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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, April 09, 2019
86th Legislature, Number 42
The House convenes at 10 a.m.
Part Two

Three bills are on the Major State Calendar and 33 bills are on the General State Calendar for second reading consideration today. The bills analyzed in Part Two of today's *Daily Floor Report* are listed on the following page.

Dwayne Bohac
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Tuesday, April 09, 2019

86th Legislature, Number 42

Part 2

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SUBJECT: Expanding professional liability coverage for certain university systems

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 11 ayes — C. Turner, Stucky, Button, Frullo, Howard, E. Johnson, Pacheco, Schaefer, Smithee, Walle, Wilson

0 nays

WITNESSES: For — (*Registered, but did not testify*: Leticia Van de Putte, Texas Academy of Physician Assistants)

Against — None

On — (*Registered, but did not testify*: Rex Peebles, Texas Higher Education Coordinating Board; Allene Evans, University of Texas System)

BACKGROUND: Education Code ch. 59 subch. A authorizes the University of Texas System, the Texas A&M University System, the Texas Tech University System, and the University of North Texas Health Science Center at Fort Worth to self-insure for medical malpractice coverage. Coverage applies to certain medical professionals appointed to the faculty or employed for student health services at the universities, as well as to certain students participating in a patient-care program at the universities.

To pay for any damages determined in a court, or to settle any medical malpractice claim against a member of the medical staff or students, these institutions are allowed to create a medical professional liability fund from which funds may be used to pay for expenses associated with investigation, settlement, defense, or payment of claims.

Funds appropriated by the Legislature to these schools may not be used to establish or maintain the medical professional liability fund, purchase insurance, or employ private legal counsel.

DIGEST: CSHB 1592 would add the Texas State University System, the University

of Houston System, and the University of North Texas System to the list of university systems authorized to self-insure for health care professional liability coverage. These systems would be authorized to create a health care professional liability fund for self-insurance.

The bill would expand the applicability of health care professional liability coverage. Coverage would apply to:

- physicians, physician assistants, nurses, pharmacists, and other health care providers who are either appointed or employed on a full-time basis by a university system, or who are appointed or volunteer on a part-time basis and devote their total professional service to providing health services; and
- interns, residents, fellows, medical students, dental students, veterinary students, students of osteopathic medicine, nursing students, and students of any other health care profession that requires a license, certificate, or other authorization participating in a patient-care program at the university systems.

CSHB 1592 would replace applicable statutory references to medical staff, medical malpractice insurance, and medical malpractice claims with references to health care professional staff members, health care liability insurance, and health care liability claims, respectively.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 1592 would modernize the self-insurance authority granted to public university systems by allowing coverage for physician assistants, nurses, pharmacists, other licensed health care providers, and associated health care profession students. This would allow universities to cover their professional liability insurance needs more efficiently.

Granting the University of Houston System, the Texas State University System, and the University of North Texas System the authority to self-insure would save these institutions money and allow them to assist their health care professionals during disciplinary proceedings. Currently, if statute does not authorize a system to be self-insured, that system must obtain private coverage, which can be costly and difficult to obtain. These

systems need the option to self-insure to obtain adequate, affordable coverage.

The bill is not a mandate. It would permit university systems to pursue cost effective methods of self-insurance.

OPPONENTS SAY: No concerns identified.

SUBJECT: Training for persons who may interact with individuals with autism

COMMITTEE: Human Services — favorable, without amendment

VOTE: 8 ayes — Frank, Hinojosa, Clardy, Deshotel, Klick, Miller, Noble, Rose

0 nays

1 absent — Meza

WITNESSES: For — Kisha Wilson; (*Registered, but did not testify*: Dennis Borel, Coalition of Texans with Disabilities; Eric Kunish, NAMI Austin; Julia Egler, NAMI Texas; Will Francis, National Association of Social Workers-Texas Chapter; Lee Johnson, Texas Council of Community Centers; Linda Litzinger, Texas Parent to Parent; Clayton Travis, Texas Pediatric Society)

Against — None

On — (*Registered, but did not testify*: Liz Kromrei, Department of Family and Protective Services; Curtis Walters, Health and Human Services Commission)

BACKGROUND: Human Resources Code sec. 114.013 requires the Health and Human Services Commission to conduct training and development activities for individuals who may interact with an individual with autism or another pervasive developmental disorder in the course of their employment, including school, medical, or law enforcement personnel.

DIGEST: HB 1386 would add Department of Family and Protective Services (DFPS) personnel to the list of employees required to receive training conducted by the Health and Human Services Commission (HHSC) on how to interact and communicate with an individual with autism or another pervasive developmental disorder.

The bill would require that the training developed and conducted by HHSC was:

- evidence-based;
- applicable to the professional role of each type of personnel receiving the training; and
- instructive regarding means of effectively communicating and engaging with individuals with limited social or verbal abilities.

The bill would require HHSC, in consultation with an institution of higher education, to revise the materials and methods for the training and development activities by September 1, 2024, and at least once every five years thereafter.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

HB 1386 would require the Health and Human Services Commission (HHSC) to provide Department of Family and Protective Services (DFPS) employees with training on how to effectively communicate or engage with individuals with autism and other pervasive developmental disorders. This would help personnel to better protect and serve these individuals.

Some individuals with autism and other pervasive developmental disorders may be non-verbal or have limited social abilities, and it can be difficult for professionals who interact with these individuals to communicate with and serve them well. Because individuals with developmental disabilities are at a higher risk for abuse and neglect than their peers, it is imperative that personnel who interact with them, including DFPS personnel, be trained to serve them effectively.

The bill would ensure that the provided HHSC training was evidence-based and relevant to the professionals receiving it. By requiring the HHSC to revise the efficiency and applicability of their training every five years, the bill would ensure that personnel were educated and equipped to the best degree possible to effectively communicate with individuals with autism and other pervasive developmental disorders.

OPPONENTS SAY:

HB 1386 would add another training requirement for DFPS personnel, who already receive many different kinds of training. While the training required by the bill would be helpful, it might be better to include ways to

more efficiently deliver it in order to protect against overburdening caseworkers, such as by removing other training requirements or combining new training with existing requirements.

SUBJECT: Requiring certain disclosures by political subdivisions before issuing debt

COMMITTEE: Pensions, Investments and Financial Services — committee substitute recommended

VOTE: 8 ayes — Murphy, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Stephenson, Wu

0 nays

3 absent — Vo, Leach, Longoria

WITNESSES: For — Trey Lary, Allen Boone Humphries Robinson LLP; James Quintero, Texas Public Policy Foundation; Joe Palmer (*Registered, but did not testify*: Annie Spilman, National Federation of Independent Business; Howard Cohen, Schwartz, Page & Harding LLP; Daniel Gonzalez and Julia Parenteau, Texas Realtors; Al Zito)

Against — Tali Wildman (*Registered, but did not testify*: David Anderson, Arlington ISD Board of Trustees; Colby Nichols, Fast Growth School Coalition; Brian Woods, Texas Association of School Administrators, Texas Association of School Boards, Texas School Alliance, Fast Growth Coalition; Ruben Longoria, Texas Association of School Boards; John Grey, Texas School Alliance; Alexis Tatum, Travis County Commissioners Court)

On — (*Registered, but did not testify*: Adam Haynes, Conference of Urban Counties; Aimee Bertrand, Harris County Commissioners Court; James Hernandez, Harris County)

BACKGROUND: Government Code ch. 1251 requires voter approval in a bond election before a county or municipality may issue bonds that are to be paid from property tax revenue.

Local Government Code sec. 271.049 requires the issuers of certificates of obligation to publish a notice before issuing any new certificates. If the issuer receives a petition protesting the issuance of the certificates signed

by at least five percent of voters, they may not be issued unless the issuance is approved at a bond election under Government Code ch. 1251.

DIGEST:

CSHB 477 would require political subdivisions to make certain disclosures before issuing new debt, including:

- a voter information document containing information on the property tax impact of proposed bonds;
- specific bond election ballot language relating to outstanding debt; and
- certain new disclosures before issuing certificates of obligation.

Voter information document. In bond elections in political subdivisions with at least 250 registered voters, a voter information document would have to be prepared for each proposition to be voted on at the election. The voter information document would be required to be posted in the manner prescribed for bond election orders and would have to distinctly state:

- the language that would appear on the ballot;
- a table with the principal, estimated interest, and estimated combined principal and interest required for full payment of the proposed bonds and the principal, estimated interest, and estimated combined principal and interest required for full payment of all outstanding bonds as of the date the political subdivision adopted the debt obligation order;
- the estimated maximum annual increase in taxes that would be imposed on a residence homestead with an appraised value of $100,000, based on certain assumptions made by the governing body of the political subdivision detailed in the bill; and
- any other information considered relevant or necessary to explain the other information in the document.

For political subdivisions that maintain websites, all of the information in the voter information document would be required to be provided on the political subdivision's website at least 21 days before the bond election.

Bond election ballot requirements. Ballots in bond elections for new debt issued by a political subdivision would be required to specifically state a general description of the purposes of the bonds, the total principal amount of the bonds, and that taxes sufficient to pay the principal and interest of the bonds would be imposed.

Certificates of obligation disclosures. The bill would require local governments to make additional disclosures in the published notice of their intention to issue new certificates of obligation. The notice would be required to disclose:

- the principal of all outstanding certificates of obligation;
- the combined principal and interest required for full payment of all outstanding debt of the issuer;
- the maximum principal amount of proposed certificates of obligation;
- the estimated principal and interest required for full payment of the proposed certificates of obligation;
- the estimated interest rate for the certificates to be authorized or a notice that the maximum interest rate for the certificates may not exceed the maximum interest rate; and
- the maximum maturity date of the certificates to be authorized.

A local government would be required to publish those disclosures in a newspaper and, if the local government maintains a website, continuously on its website for at least 45 days before issuing the certificates of obligation.

Debt obligation order disclosures. The bill would amend the required disclosures in the document ordering a bond election to include:

- that taxes sufficient to pay the principal of and interest on the debt obligations may be imposed;
- the maximum maturity date of the debt obligations to be authorized or that the debt obligations may be issued to mature over a specified number of years not to exceed the maximum number of years authorized by law;

- the aggregate amount of the outstanding principal of the political subdivision's debt obligations as of the date the election is ordered; and
- the aggregate amount of the outstanding interest on debt obligations of the political subdivision as of the date the election is ordered, which may be based on the political subdivision's expectations relative to variable rate debt obligations.

Debt obligation. CSHB 477 would change the definition of "debt obligation" to clarify that, in connection with the bill's new required disclosures, the term:

- applied to issued public securities secured by and payable from property taxes; and
- did not include public securities that were designated as self-supporting by the political subdivision issuing the securities.

Effective date. The bill would take effect September 1, 2019, and would apply only to a bond election ordered on or after the effective date, or a certificate of obligation for which the first notice of intention was issued on or after the effective date.

SUPPORTERS SAY:

CSHB 477 would impose consistent standards for financial transparency in the issuance of new public debt. Debt at the local level is a problem in many Texas communities. This bill would inform voters of outstanding debt carried by local governments and the property tax impact of new debt issuances.

Prescribing the form and information requirements would bring uniformity to bond elections for all taxpayers. Putting the maximum tax increase per $100,000 residential home value on the ballot would give taxpayers a simple illustration of the tax impact of a bond election.

Certificates of obligation are a financing tool that local officials use to issue long-term, tax-funded debt without adequate citizen input or approval, and the ability to fund multiple projects with a single certificate of obligation issuance is confusing and disguises public indebtedness.

According to the Bond Review Board, in the decade from 2006 to 2015 outstanding certificate of obligation debt issued by cities, counties and hospital or health districts rose by nearly 85 percent, substantially faster than the 50 percent growth rate for total debt held by these entities. While certificates of obligation are a useful and important tool for local governments, increasing disclosure prior to the issuance of certificates of obligation is an important means of holding elected officials accountable to voters.

Concerns that local governments would be burdened by new disclosure requirements are outweighed by the need for financial transparency and open government.

OPPONENTS SAY:

While CSHB 477 seeks to make bonds more transparent, it would be a one-size-fits-all measure that would not take into account differences in the types of local governments. It would be better to allow each local jurisdiction to hold itself accountable for due diligence of public debt issuance through its time-tested public debt planning and election processes.

Although improved transparency is an admirable goal, piling more state-mandated disclosures on local governments disrupts already existing, proven accountability processes. The average citizen wants to trust local elected officials and their advisers, held accountable by local controls, to filter through the technicalities and jargon of public debt financing necessary to carry out projects in the public interest.

Singling out a specific data point of the property tax impact on a residential home would mislead voters rather than inform them. The financial impact of large-scale public financing projects is complicated and typically studied by experts through objective, data-driven methods for years before a bond election is held. Highlighting residential home property tax increases could leave voters with a false impression that this single data point was somehow illustrative of the entire financial impact of the bond, and leave out valuable context on the wider financial benefits projects funded by a certificate of obligation could bring to the community.

Certificates of obligation afford local officials flexibility in responding to critical and emerging public needs, allowing them to act without having to spend resources on a bond election. Unlike general obligation bonds, a single certificate of obligation can be issued to support more than one purpose or project, reducing the cost of issuance. Local governments often use certificates of obligation to refinance or reduce interest rates on existing debt, enjoying substantial savings. The new disclosures related to outstanding certificates of obligation would run the risk of misleading voters about the uses and benefits that certificates of obligation provide to local governments.

SUBJECT: Promoting the use of recyclables as feedstock for manufacturing

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 7 ayes — Lozano, Kacal, Kuempel, Morrison, Reynolds, J. Turner, Zwiener

0 nays

2 absent — E. Thompson, Blanco

WITNESSES: For — Gwendalyn Gebghardt, Coastal Wire Company; Stephen Minick, Republic Services; Jordan Fengel, Joan Meeks, Steve Shannon, State of Texas Alliance for Recycling; Chris Macomb, Waste Management of Texas Inc.;(*Registered, but did not testify*: Brie Franco, City of Austin; Tammy Embrey, City of Corpus Christi; Doug Miller, Commercial Metals Company; Warlan Dominic Rivera, Environment Texas; Aimee Bertrand, Harris County Commissioners Court; Trent Townsend, Liberty Tire Recycling; Cyrus Reed, Lone Star Chapter Sierra Club; Bill Kelly, City of Houston Mayor's Office; NewGen Strategies & Solutions; Adrian Shelley, Public Citizen; Buddy Garcia, Tex-Mex Recycling; Mark Vickery, Texas Association of Manufacturers; Andrew Dobbs, Texas Campaign for the Environment; Monty Wynn, Texas Municipal League; Alexis Tatum, Travis County Commissioners Court; Amy Wang)

Against — None

On — (*Registered, but did not testify*: David Greer, Texas Commission on Environmental Quality)

DIGEST: CSHB 286 would require the Texas Commission on Environmental Quality (TCEQ) to cooperate with the Texas Economic Development and Tourism Office to produce a plan and corresponding education program to stimulate the use of non-metallic recyclables as feedstock in processing and manufacturing.

Material for consideration in the plan and education program would

include paper, plastic, glass, vegetative waste, compost, mulch, tires, electronic waste, construction and demolition debris, batteries, and paint.

Recyclables plan. The plan would be required to identify:

- the quantity and type of recyclable materials currently recycled from municipalities and industry;
- the quantity and type of recyclable materials that are produced but not recycled and the potential economic benefits of recycling them;
- the location, processing capacity, and consumption capacity of existing principal processors and manufacturers;
- the barriers to increasing the use of recyclable materials as feedstock for principal processors and manufacturers and means to eliminate those barriers; and
- the need and type of principal processing and manufacturing facilities necessary to consume the existing and potential volumes of recyclable materials.

The plan would be required to recommend methods, means, and processes the state and local governments could apply to increase the use of recyclable materials, stimulate the use of recyclable materials by principal processors and manufacturers, and encourage the expansion of existing principal processors and manufacturers and the development of new ones that use recyclable materials.

The plan would be prohibited from requiring the use of a particular recyclable processing or manufacturing facility. Where practical, the plan would be required to use the approaches and findings of previous economic studies on recycling.

Education program. CSHB 286 would require TCEQ, in conjunction with other state agencies, to develop a public education program using billboards, public service announcements, social media, and other methods.

The educational program would include information on:

- the economic benefits of recycling;
- a spotlight of collectors and processors of recyclable materials and manufacturers in Texas that are using recyclable materials as feedstock; and
- the detrimental effects of contamination in the recyclable materials stream and the need to reduce those effects.

Deadlines. TCEQ and the Texas Economic Development and Tourism Office would be required to submit a progress report on the plan and education program to the governor and the Municipal Solid Waste Management and Resource Recovery Advisory Council by September 1, 2020. The plan would have to be completed and made publicly available and the education program implemented by September 1, 2021.

The plan and education program would be updated every four years. TCEQ would be authorized to enter into contracts with public, private, and nonprofit organizations to produce the plan and education program.

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, 2019.

SUPPORTERS SAY:

CSHB 286 would promote economic and job growth, as well as the conservation of valuable natural resources in Texas by further developing the state's recycling industry. Texas is in a unique position to build a more robust market for recycled materials, and the bill's education program would help prevent contamination and increase the materials' value.

OPPONENTS SAY:

CSHB 286 would result in the state interfering in private industry to artificially create market winners. If there is a market for using recyclables as feedstock in manufacturing and production, the private sector will develop it on its own.

SUBJECT: Reducing the health care services fee paid by certain inmates

COMMITTEE: Corrections — favorable, without amendment

VOTE: 9 ayes — White, Allen, Bailes, Bowers, Dean, Morales, Neave, Sherman, Stephenson

0 nays

WITNESSES: For — Lauren Johnson, ACLU of Texas; Samantha Smothermon, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Nicholas Hudson, ACLU of Texas; Adam Cahn, Cahnman's Musings; Jo DePrang, Children's Defense Fund Texas; Fatima Mann, Community Advocacy and Healing Project; Traci Berry, Goodwill Central Texas; Cate Graziani, Grassroots Leadership, Texas Advocates for Justice; Julia Egler, National Alliance on Mental Illness-Texas; Eric Kunish, National Alliance on Mental Illness-Austin; Will Francis, National Association of Social Workers-Texas; Lori Henning, Texas Association of Goodwills; Kathryn Freeman, Texas Baptist Christian Life Commission; Emily Gerrick, Texas Fair Defense Project; Joshua Houston, Texas Impact; Jennifer Erschabek, Texas Inmate Families Association; Melanie Geisler Dewberry; Jason Howell; Maria Person; Rachelle Reyna)

Against — None

On — Lannette Linthicum and Jerry McGinty, Texas Department of Criminal Justice

BACKGROUND: Government Code sec. 501.063 requires an inmate confined in a facility operated by or under contract with the Texas Department of Criminal Justice (TDCJ), other than a halfway house, to pay a health care services fee of $100 upon initiating a visit to a health care provider. This fee covers all visits to health care providers for that inmate for one year.

If there are insufficient funds in the inmate's trust fund to cover the fee, 50 percent of each deposit to the fund is applied to the balance until the total amount is paid.

TDCJ is required to provide inmates access to health care regardless of inmates' inability to pay the fee. Any surplus funds from the correctional health care fund are transferred by TDCJ to the state's general revenue fund at the end of each fiscal year.

DIGEST:

HB 812 would reduce the health care services fee paid by inmates who visited a health care provider from $100 annually to $3 per visit. The bill would apply to inmates housed in a facility operated by or under contract with the Texas Department of Criminal Justice, other than a halfway house.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

HB 812 would remove a burden on inmates and their families by reducing the health services fee for inmates from $100 a year to $3 per visit to a health care provider. This would return the fee to previous levels.

Currently, the $100 health services fee could prevent some inmates from seeking necessary medical treatment, even though the Texas Department of Criminal Justice (TDCJ) is legally obligated to provide inmates with medical care. Inmates also may be discouraged from accessing health services in order to avoid withdrawals from their commissary accounts. HB 812 would ensure all inmates received the medical treatment they needed by setting the health care fee at a reasonable level. The bill also could prevent inmates in TDCJ units that experienced an outbreak of contagious diseases from being discouraged from seeking treatment.

OPPONENTS SAY:

HB 812 is unnecessary because TDCJ already is required to provide medical treatment for inmates regardless of their ability to pay. TDCJ also has created exemptions to the health services fee and has an appeals process in place for inmates who believe they were wrongly charged for a medical service.

NOTES:

The Legislative Budget Board estimates that HB 812 would have a negative impact of $3.1 million in general revenue related funds through the biennium ending August 31, 2021.

The author plans to offer a floor amendment that would set the per-visit fee at $10, rather than $3.

SUBJECT: Revising jury instructions in sentencing proceeding of death penalty cases

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Collier, K. Bell, J. González, Hunter, Moody, Pacheco

1 nay — Murr

2 absent — Zedler, P. King

WITNESSES: For — Edward Keith, Regional Public Defender for Capital Cases; Michael Barba, Texas Catholic Conference of Bishops; Bobby Mims, Texas Criminal Defense Lawyers Association; Elsa Alcala and Amanda Marzullo, Texas Defender Service; (*Registered, but did not testify:* Nicholas Hudson, American Civil Liberties Union of Texas; Kathleen Mitchell, Just Liberty; Eric Kunish, National Alliance on Mental Illness-Austin; Alycia Speasmaker, Texas Criminal Justice Coalition; Emily Gerrick, Texas Fair Defense Project; Chris Harris; Zoe Russell; Jason Vaughn)

Against — None

BACKGROUND: Code of Criminal Procedure art. 37.071 establishes the procedures used after a defendant has been found guilty in a capital felony case. If the state is not asking for the death penalty in the case, under Penal Code sec. 12.31, the judge must sentence the defendant to life in prison or to life without parole. If the prosecutor is asking for the death penalty, courts must conduct a separate punishment proceeding to decide if the defendant will receive the death penalty or life in prison without parole.

The sentencing proceeding is conducted in the trial court and with the trial jury. After both sides present evidence, courts must submit the following questions to the jury:

- whether there is a probability that the defendant would commit criminal acts of violence that would constitute a continuing threat to society; and

- in cases in which the jury charge allowed the defendant to be found guilty as a party to an offense, whether the defendant actually caused the death or did not actually cause the death but intended to kill the deceased or another or anticipated that a human life would be taken.

The prosecutor must prove each of these issues beyond a reasonable doubt, and the jury must answer "yes" or "no" to each question.

Under Art. 37.071 sec. 2(d)(2), the court must tell the jury that it may not answer the two questions "yes" unless it agrees unanimously and it may not answer any issue "no" unless 10 or more jurors agree.

Under Art. 37.071 sec. 2(e), if a jury answers yes to each question, the court must ask it whether, taking into consideration all of the evidence, there are sufficient mitigating circumstances to warrant a sentence of life in prison without parole rather than a death sentence. The court must tell the jury that if it answers that circumstances warrant a sentence of life without parole, that will be the sentence.

Under Art. 37.071 sec. 2(f), the court must tell the jury that in answering the question about mitigating circumstances, the jury must answer "yes" or "no" and that it may not answer the issue "no" unless it unanimously agrees and may not answer the issue "yes" unless 10 or more jurors agree.

If the jury answers "yes" on the first two questions and "no" on the question about mitigating circumstances, the court must sentence the defendant to death.

Under Art. 37.071 sec. 2(g), if the jury answers "no" on either of the first two questions or "yes" to the question about mitigating circumstances or is unable to answer any question, the court must sentence the defendant to life without parole.

Under Art. 37.071 sec. 2(a)(1), the court, the prosecutor, the defendant, and the defendant's counsel may not inform a juror or a prospective juror

of the effect of a failure of a jury to agree on the questions.

DIGEST: HB 1030 would revise the jury instructions given during the sentencing phase of a capital felony trial. It would remove requirement that courts inform the jury that it may not answer "no" to questions about the defendant's continuing threat to society and the defendant's role as a party to an offense unless 10 or more jurors agree and that it may not answer "yes" to the question about mitigating circumstances unless 10 or more jurors agree.

The bill would take effect September 1, 2019, and would apply only to criminal proceedings that begin on or after that date.

SUPPORTERS SAY: HB 1030 would eliminate misleading jury instructions in capital felony cases so jurors had accurate information about their duties. The current confusion over the questions put to juries deciding punishment in a capital case can result in jurors casting votes not based on how they want to answer the question but on what they perceive to be requirements to reach certain vote counts.

Jurors are told that questions about a defendant's future dangerousness and level of involvement as a party must be answered either "yes" unanimously or "no" by a vote of 10-2. Similarly, jurors are told that the vote on whether mitigating circumstances warrant life without parole over death must be answered either "no" unanimously or "yes" by a vote of 10-2. This makes it appear that juries must reach only these vote counts and that a life without parole sentence could not be imposed unless 10 jurors agree. In addition, those involved in a trial are prohibited from informing jurors of the effect of a failure of the jury to agree on the questions.

The instructions can be misleading. Because of the requirement that all jury verdicts in criminal trials be unanimous, life without parole will be imposed if in the final tally for a question, a single juror answers "no" to the questions about future dangerousness or involvement as a party or answers "yes" to the mitigating circumstances question. Life without parole is imposed even if the vote count answering "no" to the first questions and "yes" to the question about mitigating circumstances is something other than 10-2.

Jurors have reported being confused by the instructions. For example, one reported that he believed a defendant was not a future danger but voted the other way because he did not think he could persuade nine other jurors to his point of view. Confusion about the vote count adds to the pressures of a capital felony trial with possible sequestration or media attention.

HB 1030 would clear up this confusion by eliminating the instructions regarding votes of "no" on the future danger and party to an offense questions and "yes" on the mitigating circumstances questions. Juries would be told only that they could not answer "yes" to the future danger and party to an offense questions or "no" to the mitigating circumstance question unless the votes were unanimous.

Jurors being asked by the state to decide between life and death should have clear instructions to ensure fairness and truth in sentencing and public confidence in their decisions. The current instructions can distort sentencing by incentivizing vote switching over honest votes. HB 1030 would not discourage deliberation by juries or change the questions they answer or the effect of those answers, only eliminate misleading information that can skew jurors' votes.

OPPONENTS SAY:

HB 1030 could distort the sentencing phase of capital felony cases by discouraging deliberation and consensus by jurors. The current sentencing structure is designed to have jurors deliberate and come to an agreement on questions without focusing on the punishment being imposed by answers to those questions. Removing the instructions about certain questions so that juries are told only about unanimous votes could encourage holdouts instead of open-minded discussion and ultimately agreement by a jury considering the important decision of life or death.

SUBJECT: Updating water availability models for certain river basins

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 8 ayes — Larson, Metcalf, Farrar, Harris, T. King, Lang, Price, Ramos

0 nays

3 absent — Dominguez, Nevárez, Oliverson

WITNESSES: For — Marmie Edwards, League of Women Voters; Dean Robbins, Texas Water Conservation Association; Heather Harward, Texas Water Supply Partners; (*Registered, but did not testify*: Michael Booth, Booth, Ahrens & Werkenthin PC; Matt Phillips, Brazos River Authority; Tammy Embrey, City of Corpus Christi; Cyrus Reed, Lone Star Chapter Sierra Club; Adrian Shelley, Public Citizen; James Montagne, Sabine River Authority; Leticia Van de Putte, San Antonio Chamber of Commerce; Jennifer Smith, San Antonio River Authority; Mia Hutchens, Texas Association of Business; Justin Yancy, Texas Business Leadership Council; Michael Barba, Texas Catholic Conference of Bishops; Stacey Steinbach, Texas Water Conservation Association)

Against — None

On — L'Oreal Stepney, Texas Commission on Environmental Quality; (*Registered, but did not testify*: Ron Ellis, Texas Water Development Board)

DIGEST: CSHB 723 would require the Texas Commission on Environmental Quality (TCEQ) to obtain or develop updated water availability models for the Brazos, Neches, Red, and Rio Grande river basins no later than December 1, 2022. TCEQ could collect data from all jurisdictions that allocate the waters of these rivers, including jurisdictions outside the state.

The bill would take effect September 1, 2019.

SUPPORTERS SAY: CSHB 723 would enable the Texas Commission for Environmental

Quality to more accurately account for the state's available water supplies, which could help protect communities across the state against water shortages. The bill would require the collection of updated water availability models for four of the river basins for which the need for this information is greatest.

Current water availability models do not take into account the most recent drought of record. This could lead the state and local communities to overestimate available water supplies. These models also have not been updated to reflect the historic flooding that has occurred in Texas over the past few years. CSHB 723 would require TCEQ to update certain availability models to account for these changes. The bill also would provide data necessary to account for flood flows that may be recaptured and stored for use in times of drought.

OPPONENTS SAY: No concerns identified.

SUBJECT: Removing requirement for school trustee joint elections

COMMITTEE: Public Education — favorable, without amendment

VOTE: 12 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, Dutton, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

1 absent — M. González

WITNESSES: For — (*Registered, but did not testify*: Adam Cahn, Cahnman's Musings; Cary Roberts, Texas Association of Election Administrators; Dominic Giarratani, Texas Association of School Boards; Crystal Main)

Against — None

On — (*Registered, but did not testify*: Von Byer and Christopher Maska, Texas Education Agency)

BACKGROUND: Election Code sec. 41.001(a) sets the uniform election dates as:

- the first Saturday in May in an odd-numbered year;
- the first Saturday in May in an even-numbered year for an election held by a political subdivision other than a county; or
- the first Tuesday after the first Monday in November.

Education Code sec. 11.0581(a) requires an election for trustees of an independent school district be held on the same date as certain other state and local elections.

DIGEST: HB 613 would remove the Education Code requirement that school district trustee elections be held as joint elections on the same date as certain other state and local elections. An election held on the same date as the other specified state and local elections would continue to be conducted as a joint election.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

HB 613 would prevent long-term vacancies on a school board by removing the requirement that district trustee elections be held jointly with other certain local or state elections. Currently, it can be difficult for some rural school districts to fill an unexpected vacancy that arises between the joint election dates. School districts could continue to hold joint elections when appropriate to save money. The bill would not remove the Election Code requirement that elections be held on a uniform election date in May or November.

OPPONENTS SAY:

No concerns identified.

SUBJECT: Extending judicial education training to certain judges and magistrates

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 8 ayes — Leach, Farrar, Y. Davis, Krause, Meyer, Neave, Smith, White

0 nays

1 absent — Julie Johnson

WITNESSES: For — (*Registered, but did not testify*: Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: David Slayton, Texas Judicial Council, Office of Court Administration)

BACKGROUND: Government Code sec. 56.003(b) authorizes the Court of Criminal Appeals to use up to one-third of the funds appropriated for any fiscal year for the continuing legal education of certain judges and magistrates.

DIGEST: HB 598 would include full-time associate judges and part-time masters, magistrates, referees, and associate judges on the list of judges and magistrates for whose continuing legal education the Court of Criminal Appeals could use appropriated funds.

The bill would take effect September 1, 2019.

SUPPORTERS SAY: HB 598 would allow the Court of Criminal Appeals to provide proper continuing legal education for more of the state's judges and magistrates. Judges and magistrates have called for more training opportunities, especially regarding mental health procedures enacted by the 85th Legislature. Since not all judges and magistrates currently are covered under appropriated judicial education training funds, this bill would allow part-time magistrates and full- and part-time associate judges the same opportunities to receive training as other judges and magistrates.

OPPONENTS SAY: No concerns identified.

SUBJECT: Reporting of certain information about arrestees' mental health

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Collier, K. Bell, J. González, Hunter, Moody, Murr, Pacheco

0 nays

2 absent — Zedler, P. King

WITNESSES: For — Lee Johnson, Texas Council of Community Centers; (*Registered, but did not testify*: Nicholas Hudson, American Civil Liberties Union of Texas; Melissa Shannon, Bexar County Commissioners Court; Dennis Borel, Coalition of Texans with Disabilities; Frederick Frazier, Dallas Police Association and Texas Fraternal Order of Police; Christine Yanas, Methodist Healthcare Ministries of South Texas Inc.; Greg Hansch, National Alliance on Mental Illness-Texas; Eric Kunish, National Alliance on Mental Illness-Austin; Will Francis, National Association of Social Workers-Texas Chapter; AJ Louderback, Sheriffs Association of Texas; Mia Hutchens, Texas Association of Business; Michael Barba, Texas Catholic Conference of Bishops; Mitch Landry, Texas Municipal Police Association; Kevin Stewart, Texas Psychological Association; Kyle Piccola, The Arc of Texas)

Against — None

On — David Slayton, Office of Court Administration, Texas Judicial Council; (*Registered, but did not testify*: Megan LaVoie, Office of Court Administration; Raoul Schonemann)

BACKGROUND: Code of Criminal Procedure art. 16.22 establishes procedures for identifying an arrestee who might be a person with a mental illness or intellectual disability. Sheriffs and jailers have 12 hours to notify magistrates about having credible information that may cause them to believe that someone in their custody has a mental illness or was a person with an intellectual disability. If it is determined that there is reasonable cause to believe the person has a mental illness or is a person with

intellectual disability, magistrates must order the local mental health or intellectual and developmental disability authority to collect information about the defendant. That information is provided in a written assessment to the magistrate, defense counsel, prosecutor, and trial court. Magistrates have to submit information on the number of monthly reports to the Office of Court Administration.

DIGEST:

HB 601 would require interviews with defendants when local mental health and intellectual and developmental disability authorities collect information about those in custody whom sheriffs believe may be a person with a mental illness or an intellectual disability. The interview would have to be included in a report when the authorities share information they have collected with the magistrate, defense attorney, prosecutor, and the court. The report would replace the assessment of defendants currently required and would be confidential and not subject to the state's public information law.

HB 601 would authorize magistrates to order defendants to obtain services, in addition to the current authority to obtain treatment, when releasing them on bond.

The Texas Judicial Council would be required to adopt rules about the monthly reporting to the Office of Court Administration of the written reports. The Texas Correctional Office on Offenders with Medical or Mental Impairments would be required to make available an electronic form for the reports.

HB 601 would require the report to be included with the information given to the Texas Department of Criminal Justice when a county transferred a defendant to the agency.

The bill would add compliance with certain standards relating to the early identification of persons with intellectual disabilities to the list of risk factors developed by the Commission on Jail Standards to assess jails.

The bill would take effect September 1, 2019, and would apply only to defendants charged with offenses committed on or after that date. HB 601 would prevail over any other conflicting act of the 86th Legislature's

regular session relating to nonsubstantive additions and corrections to codes.

SUPPORTERS SAY:

HB 601 would clarify procedures revised by the 85th Legislature in 2017 for identifying and handling arrestees who might be persons with a mental illness or an intellectual disability.

The process requires local mental health professionals to gather information about the arrestee, and HB 601 would require an interview with the defendant to ensure that this process included first-hand, comprehensive information and should not require duplication of efforts. The bill would clear up confusion about the nature of the information by using the term "report," instead of "assessment," which might have other meanings when dealing with mental health or intellectual disability.

The bill would standardize the reporting of the information by requiring an electronic form and rules be developed for the monthly reporting. The bill would make sure that the sensitive mental health information in the reports remained private by making the reports confidential and not subject to the state's open records law. The bill would facilitate appropriate treatment and services for these arrestees if they were sentenced to prison by requiring the report to be included with information sent with them to the Texas Department of Criminal Justice.

Currently, courts may order certain types of treatment when releasing these defendants on bond, and HB 601 would give courts additional tools by allowing courts to also order services. This would ensure defendants received the necessary support, such as help with housing or job training, that could keep them from returning to the criminal justice system.

OPPONENTS SAY:

Requiring an interview to gather information about arrestees who might be persons with a mental illness or intellectual disability could cause confusion on the local level. In some situations an interview with the defendant already could have taken place and other pertinent information already could have been gathered before a magistrate ordered the interview required by the bill. Simply requiring that information be collected might make it clear that efforts would not have to be duplicated.

SUBJECT: Allowing confidentiality of certain DFPS workers' information

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Hinojosa, Clardy, Deshotel, Klick, Miller, Noble, Rose

0 nays

1 absent — Meza

WITNESSES: For — (*Registered, but did not testify*: Will Francis, National Association of Social Workers-Texas; Sarah Crockett and Sabrina Gonzalez, Texas CASA; Tyler Sheldon, Texas State Employees Union; Jennifer Lucy, TexProtects; Knox Kimberly, Upbring)

Against — None

On — (*Registered, but did not testify*: Liz Kromrei, Department of Family and Protective Services)

BACKGROUND: Government Code sec. 552.1175 allows certain exceptions to information available under the Public Information Act. Personal information of certain current or former state or federal employees, such as peace officers, juvenile probation or supervision officers, members of the Texas military forces, district attorneys, and federal or state judges, among others, are permitted to be confidential if requested by the individual.

Tax Code sec. 25.025 permits a similar list of current or former state or federal employees to restrict public access to home address information in appraisal records.

DIGEST: CSHB 759 would add certain employees or contractors of the Department of Family and Protective Services (DFPS) to the list of persons who could except personal information from the requirements of the Public Information Act and to the list of state employees to whom Tax Code provisions on confidentiality of home address information would apply.

The bill would apply to current or former DFPS investigators, caseworkers for child protective services or adult protective services, or contractors performing those functions on behalf of DFPS.

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, 2019, and would apply only to a request for information received by a governmental body or officer on or after the effective date.

SUPPORTERS SAY:

CSHB 759 would give caseworkers and investigators for the Department of Family and Protective Services (DFPS) the same protections extended to peace officers, criminal attorneys, judges, and other state and federal employees who perform high-risk functions.

DFPS caseworkers and investigators provide a great service to Texas communities, but they work with individuals and families who may harbor resentment. These workers use personal vehicles to investigate and assess potentially dangerous situations, which allows easy access to personal information through a simple license plate search. Allowing these workers to request that their home addresses, phone numbers, and other personal details be kept confidential would protect them from the harassment, stalking, and threats.

OPPONENTS SAY:

No concerns identified.

SUBJECT: Exempting certain low-volume producers from DSHS regulations

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — S. Thompson, Allison, Coleman, Frank, Guerra, Lucio, Ortega, Price, Sheffield, Zedler

0 nays

1 absent — Wray

WITNESSES: For —Judith McGeary, Farm and Ranch Freedom Alliance; Amy Hedtke; Terry Holcomb; Robyn Rhinehart; (*Registered, but did not testify*: Summer Wise and Mark Ramsey, Republican Party of Texas; Sheila Hemphill, Texas Right To Know; and 10 individuals)

Against — None

On — (*Registered, but did not testify*: Stephen Pahl, Department of State Health Services)

BACKGROUND: Health and Safety Code sec. 433.0245 requires low-volume livestock processing establishments exempt from federal inspection to register with the Department of State Health Services and to develop a sanitary operation procedures plan.

DIGEST: CSHB 410 would expand the definition of a low-volume livestock processing establishment to include an establishment that processed fewer than 10,000 poultry or domestic rabbits in a calendar year.

The bill would exempt a low-volume livestock processing establishment that was exempt from federal inspection and processed fewer than 500 domestic rabbits in a calendar year from having to register with the Department of State Health Services and develop a sanitary operations procedures plan.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 410 would remove a burden on individuals selling fewer than 500 processed rabbits a year by allowing them to sell or gift rabbit meat without having to use expensive processing facilities. The bill would support rural economies by enabling local rabbit producers to barter and sell their goods. Small farmers that raise rabbits would benefit from the removal of the unnecessary requirement to register with the Department of State Health Services and submit a sanitary operations procedures plan. These plans are burdensome and prohibitively expensive for low-volume producers to carry out.

OPPONENTS SAY:

No concerns identified.

SUBJECT: Deregulating TRS oversight of 403(b) products

COMMITTEE: Pensions, Investments and Financial Services — favorable, without amendment

VOTE: 9 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Leach, Wu

0 nays

2 absent — Longoria, Stephenson

WITNESSES: For — Doug Massey, NAIFA; Scott Hauptmann, TCG Administrators; Jennifer Cawley, Texas Association of Life and Health Insurers (*Registered, but did not testify*: Ted Kennedy, AIG; Jay Thompson, TALHI; Miles Mathews, Voya Financial Services)

Against — None

On — (*Registered, but did not testify*: Brian Guthrie, Teacher Retirement System)

BACKGROUND: A 403(b) plan is a tax-sheltered annuity plan similar to a 401(k) plan for specific employees of public schools and other tax-exempt organizations.

Under Art. 6228a-5, Vernon's Texas Civil Statutes, the Teachers Retirement System (TRS) has regulatory authority over 403(b) products offered to public school teachers. Insurance companies must certify to TRS that the company offers a qualified investment product in order to be eligible to sell annuities and investments to teachers. TRS maintains a list of qualified investment products registered under this statute, regulates maximum fees for 403(b) products, and exercises other rulemaking authority.

DIGEST: HB 2820 would remove regulatory authority over 403(b) products from the Teacher Retirement System and change the requirements a 403(b) providers had to meet in order to offer investment products in the state.

In order to offer qualified investment products to employees of education institutions in Texas, a company would be required to be licensed by the Texas Department of Insurance and be in compliance with minimum capital and surplus requirements.

HB 2820 would remove the requirement that eligible 403(b) plan providers have at least five years' experience in offering qualified investment products and would replace the standard that an eligible 403(b) plan provider had to have its main office, branch office, or a trust office in the state with a requirement that the company have sufficient presence to serve plan participants. The bill also would update certain statutory language.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

HB 2820 would eliminate repetitive regulation for 403(b) investment plans available to certain nonprofit employees, including public school teachers. While the Teacher Retirement System (TRS) has been charged with certifying these plans, TRS does not have the staff or expertise to do this, and oversight of these products is already being conducted by other, more appropriate state and federal agencies. Deregulating TRS oversight of 403(b) products would allow TRS to focus on its core function of managing one of the country's largest public pension funds.

Like 401(k) investment options, all 403(b) financial products are regulated by the state through the Texas Department of Insurance and the State Securities Board as well as by the federal government. This oversight includes the registration, regulation, and approval of these products, ensuring that strong consumer protection safeguards are in place.

Texas is the only state that regulates maximum fees for 403(b) products rather than allowing the market to determine these rates. Limiting fees may reduce product and investor services and could deny teachers access to products that may have higher returns. HB 2820 would remove TRS's authority to regulate maximum fees for these products and allow the market to govern these fees.

Removing the requirement that plan providers have at least five years of experience offering 403(b) products is an appropriate update to bring TRS policy in line with current market practice. Although requiring minimum experience used to be a regulatory norm, insurance regulators now rely on more sophisticated financial analysis tools to assess an insurance company's ability to operate in a solvent manner.

HB 2820 would also bring the state's requirements for insurers consistent with market practice requiring that a plan provider have a sufficient presence in the state rather than a main, branch, or trust office. The existing requirement that a provider have an office presence in the state ignores the realities of the national market for these products. Moving to a functional standard based on the sufficiency of presence to adequately serve plan participants would provide a better standard and conserve TRS enforcement resources.

OPPONENTS SAY:

No concerns identified.

SUBJECT: Continuing Dallas County Hospital District health care provider program

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 9 ayes — Coleman, Bohac, Anderson, Biedermann, Cole, Dominguez, Huberty, Rosenthal, Stickland

0 nays

WITNESSES: For — Matt Davis, Children's Health; David Salsberry, Texas Health Resources; (*Registered, but did not testify*: Drew DeBerry, Adelanto Health Care Ventures; Marisa Finley, Baylor Scott and White Health; Charles Reed, Dallas County Commissioners Court; Priscilla Camacho, Dallas Regional Chamber; Meghan Weller, HCA Healthcare; Jay Barksdale, Irving-Las Colinas Chamber of Commerce; Maureen Milligan, Teaching Hospitals of Texas; Joel Ballew, Texas Health Resources; John Hawkins, Texas Hospital Association; Matt Gilbert; Tonn Larry)

Against — None

On — (*Registered, but did not testify*: Katherine Yoder, Parkland Health and Hospital System)

BACKGROUND: Health and Safety Code ch. 298A authorizes the Dallas County Hospital District to establish a health care provider participation program and administer it until December 31, 2019.

DIGEST: HB 2326 would allow the Dallas County Hospital District to administer its health care provider participation program until December 31, 2025.

The bill would take effect September 1, 2019.

SUPPORTERS SAY: HB 2326 would allow the Dallas County Hospital District continued access to the federal funds that it needs to continue serving the population of Dallas County.

Health care provider programs collect mandatory fees from area hospitals

and use them to meet the state matching requirement to qualify for federal Medicaid funds. Without the Dallas County Hospital District, local hospitals would not be able to care for nearly as many patients as they currently do.

OPPONENTS SAY: No concerns identified.

HOUSE RESEARCH ORGANIZATION bill analysis 4/9/2019

(2nd reading)
HB 2263
Paddie, et al.

SUBJECT: Removing authorization for GLO to sell power to certain public customers

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 13 ayes — Phelan, Hernandez, Deshotel, Guerra, Harless, Holland, Hunter, P. King, Parker, Raymond, E. Rodriguez, Smithee, Springer

0 nays

WITNESSES: For — Julia Rathgeber, Association of Electric Companies of Texas; Thomas Brocato, Steering Committee of Cities Served by Oncor, Steering Committee of Cities Served by Atmos, Texas Coalition for Affordable Power; Larry Autry, TXU Energy; (*Registered, but did not testify*: Edward Ross, Direct Energy; Cyrus Reed, Lone Star Chapter Sierra Club; Jessica Oney, NRG; Catherine Webking, Texas Energy Association for Marketers; Dax Gonzalez, Texas Association of School Boards; Richard Webster, Texas Association of School Business Officials; Michele Gregg, Texas Competitive Power Advocates; Michael Geary, Texas Conservative Coalition; Mance Zachary, Vistra Energy)

Against — None

On — Ken Mills, Texas General Land Office

BACKGROUND: Utilities Code sec. 35.102 allows the commissioner of the General Land Office to sell or otherwise convey power, generated from oil and gas or mining royalties taken in kind, directly to public retail customers, including state agencies, institutions of higher education, public school districts, political subdivisions, military installations, or Department of Veterans Affairs facilities. Revenue from these sales is directed to the Texas Permanent School Fund.

Tax Code sec. 182.022 imposes a miscellaneous gross receipts tax on each utility company that sells to consumers in an incorporated city or town with a population over 1,000.

DIGEST: HB 2263 would remove the authorization of the commissioner of the

General Land Office (GLO) to sell power directly to a public retail customer and would repeal related sections of statute.

GLO or an entity contracting with GLO could continue to provide retail electric services until the date the agreement with the customer expired. An agreement could be extended to a date no later than January 1, 2024.

The bill would prohibit the miscellaneous gross receipts tax under Tax Code sec. 182.022 from being imposed on the sale of electricity to a public school district customer. The exemption would take effect January 1, 2024, and would not affect taxes imposed before that date.

The Public Utility Commission would be required to provide electric utilities with the adjustment of the utilities' billing of a public school district customer to reflect a decrease in tax liability resulting from this bill. An adjustment would have to be made effective at the same time as the decrease of tax liability or as soon as practicable. An adjustment would not be classified as a rate case.

A retail electric provider would have to adjust the billing of a public school district customer as soon as practicable after January 1, 2024 to reflect a decrease in tax liability resulting from this bill.

HB 2263 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, 2019.

SUPPORTERS SAY:

HB 2263 would abolish the General Land Office's state power program, which was initially set up when the state deregulated its electric market. The program was intended to serve as a transition program to ensure public entities had purchase options but has since outlived that purpose. Deregulation was successful, but the GLO continues to compete with the free market while unfairly taking advantage of the fact that the agency is not charged a gross receipts tax and can use the state's brand and resources.

This bill would phase out the state power program responsibly over five years to allow contracts to wind down. All public schools also would be

exempt from the gross receipts tax beginning in 2024 to level the playing field by providing tax relief for school districts not currently in the power program. While this bill would exempt school districts, other public retail customers also could be exempted by other legislation.

OPPONENTS SAY:

While HB 2263 would make positive changes for the electric market, it should be amended to expand the exemption from the gross receipts tax to cities as well as school districts. The tax is ultimately passed on to the customer, including cities, by electric providers. It does not make sense for public funds to be used to pay state taxes.

NOTES:

According to the Legislative Budget Board, the bill would cost the Permanent School Fund $660,509 in fiscal 2020 and $1.2 million in fiscal 2021. The bill also would cost general revenue $5.4 million and the Foundation School Fund $1.8 million beginning in fiscal 2024.

SUBJECT: Allowing agricultural valuation to continue after land transfer to relatives

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — Burrows, Bohac, Cole, Martinez Fischer, Murphy, Noble, Sanford, Shaheen, Wray

0 nays

2 absent — Guillen, E. Rodriguez

WITNESSES: For — (*Registered, but did not testify*: David Glenn, Home Builders Association of Greater Austin; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Scott Norman, Texas Association of Builders; Ray Head, Texas Association of Property Tax Professionals; Daniel Gonzalez and Julia Parenteau, Texas Realtors)

Against — None

BACKGROUND: Tax Code sec. 23.54 requires individuals claiming that their land is eligible for appraisal as agricultural land to file a valid application with the chief appraiser. Once an application is approved, the land is eligible for appraisal in subsequent years without a new application unless the ownership of the land changes or the land's eligibility ends.

Government Code ch. 573 states that two individuals are related to each other by consanguinity if one is the descendant of the other or they share a common ancestor. Adopted children are considered to be the children of their adoptive parents for this purpose. Under this statute, a married couple are related in the first degree by affinity. If two individuals are related to each other in the second degree by consanguinity, the spouse of one individual is related to the other in the second degree by affinity.

DIGEST: HB 1188 would allow land to remain eligible for appraisal as agricultural land after a change in ownership of the land resulting from a transfer from the former owner to a person related to the former owner within the second degree by affinity or third degree by consanguinity. A person who

was transferred agricultural land from a relative would have to notify the appraisal office in writing within 180 days of transfer.

The appraisal review board could direct changes in the appraisal roll and order the appraised value of land in either of the two preceding tax years to be changed to the value at which the land would have been appraised if:

- the chief appraiser or property owner demonstrated by clear and convincing evidence that the land was appraised as agricultural land for three of the five preceding tax years;
- the land was ineligible for appraisal as agricultural land for a year or years for which the change in appraised value was sought due to a failure to file a new application after a change in ownership;
- the change in ownership was the result of a transfer of the land from a person to a relative; and
- the land otherwise qualified as agricultural land.

If an appraisal roll was changed, the property owner would be required to pay to each affected taxing unit a penalty equal to 10 percent of the difference between the amount of tax imposed and the amount that would have been imposed at market value. Payment of the penalty would be secured by the lien attached to the land and would be subject to enforced collection.

An appraisal roll could not be changed if the land was the subject of a protest brought by the property owner or if the appraised value of the land was established as a result of a written agreement between the property owner and the appraisal district.

The bill would take effect January 1, 2020.

SUPPORTERS SAY:

HB 1188 would ease the burden on families seeking to transfer qualified land between family members. Currently, a new application for appraisal is required when there is a change in ownership of land qualified as agricultural land for appraisal purposes. If an application is not submitted in a timely manner, the property owner could lose the eligibility of the land to be appraised as agricultural.

This requirement for a new application is a hardship on families and an administrative burden on appraisal districts. Land transfers to relatives often occur when a person passes away, and this application further burdens families during their time of grief. HB 1188 would provide specificity as to who constituted a family member, and would put the burden of proof on the property owner to prove that the agricultural use of the land had not changed and that the land was transferred to a relative.

OPPONENTS SAY: No concerns identified.

SUBJECT: Requiring a magistrate's name to be written legibly on signed orders

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Collier, Zedler, K. Bell, J. González, Hunter, P. King, Moody, Murr, Pacheco

0 nays

WITNESSES: For — Marc Levin, Texas Public Policy Foundation; (*Registered, but did not testify*: Nicholas Chu, Bobby Gutierrez, Carlos Lopez, and Jama Pantel, Justices of the Peace and Constables Association of Texas; Mark Russo, Rockwall County; Emily Gerrick, Texas Fair Defense Project; Donnis Baggett, Texas Press Association)

Against — Mary Elizabeth Castle, Texas Values

On — (*Registered, but did not testify*: Margie Johnson)

DIGEST: HB 93 would require any signed order issued by a magistrate and pertaining to a criminal matter to include the magistrate's name in legible handwriting, typewritten form, or stamp print in addition to the magistrate's signature.

The bill would take effect September 1, 2019, and would apply to signed orders issued on or after that date.

SUPPORTERS SAY: HB 93 would improve the transparency of signed orders issued by magistrates by allowing those affected by the orders, journalists reporting on court cases, and others to know exactly which magistrate signed an order.

Ensuring transparency and the ability to determine which magistrate signed an order serves an important public interest that outweighs the benefit some magistrates could derive from using illegible signatures that could make it difficult to determine their identities.
HB 93 also would prevent cases of fraud in which members of the public

who were not magistrates signed illegible signatures on fake orders. The signature on an order could be matched to the magistrate's signature on record.

OPPONENTS SAY: HB 93 could allow people to clearly identify a magistrate who issued an order that they did not like and could allow them to more easily threaten retaliation.

SUBJECT: Removing certain licensure requirements, categories for LP-gas activities

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 8 ayes — Paddie, Herrero, Bailes, Darby, Gutierrez, Harris, Perez, Rosenthal

1 nay — Craddick

2 absent — Anchia, Geren

WITNESSES: For — (*Registered, but did not testify*: Paula Bulcao, BP America, Inc.; Tom Sellers, ConocoPhillips; Ryan Paylor, Texas Independent Producers and Royalty Owners Association)

Against — None

On — April Richardson, Railroad Commission of Texas; (*Registered, but did not testify*: Haley Cochran and Corey Crawford, Railroad Commission of Texas)

BACKGROUND: Natural Resources Code sec. 113.081, requires individuals to be licensed by the Railroad Commission of Texas to engage in certain liquefied petroleum gas (LP-gas) related activities, including the manufacture, assembly, repair, testing, sale, installation, or subframing of LP-gas containers for use in the state.

Sec. 113.082 outlines 16 categories of LP-gas activities for which a person may apply to the commission for licensure.

DIGEST: CSHB 2714 would remove the licensure requirement for liquefied petroleum gas (LP-gas) container manufacturers. Instead, a person would be required to register with the Railroad Commission of Texas (RRC) in order to engage in the manufacture or fabrication of containers for use in the state. Registration would have to be renewed annually.

The bill would eliminate statutorily defined categories of LP-gas activities

for which a person could apply for licensure and instead require RRC to establish by rule license categories for LP-gas activities.

CSHB 2714 also would remove a requirement that certain RRC notifications be mailed.

The bill would take effect September 1, 2019, and RRC would have to adopt required rules by January 1, 2020.

SUPPORTERS SAY:

CSHB 2714 would streamline portions of the Railroad Commission's (RRC's) liquefied petroleum gas (LP-gas) licensure requirements and eliminate duplicative regulation standards for LP-gas container manufacturers.

Current law requires a person to be licensed by RRC to manufacture LP-gas containers for use in the state. However, LP-gas container manufacturers already are subject to American Society of Mechanical Engineers standards and U.S. Department of Transportation regulations, rendering additional state regulation unnecessary. Under CSHB 2714, LP-gas container manufacturers would register with, rather than be licensed by, the RRC, lowering their regulatory burden while allowing RRC to oversee compliance with industry and federal standards.

The bill would allow RRC to modify its rules to reflect changes within the LP-gas industry. Current laws lists 16 separate licensing categories for LP-gas activities. If a new type of activity emerged, the Legislature would have to amend statute to include it. By eliminating the statutorily defined licensing categories and instead requiring RRC to identify the categories by rule, CSHB 2714 would allow for greater regulatory flexibility and a more timely response to industry changes.

OPPONENTS SAY:

No concerns identified.

SUBJECT: Sharing information following a newborn and infant hearing screening

COMMITTEE: Public Health — committee substitute recommended

VOTE: 7 ayes — S. Thompson, Coleman, Frank, Lucio, Price, Sheffield, Zedler

0 nays

4 absent — Wray, Allison, Guerra, Ortega

WITNESSES: For —Michael Swoboda and Aulby Larry Gillett, Texas Association of the Deaf; Fiorela Agusti; (*Registered, but did not testify*: Marisa Finley, Baylor Scott and White Health; Steven Aleman, Disability Rights Texas; Troy Alexander, Texas Medical Association; Andrew Cates, Texas Nurses Association; Clayton Travis, Texas Pediatric Society)

Against — None

On — Bobbie Scoggins, Texas School for the Deaf; (*Registered, but did not testify*: Manda Hall, Department of State Health Services; Lindsay Rovers, Health and Human Services Commission)

BACKGROUND: Health and Safety Code ch. 47 requires a birthing facility to perform, either directly or through a referral, a hearing screening for the identification of hearing loss on each newborn or infant born at the facility before the newborn or infant is discharged from the facility, with certain exceptions. If the child does not pass the initial screening, the facility is required to offer a follow-up screening or refer the parents to another program for a follow-up screening. If the child does not pass the follow-up screening, the program that performed it is required to:

- provide the newborn or infant's parents with the screening results;
- assist the parents in scheduling a diagnostic audiological evaluation; and
- refer the newborn or infant to early childhood intervention services.

DIGEST: CSHB 2255 would revise procedures regarding information on hearing

screenings provided to parents of newborns or infants and the responsibilities of programs conducting the screenings.

The bill would require a birthing facility that operated a certified newborn hearing, screening, tracking and intervention program to simultaneously distribute to the parents of each newborn or infant the results of the child's hearing screening and informational materials on the following public resources:

- early childhood intervention services;
- the primary statewide resource center at the Texas School for the Deaf (TSD); and
- contact information for Texas Early Hearing Detection and Intervention.

CSHB 2255 would require the Department of State Health Services to share the educational and informational materials with the public upon request.

The birthing facility also would be required to report the newborn or infant's test results to TSD.

The bill would require a program that performed a follow-up hearing screening that a newborn or infant did not pass to provide the results to the TSD, with the prior written consent of the newborn's or infant's parents, in addition to providing the results to the parents themselves. The program that conducted the follow-up screening also would be required to refer the newborn or infant to TSD.

CSHB 2255 would require the Health and Human Services executive commissioner to develop guidelines to protect the confidentiality of patients and require the written consent of a parent or guardian before any identifying information was provided to TSD. The bill would require TSD to allow a parent to at any time withdraw the information provided to TSD.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 2255 would better inform the parents of hard-of-hearing children about the public resources available to them and their children, would increase the utilization of early intervention services, and would help better identify deaf and hard-of-hearing children across the state.

The bill would help close the gap on follow-up screenings in the state by distributing educational and informational resources to parents along with their infant's screening results. The majority of infants in Texas receive hearing screenings. However, not passing the initial screening does not always mean that a child is deaf or hard of hearing. In order to confirm the potential hearing disability, infants would need to receive a follow-up screening, but many do not. By informing parents of the public resources available, parents will be better equipped to seek follow-up care to support their child's language, cognitive, and emotional success.

CSHB 2255 would help deaf or hard-of-hearing children across the state access existing early childhood services. The bill would maximize the utilization of these resources by allowing whoever administered the hearing screening to provide screening results to the Department of State Health Services as well as the primary statewide resource center at the Texas School for the Deaf.

Deaf or hard-of-hearing children who do not receive intervention can suffer from deprivation of language, which may lead to developmental speech and language delays that could later affect their academic performance.

OPPONENTS SAY:

No concerns identified.

HOUSE
RESEARCH
ORGANIZATION bill analysis 4/9/2019

(2nd reading)
HB 1612
Murphy

SUBJECT: Continuing Teacher Retirement System authority to invest in hedge funds

COMMITTEE: Pensions, Investments and Financial Services — favorable, without amendment

VOTE: 9 ayes — Murphy, Vo, Capriglione, Flynn, Gervin-Hawkins, Gutierrez, Lambert, Leach, Wu

0 nays

2 absent — Longoria, Stephenson

WITNESSES: For — Timothy Lee, Texas Retired Teachers Association; (*Registered, but did not testify*: Dannie Silcox, Texas Association of Taxpayers)

Against — None

On — Jerry Albright and Brian Guthrie, Teacher Retirement System; (*Registered, but did not testify*: Brad Gilbert, Teacher Retirement System)

BACKGROUND: Government Code sec. 825.3012(a) defines "hedge fund" as a private investment vehicle that:

- is not registered as an investment company;
- issues securities only to accredited investors or qualified purchasers under an exemption from registration; and
- engages primarily in the strategic trading of securities and other financial instruments.

Sec. 825.3012(b) allows the Teacher Retirement System to invest up to 5 percent of its total investment portfolio in hedge funds. Sec. 825.3012(b-1) increases that percentage to 10 percent for funds invested before September 1, 2019.

DIGEST: HB 1612 would continue the authority of the Teacher Retirement System (TRS) to invest not more than 10 percent of its total investment portfolio in hedge funds. It would eliminate a Sunset date of September 1, 2019 for

this authority.

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, 2019.

SUPPORTERS SAY:

HB 1612 would allow the pension system for retired teachers to continue using hedge funds to diversify its investment portfolio and reduce risk during periods of declining global equities. TRS has been investing in hedge funds since 2001. In 2011, the Legislature increased the cap on TRS hedge funds from 5 percent of its total investment portfolio to 10 percent. That authority is scheduled to expire this September, at which time the cap would drop back to 5 percent. Currently, TRS has 8 percent of its portfolio invested in hedge funds.

A common misconception is that hedge funds are risky investment vehicles. In reality, they are not an asset class but rather a business model that encompasses a variety of investment styles aimed to make money in all market conditions. During the 2008 stock market downturn, TRS hedge fund investments helped mitigate against greater losses.

TRS has negotiated favorable fee structures for the external managers it hires for its hedge fund investments. A 2010 report from the State Auditor's Office said that the TRS external manager program and its hedge fund portfolio are managed by the TRS Investment Division with due professional care and should be permitted to continue as deemed appropriate by the TRS Board of Trustees.

OPPONENTS SAY:

No concerns identified.

SUBJECT: Allowing the sale of alcohol at Texas State Railroad Authority stations

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 9 ayes — T. King, Goldman, Guillen, Harless, Herrero, K. King, Kuempel, Paddie, S. Thompson

0 nays

2 absent — Geren, Hernandez

WITNESSES: For — None

Against — None

On — Bentley Nettles, Texas Alcoholic Beverage Commission; (*Registered, but did not testify*: Thomas Graham, Texas Alcoholic Beverage Commission)

BACKGROUND: Alcoholic Beverage Code sec. 48.03 allows the Texas Alcoholic Beverage Commission to issue permits to allow the sale of alcoholic beverages on passenger trains.

DIGEST: HB 2196 would allow the Texas State Railroad Authority to contract with retailers for the sale of alcoholic beverages at the authority's train stations.

The bill would take effect September 1, 2019.

SUPPORTERS SAY: HB 2196 would allow the Texas State Railroad Authority to contract with retailers to sell alcoholic beverages at its train stations, expanding the positive economic impact the railroad already provides to surrounding areas. The railroad attracts many visitors every year, and allowing the sale of alcoholic beverages at its stations could increase its draw as a tourist attraction and positively impact local economies.

The bill also would introduce additional competition into local markets

and provide more opportunities for buyers and sellers of alcohol, further strengthening local economies.

In order for a retailer to sell alcohol at a railroad authority train station, the retailer would have to go through local permitting processes as well as the permitting process of the Texas Alcohol and Beverage Commission.

OPPONENTS SAY:

HB 2196 could reduce the revenues of local businesses that rely on selling alcohol to tourists. If passengers were allowed to buy alcohol at train stations, they could be less likely to visit local shops or other retailers that sold alcohol.

SUBJECT: Defense to trespass prosecution for handgun license holders given notice

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 6 ayes — Collier, K. Bell, Hunter, P. King, Murr, Pacheco

2 nays — J. González, Moody

1 absent — Zedler

WITNESSES: For —Michael Cargill, Central Texas Gun Works; Rachel Malone, Gun Owners of America; Larry Bloomquist, Texas Law Shield; Michael Openshaw; (*Registered, but did not testify*: Matthew Williamson, Dallas Police Department; Tara Mica, National Rifle Association; AJ Louderback and Micah Harmon, Sheriffs Association of Texas; Alice Tripp, Texas State Rifle Association)

Against — Melanie Greene, Moms Demand Action for Gun Sense in America; Gyl Switzer, Texas Gun Sense; (*Registered, but did not testify*: Frederick Frazier, Dallas Police Association State Fraternal Order of Police; Shelby Mason, League of Women Voters of Texas; Karen Harris Odama, Susan Kelly, and Susan Pintchovski, Moms Demand Action; Jennifer Price and Hilary Whitfield, Moms Demand Action for Gun Sense in America; and seven individuals)

BACKGROUND: Penal Code secs. 30.06 and 30.07 establish a class C misdemeanor punishable by fine of up to $200 for a handgun license holder to either conceal or openly carry a handgun on another's property without effective consent if the license holder received oral or written notice that entry on the property by a license holder was forbidden.

DIGEST: HB 121 would create a defense to prosecution for the offenses in Penal Code sec. 30.06 and 30.07 if the license holder was personally given verbal notice and promptly departed from the property.

The bill would take effect September 1, 2019, and would apply only to an offense committed on or after that date.

SUPPORTERS SAY:

HB 121 would ensure that law-abiding handgun license holders were not penalized for an innocent mistake in not identifying where they cannot carry their guns. Currently, a license holder could enter a business and inadvertently walk by or simply not see a sign stating that entry with a handgun was prohibited. Signs could be posted on a door that was propped open, or someone could be standing in front of the sign. Despite intending to abide by the property owner's choice, a license holder could be violating the law.

HB 121 would recognize that in these situations license holders who were not intending to break the law should not be convicted of a class C misdemeanor. The defense to prosecution in HB 121 would be narrow and would not allow gun owners to ignore the law because they would have to promptly leave property after receiving notice. The bill would not make it more difficult for property owners to manage their property as it would require only a verbal reminder to license holders who must then leave.

The bill would not weaken gun laws but instead would strengthen them by allowing law enforcement resources to be focused on those who willfully violate the law.

OPPONENTS SAY:

HB 121 would make it more difficult for business owners to keep guns off of their property. The bill could allow license holders to ignore signs prohibiting guns on the property and bring their weapons onto property until they are told otherwise. License holders should be held responsible for noticing and following posted signs, and property owners who post the required signs should not have to take the extra steps of tracking down patrons and giving verbal notifications to keep guns off their property.

SUBJECT: Reporting certain information regarding public school disciplinary actions

COMMITTEE: Public Education — favorable, without amendment

VOTE: 11 ayes — Huberty, Bernal, Allen, Ashby, K. Bell, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

2 absent — Allison, Dutton

WITNESSES: For — Jolene Sanders, Easterseals Texas; Charles Luke, Pastors for Texas Children; David Feigen, Texans Care For Children; Ellen Stone, Texas Appleseed; Linda Litzinger, Texas Parent to Parent; (*Registered, but did not testify*: Cynthia Humphrey, Association of Substance Abuse Programs; Chris Masey, Coalition of Texans With Disabilities; Chandra Villanueva, Center for Public Policy Priorities; Steven Aleman, Disability Rights Texas; Lisa Flores, Easterseals Central Texas; Christine Yanas, Methodist Healthcare Ministries of South Texas Inc.; Greg Hansch and Alissa Sughrue, National Alliance on Mental Illness Texas; Will Francis, National Association of Social Workers Texas Chapter; Christine Broughal, Texans for Special Education Reform; Ted Raab, Texas American Federation of Teachers; Kathryn Freeman, Texas Baptists Christian Life Commission; Sarah Crockett, Texas CASA; Amelia Casas, Texas Criminal Justice Coalition; Gyl Switzer, Texas Gun Sense; Kyle Ward, Texas PTA; Lisa Dawn-Fisher, Texas State Teachers Association; Kyle Piccola, The Arc of Texas)

Against — (*Registered, but did not testify*: Robin Lennon, Kingwood TEA Party Inc.)

On — (*Registered, but did not testify*: Terri Hanson, Eric Marin, and Melody Parrish, Texas Education Agency; Dee Carney, Texas School Alliance)

BACKGROUND: Education Code sec. 37.020 requires school districts to report annually to the education commissioner the following information on expulsions and disciplinary alternative program placements:

- the race, sex, and date of birth of the student expelled or placed in a disciplinary alternative program;
- the conduct that caused the expulsion or placement;
- for disciplinary alternative program placements, the number of full or partial days the student was assigned to attend the program and the number of full or partial days the student attended the program;
- for expulsions, the number of full or partial days the student was expelled and whether the student was placed in a juvenile justice alternative education program or disciplinary alternative program; and
- the number of expulsions and placements that were inconsistent with the guidelines in the district's student code of conduct.

DIGEST: HB 65 would require school districts to include in their annual report to the education commissioner the following information regarding out-of-school suspensions:

- information identifying the student, including the student's race, sex, and date of birth;
- the basis for the suspension;
- the number of full or partial days the student was suspended; and
- the number of suspensions that were inconsistent with the guidelines listed in the district's student code of conduct.

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, 2019. It would apply beginning with the 2019-2020 school year.

SUPPORTERS SAY: HB 65 would help the state create better-informed policies regarding school discipline by requiring districts to report data on out-of-school suspensions.

Current data indicate that suspensions increase a student's likelihood of falling behind in school and eventually dropping out, and reports show disproportionate rates of suspension for students of color, students from low-income households, students with disabilities, and students in the foster care system. The bill's reporting requirements would help the state better address the underlying causes of suspensions.

The bill would not be a burden on school districts because districts already are required to compile an annual report to the education commissioner regarding expulsions and placements in disciplinary alternative programs. The bill would simply add one category to this reporting requirement.

The bill would not change how schools discipline students, but it would give the state a starting point to improve school disciplinary policy.

OPPONENTS SAY:

HB 65 could have the unintended consequence of pressuring districts to under-discipline their students to avoid having to report data that could negatively reflect on them.

OTHER OPPONENTS SAY:

HB 65 should require charter schools, not just school districts, to report discipline statistics to the education commissioner.

The bill should require schools to report whether a student with a disability had an individualized education program that addressed the student's conduct.

SUBJECT: Exempting certain commercial productions from the sales and use tax

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Burrows, Guillen, Cole, Martinez Fischer, Murphy, Noble, E. Rodriguez, Sanford, Shaheen, Wray

0 nays

1 absent — Bohac

WITNESSES: For — (*Registered, but did not testify*: Dana Harris, Austin Chamber of Commerce; and six individuals)

Against — (*Registered, but did not testify*: Priscilla Camacho, Metro 8 Chambers of Commerce)

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

DIGEST: HB 3086 would exempt certain property used in the production of master recordings from the limited sales, excise, and use tax, provided a copy of the production was sold, offered for ultimate sale, licensed, distributed, broadcast, or otherwise exhibited for consideration.

The bill would define a master recording as the principal media on which images, sound, or a combination of images and sound were first fixed and from which copies were commercially made available.

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, 2019.

SUPPORTERS SAY: HB 3086 would clarify existing law and preserve tax relief for Texas artists by clearly defining that items used in the production of commercial motion pictures, videos, or audio recordings are exempt from the sales and use tax. Ambiguous language in the original statute could allow the

exemption of items purchased for noncommercial productions, which was not the intent of the exemption. The bill would close this loophole by providing the clarification needed to ensure the measure was being applied properly.

Artists are leaving Texas for other states that have better tax exemptions for their profession. HB 3086 would reduce the cost of commercial equipment and would help media artists stay in their home state.

OPPONENTS SAY:

HB 3086 would preserve a tax exemption that benefits a select few and distorts the free market. The state should not favor commercial productions over another industry.