Royalty Owners Association; Jim Conkwright, Prairielands Groundwater Conservation District; Steve Kosub, San Antonio Water System (SAWS); Kerry Cammack, SouthWest Water Company; Bill Stevens, Texas Alliance of Energy Producers; Jason Skaggs, Texas and Southwestern Cattle Raisers Association; Felicia Wright, Texas Assn. of Builders; Stephen Minick, Texas Association of Business; Kyle Frazier, Texas Desalination Association; Jim Reaves, Texas Farm Bureau; Elizabeth Doyel, Texas League of Conservation Voters; Cory Pomeroy, Texas Oil and Gas Association; Michael Geary, The Texas Conservative Coalition)

Against — Judith McGeary, Farm and Ranch Freedom Alliance; (*Registered, but did not testify*: Ryan Simpson, League of Independent Voters; Michael Barba, Texas Catholic Conference of Bishops; Robyn Ross; Conrad Walton Jr)

On — Ken Kramer, Sierra Club - Lone Star Chapter

BACKGROUND: Under Water Code, sec. 36.113, a groundwater conservation district (GCD) requires a permit to drill, equip, operate, or complete a well. A district may require certain information to be included in the permit application for it to be considered administratively complete.

Sec. 36.122 authorizes a GCD to promulgate rules requiring a person to obtain a permit to transfer groundwater out of the district. A GCD may not impose more restrictive permit conditions on transporters than on in-district users, unless those conditions meet certain requirements and are reasonably necessary to protect existing use.

DIGEST: CSHB 31 would amend permit requirements related to operating wells and exporting water outside of a groundwater conservation district (GCD).

Exporting permits. CSHB 31 would prohibit a GCD from requiring a separate permit to export groundwater outside of the district and would allow an operating permit to cover the production and export of water. The bill also would repeal requirements and procedures related to exporting permits from Water Code, ch. 36. A GCD also could not deny a permit because the applicant intended to export groundwater for use outside the district.

The term of an exporting permit that existed on May 29, 2017, would automatically be extended to the term of an operating permit for the production of the exported water. A permit that was automatically extended would continue to be subject to its original conditions.

Operating permit moratorium. CSHB 31 would prohibit a GCD from adopting a moratorium on issuing operating permits or permit amendments unless the district conducted a public hearing and made written findings supporting the moratorium.

The GCD would have to publish notice of the date, time, and place of the public hearing in a newspaper generally circulated in the district at least four days before the hearing. By the 12th day after the hearing, the district

would be required to determine whether to impose a moratorium.

A moratorium would expire after 90 days and could not be extended. A moratorium adopted by a GCD before September 1, 2017, would expire after November 30, 2017.

Operating permit applications. Under the bill, a district could require only certain information for an operating permit application to be considered administratively complete, including information reasonably related to an issue that the GCD could consider under Water Code, ch. 36 or a special law governing the district.

Before granting or denying an operating permit, a district also would have to consider whether the proposed production of water would unreasonably affect aquifer conditions, depletion, or subsidence. Only the district rules in effect when an operating permit application was submitted could govern the district's decision to grant or deny the permit. A GCD could not require an applicant to include additional information to gain administrative completeness.

Effective date. The bill would take effect September 1, 2017, and would prevail over other legislation passed by the 85th Legislature.

SUPPORTERS SAY:

CSHB 31 would remove impediments to developing groundwater resources throughout the state by streamlining the operating permit application process. The bill would eliminate exporting permits, allowing landowners who had obtained operating permits to transport the water they rightfully owned outside a groundwater conservation district (GCD). The exporting permits are not necessary because water that is transported by agricultural irrigation or through certain commodities does not need a permit.

The bill would require GCDs to consider a permit application according to rules in place when the application was submitted. This would ensure that the rules were not changed in the middle of the process, unnecessarily using up valuable time and resources by considering the application incomplete.

While moratoria on permit applications are sometimes necessary, this bill would make a positive change by limiting a moratorium to 90 days so an application could not be suspended indefinitely. A GCD also would have to seek public opinion of a proposed moratorium, increasing the transparency of the process.

The bill would clarify that GCDs were prohibited from discriminating against exporters when issuing operating permits. Landowners who use their property rights to transport water out of a district should have the same permit conditions as landowners using water in-district.

CSHB 31 also would provide certainty and efficiency in the administrative phase of an operating permit application process by clarifying the requirements for administrative completeness. A GCD could not require additional information for an application to be administratively complete, keeping the process clear and uniform.

A district's ability to safeguard aquifer levels would not be eliminated. The bill would require GCDs to consider in an operating permit application whether the projected production of water would affect aquifer levels.

OPPONENTS SAY:

CSHB 31 would remove district flexibility by eliminating a GCD's ability to issue groundwater exporting permits. Districts across the state have different water needs and should reserve the right to keep water inside district boundaries for aquifer recharge and other purposes.

Equating crop irrigation to exporting water ignores important scientific and economic differences between these processes. Through irrigation, water filters down into the soil or runs off into other water sources, remaining within the GCD. A separate exporting permit is needed to address actual groundwater exportation out of a district.

The automatic extension of existing exporting permits also could negatively affect a GCD's ability to manage groundwater. The bill would remove language relating to exporting permits from Water Code, ch. 36, including the ability for a district to review the amount of water that may be transferred under the permit. A district could not change the terms of

an exporting permit to ensure that the volumes authorized did not harm aquifer levels or water sustainability.

The bill could allow permit applicants to take advantage of changing district rules because it would require applications to be processed according to the district rules in place at the time of submission. Applicants could rush to submit applications before an imminent rule change, undermining the changing water needs of GCDs.

OTHER OPPONENTS SAY:

Certain provisions of CSHB 31 would be unnecessary. For example, GCDs already are prohibited from imposing more restrictive permit conditions on exporters than on in-district users.

NOTES:

The committee substitute differs from the filed bill in certain ways, including that CSHB 31 would:

- amend what a district could require for administrative completeness of a permit application to include information reasonably related to a special law governing a district;
- change the requirement to post notice of a public hearing on a proposed moratorium from "on the fourth day" to "on or before the fourth day" prior to the hearing; and
- specify that, to the extent of any conflict, HB 31 would prevail over other legislation of the 85th Legislature.