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HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, May 08, 2017
85th Legislature, Number 66
The House convenes at 10 a.m.
Part Two

Twelve bills set for second-reading consideration on today's daily calendar are analyzed or digested in Part Two of today's *Daily Floor Report*. They are listed on the following page.

Dwayne Bohac
Chairman
85(R) - 66

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Monday, May 08, 2017

85th Legislature, Number 66

Part 2

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SUBJECT: Requiring health care facilities to report abortion complications

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 8 ayes — Cook, Craddick, Guillen, K. King, Kuempel, Meyer, Paddie, Smithee

3 nays — Giddings, Farrar, E. Rodriguez

2 absent — Geren, Oliveira

WITNESSES: For — Kyleen Wright, Texans for Life; Joe Pojman, Texas Alliance for Life; Jennifer Allmon, The Texas Catholic Conference of Bishops; (*Registered, but did not testify*: Tim Ottinger, Catholic Health Association of Texas; Gus Reyes, Christian Life Commission of Texas Baptists; Jenny Andrews, Elisabeth Wheatly, Texas Alliance for Life; Elizabeth Graham, Emily Kebodeaux, and John Seago, Texas Right to Life; Nicole Hudgens and Jonathan Saenz, Texas Values Action; Cindy Asmuseen; Trayce Bradford; Dana Hodges; Debra McDaniels)

Against — Blake Rocap, NARAL Pro-Choice Texas; (*Registered, but did not testify*: Rebecca Robertson, ACLU of Texas; Juliana Kerker, American Congress of Obstetricians and Gynecologists-Texas District, Texas Association of Obstetricians and Gynecologists; Carla Blakey, Julie Fleming, and Courtney Szigetvari, Left Up To Us; Zoe Fay-Stindt, Literary Women in Action; Lucy Stein, Progress Texas; Katherine Miller, Texas Freedom Network; Lauren Kreeger, The League of Women Voters of Texas; John Burleson, Travis County Resistance; Chuck Freeman, Texas Unitarian Universalist Justice Ministry; and 20 individuals)

On — Julie Chicoine, Texas Hospital Association; (*Registered, but did not testify*: Jeffrey Swanson and Patrick Waldron, Texas Department of State Health Services; Michelle Romero, Texas Medical Association)

BACKGROUND: 25 TAC part 1, ch. 139, subch. A, sec. 139.5 requires abortion facilities to complete an induced abortion report form for each abortion performed.

The form includes a section to report complications of abortion.

DIGEST: CSHB 2962 would require reporting of abortion complications and add a civil penalty for facilities that failed to comply.

Facilities that would be required to file the quarterly reports would include hospitals, abortion facilities, freestanding emergency medical care facilities, and health care facilities that provide emergency care. A facility that violated the reporting requirements would be subjected to a $500 penalty for each violation. Each day of a continuing violation would constitute a separate ground for recovery. The third separate violation would constitute cause for revoking or suspending a facility's license, permit, registration, certificate, or other authority or for other disciplinary action by the Department of State Health Services.

The bill would define abortion complication to mean any harmful event or adverse outcome for a patient related to an abortion that is diagnosed or treated by a health care practitioner or at a health care facility. Complications would include shock, uterine perforation, cervical laceration, hemorrhage, aspiration or allergic response, infection, sepsis, death of the patient, incomplete abortion, damage to the uterus, or an infant born alive after the abortion.

The Department of State Health Services would be required to develop the reporting form and publish the results annually on its website. A report could not identify the physician performing an abortion or the patient.

A report would identify the name and type of facility submitting the report and would have to include, if known:

- the date of the abortion that caused or may have caused the complication;
- the type of abortion that caused or may have caused the complication;
- the gestational age of the fetus when the abortion was performed;
- the name and type of facility in which the abortion was performed;
- the date the complication was diagnosed or treated;

- the name and type of any facility other than the reporting facility in which the complication was diagnosed or treated;
- a description of the complication;
- the number of previous live births and previous induced abortions of the patient.

Except for public information required under Health and Safety Code, sec. 245.023, all information and records held by DSHS would be confidential and not subjected to state open records laws. It could not be made public on subpoena or otherwise. Release of information and records could be made:

- for statistical purposes, but only if a person, patient, or facility was not identified;
- with the consent of each person, patient, and facility identified in the information released;
- to medical personnel, appropriate state agencies, or county and district courts to enforce the chapter; or
- to appropriate state licensing boards to enforce state licensing laws.

A report would be required to meet the federal reporting requirements that mandate the most specific, accurate, and complete coding and reporting.

By January 1, 2018, DSHS would be required to develop the forms required under the bill and the Health and Human Services Commission's executive commissioner would be required to adopt rules as necessary to implement the bill's provisions.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 2962 would provide more accurate disclosure of complications from abortions by requiring reports from hospitals and other health facilities where women had been treated for abortion-related complications. This data would provide better information about the strengths and weaknesses of Texas abortion laws, allowing legislative responses if necessary to protect the health and safety of women.

Current reporting requirements lack the specificity needed to determine that a complication was connected to an abortion. In 2016, the U.S. Supreme Court, in *Whole Woman's Health v. Hellerstedt*, struck down requirements passed by the Legislature in 2013 that abortions be performed in surgical centers and doctors have admitting privileges in a nearby hospital. The court said evidence presented in the district court showed that before the passage of the bill abortion in Texas was extremely safe with particularly low rates of serious complication. The bill would help ensure that in the future Texas has data to support legislation passed to improve women's health and safety.

OPPONENTS SAY:

CSHB 2962 would mandate medically unnecessary reporting while not requiring other reporting that could be helpful to researchers, such as complications from self-induced abortions. It could result in some complications being double counted by requiring reporting of both uterine perforation and damage to the uterus. The bill would not require the reporting of other information that could impact the health and safety of abortion such as the name of the physician that performed the abortion. Texas officials should be able to identify a doctor who was performing unsafe abortions.

Before creating a new regulatory burden, the Legislature should require the Department of State Health Services to convene a work group of hospitals and physicians to simplify abortion-related reporting forms.

NOTES:

The Legislative Budget Board fiscal note states that the bill could result in costs for local hospitals to comply with the reporting requirements but that those costs could not be determined.

A companion bill, SB 1602 by Campbell, was reported engrossed by the Senate on May 2.

SUBJECT: Limiting duty to defend provisions in certain state agency contracts

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Smithee, Farrar, Gutierrez, Laubenberg, Murr, Neave, Rinaldi, Schofield

0 nays

1 absent — Hernandez

WITNESSES: For — Steve Stagner, American Council of Engineering Companies of Texas; Jim Susman, Texas Society of Architects; (*Registered, but did not testify*: Michael Chatron, AGC Texas Building Branch; Jon Fisher, Associated Builders and Contractors of Texas; David Lancaster, Texas Society of Architects; Ed Mazanec)

Against — None

On — (*Registered, but did not testify*: Perry Fowler, Texas Water Infrastructure Network)

BACKGROUND: Government Code, ch. 2254, subch. A is the Professional Services Procurement Act. Sec. 2254.0031 allows a state governmental entity to require a contractor to indemnify or hold harmless the state from claims and liabilities resulting from negligent acts or omissions of the contractor or its employees. A state governmental entity may not require a contractor to indemnify or hold harmless the state for claims or liabilities resulting from the negligent acts or omissions of the state governmental entity or its employees.

Local Government Code, sec. 271.904 establishes that promises in contracts providing that a licensed engineer or registered architect whose work product is the subject of the contract must indemnify or hold harmless the governmental agency against liability for damage are void and unenforceable, except for in certain circumstances. This section allows the governmental agency to require the engineer or architect to

name the governmental agency as an additional insured on its general liability insurance policy.

Observers suggest that state agencies requiring certain contractors to defend the state for claims or liabilities resulting from the negligent acts or omissions of the state governmental entity or its employees is inconsistent with the idea that parties to a contract be responsible for their own negligence.

DIGEST:

CSHB 3021 would establish that a state or governmental entity could not require a contractor to defend the state for claims or liabilities resulting from the negligent acts or omissions of the state governmental entity or its employees.

The bill also would make the laws established in Local Government Code, sec. 271.904(a)-(e) applicable to contracts between state agencies and an architect or engineer for their services under the Professional Services Procurement Act. State agencies would include a department, commission, board, office, or other agency in the executive or legislative branch, including a higher education institution, as well as entities in the judicial branch.

This bill would take effect on September 1, 2017, and would apply only to a contract for which a request for proposals or a request for qualifications was first published or distributed on or after that date.

NOTES:

A companion bill, SB 1953 by Hughes, was referred to the Senate Committee on Business and Commerce on March 27.

SUBJECT: Requiring vacation leave time accounts for firefighter organizations

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 4 ayes — Alvarado, Bernal, Elkins, J. Johnson

1 nay — Isaac

2 absent — Leach, Zedler

WITNESSES: For — Mike Clements, Texas State Association of Fire Fighters; (*Registered, but did not testify*: David Crow, Arlington Professional Fire Fighters; Rob Gibson, Fort Worth Firefighters Association; Michael Glynn, Fort Worth Firefighters Association - IAFF Local 440; Johnny Villarreal, Houston Fire Fighters Local 341; Aidan Alvarado, David Gonzalez, and Rolando Solis, Laredo Fire Fighters Association; Michael Silva, Mission Fire Fighters Association; Glenn Deshields, Texas State Association of Fire Fighters)

Against — Bill Peacock, Texas Public Policy Foundation; (*Registered, but did not testify*: Brian England, City of Garland)

DIGEST: CSHB 3015 would require municipalities to establish and maintain a vacation leave time account for each firefighter employee organization.

Firefighters could donate accumulated vacation time to the vacation leave time account of their employee organization by authorizing the donation in writing on a form provided by the organization. The bill would allow only firefighters who were members of an employee organization to use donated vacation time from that organization. Firefighters could use the donated vacation time without receiving a reduction in salary and without reimbursing the municipality.

A request to use vacation time would need to be submitted in writing to the municipality by the president, equivalent officer, or the officer's designee of the employee organization at least three days before the date for which the vacation time was requested. The fire chief or the chief's

designee would have to approve vacation time before it could be used. The chief or designee would be required to approve all requests unless the operational needs of the department justified denial of a request.

The municipality would be required to account for all vacation time donated and used from each account and would have to credit and debit the vacation time on an hour-for-hour basis regardless of the cash value of the vacation time donated or used.

The bill would take effect September 1, 2017.

SUPPORTERS SAY:

CSHB 3015 would help prevent injured or sick firefighters who run out of sick leave or vacation time from taking unpaid leave, which can have serious financial repercussions. Firefighting includes hazards and unpredictable schedules, and firefighters can run out of sick leave or vacation time due to illness or injury. The bill would allow them to donate time to help sick or injured colleagues by requiring cities to maintain vacation leave time accounts for firefighter employee organizations. Only some cities provide such accounts, and the agreement structure is inconsistent across municipalities. Under the bill, firefighters could donate to and withdraw from these accounts as needed. The accounts would use existing vacation time and not cost municipalities additional funds.

CSHB 3015 would establish sufficient oversight of the accounts because requests for time would be submitted to the municipality and reviewed by the fire chief. Vacation time allocated through the account would go directly to firefighters, rather than unions or firefighter organizations, meaning the bill would not allow for illegal gift giving of public money to a private organization.

OPPONENTS SAY:

CSHB 3015 could allow for the use of vacation leave time accounts for gift giving of public funds for private interests. Because firefighter employee organizations would have control of the accounts, rather than municipalities, the possibility would exist for the private organization to misuse or misappropriate pooled vacation time hours to certain members of the organization for private use.

SUBJECT: Setting requirements for state employees to use donated sick leave

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Cook, Giddings, Craddick, Farrar, Geren, Guillen, K. King, Kuempel, Meyer, Paddie, E. Rodriguez, Smithee

0 nays

1 absent — Oliveira

WITNESSES: For — (*Registered, but did not testify*: Joe Hamill, American Federation of State, County and Municipal Employees)

Against — None

On — (*Registered, but did not testify*: Rob Coleman, Comptroller of Public Accounts)

BACKGROUND: Government Code, sec. 661.002 requires state agencies to establish programs allowing employees to voluntarily transfer sick leave earned by the employee to a sick leave pool. Sec. 661.004 allows employees to use time contributed to the sick leave pool if they have exhausted their own sick leave because of a catastrophic illness or injury or a previous donation of time to the pool.

Sec. 661.207 allows an employee to donate any amount of accrued sick leave to another employee at the same agency who has exhausted his or her own sick leave in addition to any time the individual may be eligible to withdraw from a sick leave pool.

Some have suggested the IRS could view sick leave donated from one employee to another as a taxable "gift" because current law on sick leave pools does not explicitly state that it should be used only for severe illness. Some say the current program also could be vulnerable to abuse, as it does not require an employee to have exhausted all available paid leave, including time from a sick leave pool, before being eligible to

receive employee donated sick leave.

DIGEST: CSHB 2757 would establish that employees of a state agency would be eligible to receive donated sick leave from another employee if they:

- were experiencing a medical emergency or caring for an immediate family member experiencing one;
- had exhausted all paid leave available to them because of the medical emergency, including time from a sick leave pool; and
- had provided their employer with a written statement from the licensed practitioner treating them or a family member that provided sufficient information for the state agency to determine whether employees or their family members were experiencing a medical emergency.

The bill would define "medical emergency" as a severe medical condition that affected the mental or physical health of an employee or the employee's immediate family, required treatment by a licensed practitioner, and required the employee's prolonged absence from work.

CSHB 2757 also would allow an employee of a state agency to return donated sick leave to a sick leave pool.

The bill would take effect September 1, 2017, and would apply only to donations of sick leave made on or after that date.

NOTES: The companion bill, SB 2018 by Creighton, was referred to the Senate Business and Commerce Committee on March 27.

SUBJECT: Implementing a standard definition of abortion

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Cook, Giddings, Craddick, Farrar, Geren, Guillen, K. King, Kuempel, Meyer, Oliveira, E. Rodriguez, Smithee

0 nays

1 absent — Paddie

WITNESSES: For — Emily Ponte, Foundation for Life; Jennifer Allmon, The Texas Catholic Conference of Bishops; Kyleen Wright, Texans for Life; (*Registered, but did not testify*: Herman Jadloski, Life Advocates, Foundation for Life; Judy Vatterott, Life Advocates; Jenny Andrews, Deirdre Cooper, Joe Pojman, and Elisabeth Wheatley Texas Alliance for Life; Kathryn Freeman, Texas Baptists Christian Life Commission; Linda Townsend, Texas Catholic Health Association; Dana Blanton)

Against — None

On — Andy Prior, Equal Protection for Posterity; (*Registered, but did not testify*: Jonathan Huss, Department of State Health Services; Alexa Garcia-Ditta)

BACKGROUND: State law contains different definitions of abortion. Interested observers say the variety of definitions create confusion and that state law would benefit from uniformity in the definition of abortion.

DIGEST: CSHB 3771 would adopt a new definition of abortion under Health and Safety Code, sec. 245.002(1) relating to licensing of abortion facilities. It would apply that definition in place of existing definitions in other parts of the Health and Safety Code and the Family Code.

The bill would define abortion as:

> the act of using or prescribing an instrument, a drug, a medicine, or

any other substance, device, or means with the intent to terminate a clinically diagnosable intrauterine pregnancy of a woman, including the elimination of one or more unborn children in a multi-fetal pregnancy, and with knowledge that the termination by those means will, with reasonable likelihood, cause the death of the woman's unborn child. An act is not an abortion if the act is done with the intent to:

- save the life or preserve the health of an unborn child;
- remove a dead, unborn child whose death was caused by spontaneous abortion; or
- remove an ectopic pregnancy.

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.

SUBJECT: Requiring notice of supervision or conservatorship to an agent's company

COMMITTEE: Insurance — favorable, without amendment

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

0 nays

WITNESSES: For — (*Registered, but did not testify*: Jay Thompson, AFACT; Kari King, USAA)

Against — None

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

BACKGROUND: **Supervision**. Insurance Code, sec. 441.053 requires the commissioner of insurance to place on supervision insurance agents who have exceeded their powers, been determined insolvent, or otherwise broken the law. Sec. 441.104 allows the commissioner to prohibit insurers on supervision from certain acts without prior approval, including making investments and loans, transferring property, incurring debt, merging with another company, and terminating a policy.

Conservatorship. Insurance Code, sec. 441.151 allows the commissioner to appoint a conservator for insurance agents who have exceeded their powers, been determined insolvent, or otherwise failed to comply with the commissioner's requirements if the commissioner determines that supervision would be inadequate to rehabilitate the insurer.

Sec. 441.153 requires an appointed conservator to take charge immediately of the insurer and the insurer's property, books, records, and effects, conduct the insurer's business, and attempt to remove the causes and conditions that led to the insurer being placed under conservatorship.

Confidentiality. Insurance Code, sec. 441.201 states that all hearings,

orders, notices, correspondence, reports, records, and other information possessed by the Texas Department of Insurance concerning the supervision or conservatorship of an insurer are confidential for the duration of supervision or conservatorship.

Observers note that due to confidentiality requirements, insurance companies being represented by an appointed agent who is under supervision or conservatorship may not be aware of it. Some suggest modifying the confidentiality requirement to ensure notice was given to relevant insurers to enhance accountability and decision-making in regulating insurance agents and practices.

DIGEST:

HB 2542 would require the commissioner of insurance to provide written notice of an insurance agent's placement under supervision or conservatorship to each insurer that the agent was appointed to represent. The commissioner would have to provide this notice on the date the agent's supervisor or conservator was appointed.

The bill would take effect September 1, 2017, and would apply to an order of supervision or conservatorship issued on or after that date.

SUBJECT: Requiring certain findings in support of a receiver's appointment

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 4 ayes — Dutton, Biedermann, Cain, Schofield

1 nay — Dale

2 absent — Moody, Thierry

WITNESSES: None

BACKGROUND: Family Code, 6.502(a)(5) allows a court to appoint a receiver in a divorce case to preserve and protect disputed property.

Some observers have suggested that transparency could be lacking in some receivership appointments in divorce proceedings.

DIGEST: HB 2703 would require that a court issue written findings of fact and conclusions of law in support of appointing a receiver in divorce cases within seven days of such an appointment.

In cases where the court waived the issuance of a bond between the spouses in connection with the receiver's appointment, the bill would require the court to include an explanation of the reasons why it dispensed with the bond issuance.

The bill would take effect September 1, 2017.

SUBJECT: Creating a specialty court for certain public safety employees

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Smithee, Farrar, Gutierrez, Laubenberg, Murr, Neave, Schofield

1 nay — Rinaldi

1 absent — Hernandez

WITNESSES: For — (*Registered, but did not testify*: Chris Jones, Combined Law Enforcement Associations of Texas (CLEAT))

Against — Ed Heimlich, Citizens United for Accountable Government

On — (*Registered, but did not testify*: William Mills, Sheriff Association; Darwin Hamilton)

DIGEST: HB 3391 would authorize a county commissioners court to establish a public safety employees treatment court program, or two or more courts could coordinate to establish a regional program. The public safety employees treatment court program would be a specialty court that existed for persons arrested or charged with a misdemeanor or felony. Those eligible to participate in the program would be peace officers, firefighters, detention officers, county jailers, or emergency medical services employees of the state or a political subdivision who met certain criteria.

An eligible defendant would have to choose to participate or otherwise go through the criminal justice system. The attorney representing the state would be required to consent to the participation. To be eligible, the defendant would have to be a current or former public safety employee:

- who suffered from a brain injury, mental illness, or mental disorder that occurred during or resulted from the defendant's duties as a public safety employee and affected the criminal conduct at issue; and
- whose participation in the program was likely to achieve the

objective of ensuring public safety through rehabilitation.

The bill would outline the duties of a public safety employees treatment court program. These would include ensuring a defendant was provided legal counsel before volunteering for the program, providing participants with individualized treatment plans, allowing a participant to withdraw at any time before a trial on the merits had been initiated, and ensuring the jurisdiction of the program continued for a period of at least six months but not longer than the period of community supervision for the offense charged. Programs would have to establish and publish local procedures aimed to ensure maximum participation of eligible defendants. A program could allow participants to comply with the treatment plan or fulfill certain other court obligations through the use of videoconferencing or other internet-based communications.

The bill would allow a program to transfer responsibility for supervising a defendant to another public safety employees treatment court program in the county where the defendant worked or lived if the defendant and both programs consented. Responsibility for the defendant would return to the original program if the defendant did not complete the program.

If the defendant was charged with an offense in a county without a program, the court where the case was pending could place the defendant in a program in a county where the defendant worked or resided if the defendant agreed to the placement.

If a defendant successfully completed a public safety employees treatment court program, after notice to the attorney representing the state and a hearing in the treatment court where it was determined that a dismissal was in the best interest of justice, the court in which the criminal case was pending would be required to dismiss the case.

A treatment court program would be authorized to collect a program fee of not more than $1,000 from participants, as well as a testing, counseling, and treatment fee in an amount necessary to cover costs. Fees could be paid on a periodic or deferred payment schedule and would have to be based on the participant's ability to pay. HB 3391 also would add the public safety employees treatment court program to the specialty courts

receiving funding from certain civil penalties and from the $60 court cost conferred on individuals convicted of certain intoxication and drug convictions.

The governor's Specialty Courts Advisory Council would make recommendations to the criminal justice division on best practices for public safety employees treatment court programs.

This bill would take effect September 1, 2017.

SUPPORTERS SAY:

HB 3391 would closely mirror the existing veterans treatment court program and create the same opportunity for Texas public safety servants who were arrested or charged with an offense to receive individualized treatment and potentially have their cases dismissed. Public safety professionals such as firefighters, peace officers, and detention officers face high levels of danger and stress, and they deserve recognition of that fact and help with any corresponding negative mental health effects.

HB 3391 would provide an option for otherwise upstanding citizens to participate in a program to address the root cause of their work-related mental health issues. The bill would afford them the chance to once again become productive members of society.

OPPONENTS SAY:

HB 3391 would set apart a class of Texans to receive special privileges and treatment for types of mental conditions that those in the private sector can suffer from just as easily. The bill could put public safety employees above the law by allowing the consequences of their criminal conduct to be less than those of others. The foundation of the law is that all people should be treated equally, and HB 3391 would be outside the role that a limited government should play in providing equal justice.

NOTES:

The Legislative Budget Board's fiscal note estimates that the bill would have a positive, but indeterminate, fiscal impact to the state depending on the number of program participants and associated revenue from fees.

SUBJECT: Providing for participation in interstate voter matching programs

COMMITTEE: Elections — favorable, without amendment

VOTE: 5 ayes — Laubenberg, R. Anderson, Fallon, Larson, Swanson

2 nays — Israel, Reynolds

WITNESSES: For — Ed Johnson, Harris County Clerk's Office; Alan Vera, Harris County Republican Party Ballot Security Committee; Bill Fairbrother, Texas Republican County Chairmen's Association; (*Registered, but did not testify*: Cary Roberts, County and District Clerks' Association of Texas; George Hammerlein, Harris County Clerk's Office; Chris Davis, Texas Association of Elections Administrators; Donald Lee, Texas Conference of Urban Counties; Thomas Parkinson)

Against — Glen Maxey, Texas Democratic Party; (*Registered, but did not testify*: Yannis Banks, Texas NAACP)

On — Cinde Weatherby, League of Women Voters of Texas; Keith Ingram, Texas Secretary of State, Elections Division; (*Registered, but did not testify*: Brantley Starr, Texas Office of the Attorney General)

BACKGROUND: In 2015, the 84th Legislature enacted SB 795 by Perry, which required the secretary of state to cooperate with other states and jurisdictions to develop systems to compare voters, voter history, and voter registration lists to identify voters whose addresses have changed. Any system developed must be compliant with the National Voter Registration Act (52 U.S.C. ch. 205), which establishes requirements that must be met before a state may remove a voter from its list of eligible voters.

Two programs are currently available to states to directly compare voter registration data: the Kansas Interstate Crosscheck Program and the Electronic Registration Information Center (ERIC).

DIGEST: HB 3422 would allow the secretary of state to disclose voter information, including a voter's date of birth and the last four digits of a voter's social

security number, for the purposes of participating in a system that would compare voters, voter history, and voter registration lists with other states.

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 3422 would give the secretary of state permission to disclose the information required for participation in the Kansas Interstate Crosscheck Program. Providing the option for participation in this program could help the secretary of state maintain the integrity of Texas voter registration rolls by identifying duplicate registrations without increasing costs to the state.

While some say Texas should not participate in the Kansas program because the Electronic Registration Information Center (ERIC) is preferable, the Kansas program shares data with its member states and stores data for one year. Texas also could participate in the Kansas program at no cost, while participation in ERIC requires an initial cost to join and a membership fee.

OPPONENTS SAY:

HB 3422 would allow the secretary of state to participate in the Kansas Interstate Crosscheck Program, which does not protect data well nor filter it adequately. The ERIC system, started by the Pew Charitable Trusts, uses different and more accurate information and encrypts the data to better protect voters. The ERIC program also would let each state know about those who were eligible to register to vote but not currently registered.

SUBJECT: Amending water rights for aquifer storage and recovery projects

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 11 ayes — Larson, Phelan, Ashby, Burns, Frank, Kacal, T. King, Lucio, Nevárez, Price, Workman

0 nays

WITNESSES: For — Heather Harward, Texas Water Supply Partners; (*Registered, but did not testify*: Larijai Francis and Tom Tagliabue, City of Corpus Christi, Corpus Christi Aquifer Storage and Recovery Conservation District; Shauna Fitzsimmons, Prairielands GCD; Hope Wells, San Antonio Water System; Stephen Minick, Texas Association of Business; Justin Yancy, Texas Business Leadership Council; Billy Howe, Texas Farm Bureau; Wiley Cloud, Texas Onsite Wastewater Association; Perry Fowler, Texas Water Infrastructure Network (TXWIN); Robert Turner, West Texas Ground Water Management Alliance; Randy Chelette; Ron Suchecki)

Against — Myron Hess, National Wildlife Federation; Ken Kramer, Sierra Club - Lone Star Chapter

On — L'Oreal Stepney, TCEQ; (*Registered, but did not testify*: Charles Maguire, TCEQ)

BACKGROUND: Water Code, sec. 27.151 defines "aquifer storage and recovery project" as a project involving injection of water into a geologic formation for later recovery and use. Sec. 11.1471 requires the Texas Commission on Environmental Quality (TCEQ) to adopt appropriate environmental flow standards for each river basin in the state that are adequate to support the ecological environment. Some observers have suggested that barriers to permits allowing the use of water for aquifer storage and recovery projects be removed so additional water could be used in such projects.

DIGEST: HB 3991 would authorize the Texas Commission on Environmental Quality (TCEQ) to issue new rights to divert or use state water, or amend existing water rights, for use in an aquifer storage and recovery project.

New water rights for excess flows. HB 3991 would allow an aquifer storage and recovery (ASR) project to use water derived from multiple sources, including a new appropriation of water.

A water right or an amendment to a water right for a new appropriation of water to use in an ASR project would have to include any special conditions TCEQ considered necessary. The water right could be for water that was not continuously available and could allow the diversion and use of excess flows from a stream that would otherwise flow into the Gulf of Mexico. The bill would prohibit a water right from negatively affecting existing water rights in the same river basin or applicable environmental flow standards.

Before approving an application for a water right for a new appropriation of water in the Rio Grande basin for an ASR project, TCEQ would have to consider the water accounting requirements for any international water sharing treaty. TCEQ could not approve a new appropriation of water that would violate a treaty or court decision.

Amendments to existing water rights. The holder of a water right for storage in a reservoir that had not been constructed could file an application to amend the water right for storage in an aquifer as part of an ASR project.

An application for converted water use could request an increase in the amount of water that could be diverted on the basis of an evaporation credit. This credit would take into account the amount of water that would have evaporated if the reservoir had been constructed.

The bill would exempt an application from notice and hearing requirements and could not be referred to the State Office of Administrative Hearings if it did not request an increase in the amount of water diverted or a change in the diversion point. An application that did request these changes would be subject to notice and hearing requirements.

If TCEQ granted an application to convert water use, the commission

would have to include in the amendment any special conditions necessary to protect existing water rights and comply with any applicable environmental flow standards.

Expedited application procedures. TCEQ could adopt rules providing an expedited procedure to act on an application for a water right or an application to amend a water right.

Effective date. HB 3991 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.

SUBJECT: Increasing the penalty for tampering with certain government records

COMMITTEE: General Investigating and Ethics — favorable, without amendment

VOTE: 6 ayes — S. Davis, Moody, Capriglione, Nevárez, Shine, Turner

0 nays

1 absent — Price

WITNESSES: For — (*Registered, but did not testify*: Joanne Richards, Common Ground for Texans; Carol Birch, Public Citizen Texas; Lon Burnam; Hamilton Richards)

Against — None

On — (*Registered, but did not testify*: Nadine Phillpotts, Comptroller of Public Accounts)

BACKGROUND: Penal Code, sec. 37.10 makes tampering with a government record a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000), with some exceptions. Observers suggest that certain state agencies may experience payroll discrepancies and that increased penalties could deter such activities and help ensure proper stewardship of the taxpayers' money.

DIGEST: HB 2755 would make tampering with a governmental payroll document that requested payment or compensation to a state officer or employee a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000).

The bill would take effect September 1, 2017, and would apply only to an offense committed on or after the effective date.

NOTES: A companion bill, SB 2019 by Creighton, was referred to the Senate Criminal Justice committee on March 27.

SUBJECT: Requirements for dyslexia screening, testing, and teacher training

COMMITTEE: Public Education — committee substitute recommended

VOTE: 9 ayes — Huberty, Bernal, Deshotel, Dutton, Gooden, K. King, Koop, Meyer, VanDeaver

0 nays

2 absent — Allen, Bohac

WITNESSES: For —Amber Elenz, Austin ISD; Chris Masey, Coalition of Texans with Disabilities; Robin Cowsar; Alicia Joseph; Alice Marsel; Mary Yarus; (*Registered, but did not testify*: Steven Aleman, Disability Rights Texas; Kyle Ward, Texas PTA)

Against — (*Registered, but did not testify*: David Anderson, Arlington ISD Board of Trustees)

On — Cherry Lee; (*Registered, but did not testify*: Kara Belew and Monica Martinez, Texas Education Agency)

BACKGROUND: Occupations Code, ch. 403 provides the requirements for an individual to become a licensed dyslexia therapist.

Education Code, ch. 8 governs regional education service centers created to assist school districts in improving student performance in each of 20 regions in Texas. In addition, their purpose is to enable school districts to operate more efficiently and economically, and to implement initiatives assigned by the Legislature or the Commissioner of Education.

Currently, students in public schools must be tested for dyslexia but no specific time period is set for the testing, which leaves many with dyslexia undiagnosed until late in their education.

DIGEST: CSHB 1886 would require each regional education service center to employ a licensed dyslexia therapist as a dyslexia specialist to provide

school districts served by the center with support and resources necessary to assist students with dyslexia and their families.

The bill would require students to be screened or tested, as appropriate, for dyslexia and related disorders at appropriate times in accordance with a program approved by the State Board of Education. The program would require screenings at the end of the school year in kindergarten and first grade.

The Texas Education Agency (TEA) would be required to annually develop a list of training opportunities regarding dyslexia, including at least one available online, that satisfy continuing education requirements for educators who teach students with dyslexia. A training opportunity would have to comply with the knowledge and practice standards of an international organization on dyslexia and enable an educator to:

- understand and recognize dyslexia; and
- implement systematic, explicit, and evidence-based instruction to meet the educational needs of a student with dyslexia.

The 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, and would apply beginning with the 2017-2018 school year.