HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, April 15, 2019
86th Legislature, Number 46
The House convenes at 11 a.m.
Part Three

Five bills are on the Major State Calendar, one joint resolution is on the Constitutional Amendments Calendar, and 51 bills are on the General State Calendar for second reading consideration today. The bills and joint resolutions analyzed or digested in Part Three of today's *Daily Floor Report* are listed on the following page.

Dwayne Bohac
Chairman
86(R) - 46

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Monday, April 15, 2019
86th Legislature, Number 46
Part 3

SUBJECT: Extending alternative methods for high school graduation requirements

COMMITTEE: Public Education — favorable, without amendment

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

0 nays

1 absent — Allen

WITNESSES: For —Fatima Menendez, MALDEF; Sheri Hicks, Texans Advocating For Meaningful Student Assessments; Morgan Craven, Texas Latino Education Coalition; Gina Edens; Jennifer Rosenboom; (*Registered, but did not testify*: HD Chambers, Alief ISD, Texas School Alliance; David Anderson, Arlington ISD Board of Trustees; Andrea Chevalier, Association of Texas Professional Educators; Jacquie Benestante, Autism Society of Texas; Chris Masey, Coalition of Texans with Disabilities; Molley Perry, College Station ISD; Priscilla Camacho, Dallas Regional Chamber; Steven Aleman, Disability Rights Texas; Jodi Duron, Elgin ISD; Jane McFarland, League of Women Voters of Texas; Sophie Torres, San Antonio Hispanic Chamber of Commerce; Richard Webster, Spring Branch ISD Board of Trustees; Christi Morgan, Sunnyvale ISD; Kristi Hassett and Theresa Trevino, TAMSA; Dwight Harris, Texas American Federation of Teachers; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Paige Williams, Texas Classroom Teachers Association; Velma Ybarra, Texas HOPE; Chloe Sikes, Texas Latino Education Coalition; Jerod Patterson, Texas Rural Education Association; Dee Carney, Texas School Alliance; Lisa Dawn-Fisher, Texas State Teachers Association; Michelle Cavazos, Texas Urban Council, Texas Association of Latino Administrators and Superintendents; Sheri Doss, Texas PTA; and 10 individuals)

Against — (*Registered, but did not testify*: Drew Scheberle, Greater Austin Chamber of Commerce)

On — (*Registered, but did not testify*: Monica Martinez, Texas Education Agency)

BACKGROUND: The 84th Legislature in 2015 enacted SB 149 by Seliger, which established an alternative method to satisfy graduation requirements for high school students who have completed their curriculum but failed to pass up to two STAAR end-of-course exams. The 85th Legislature in 2017 enacted SB 463 by Seliger, which continued the alternative method until September 1, 2019.

DIGEST: HB 851 would repeal the September 1, 2019, expiration date of statutory provisions that allow high school students who had failed to pass one or two required end-of-course (EOC) exams to be considered for graduation by an individual graduation committee. The bill would continue the requirements that districts and charter schools establish individual graduation committees at the end of or after a student's junior year to recommend additional requirements and to decide whether the student should be allowed to graduate and receive a high school diploma.

The bill also would repeal the September 1, 2019, expiration date for statutory provisions that allow certain former students who entered the 9th grade before the 2011-2012 school year and have not performed satisfactorily on a required exam after at least three attempts to graduate and receive a high school diploma. It would continue requirements that the commissioner of education establish criteria regarding alternatives such as work or military experience that could allow such a student to qualify to receive a high school diploma.

The bill would repeal the September 1, 2019, expiration date of a statutory provision that allows a student who has failed to pass the Algebra I or English II EOC exam to use a proficient score on the Texas Success Initiative college readiness exam for the corresponding EOC exam. It would repeal the September 1, 2019, expiration date for certain reporting requirements related to the individual graduation committees.

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 851 would make permanent the individual graduation committee process that has allowed a number of students who failed one or two EOC exams but were otherwise qualified to graduate to receive their high school diplomas. Texas should continue providing this path to high school graduation for students who can demonstrate through portfolios or other means that they have mastered the curriculum. This path is especially important for students with learning disabilities or facing language barriers.

The alternative process contains appropriate safeguards to protect the integrity of state graduation requirements and has not been abused. In 2017, fewer than 4 percent of all high school graduates were qualified to receive their diplomas by permission of individual graduation committees.

Many states do not require students to pass any standardized tests as a graduation requirement. The federal government requires states to test high school students in certain subjects but does not tie those tests to graduation.

OPPONENTS SAY:

HB 851 would continue a process that awards high school diplomas to students who may not be ready for college or the workforce. Texas has seen a reduction in college readiness of high school graduates, and the individual graduation committee process could be a contributing factor. Allowing students who have not met their testing requirements to receive their diplomas devalues the diplomas of students who did pass their end-of-course exams. It also reduces incentives for schools to provide additional instruction to get students ready to pass all of their end-of-course exams.

SUBJECT: Authorizing attorney's fees for certain animal cruelty proceedings

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 — Sheri Soltes, Texas Humane Legislation Network (*Registered, but did not testify*: Donna Warndof, Harris County Attorney's Office; Alexis Tatum, Travis County Commissioners Court; Julie Gilberg; Kolby Monnig)

Against — Susanne Pringle, Texas Fair Defense Project (*Registered, but did not testify*: Kaleb McLaurin, Texas and Southwestern Cattle Raisers Association; Chris Harris)

BACKGROUND: Health and Safety Code sec. 821.023(e) requires a court that has found an animal's owner to be guilty of animal cruelty to order the owner to pay all court costs, including administrative costs and costs of housing and caring for the animal during its impoundment.

DIGEST: HB 250 would allow a court in a county or municipality with a population of at least 700,000 to order the owner of an animal found by the court to have treated the animal cruelly to pay the county's or municipality's reasonable attorney's fees, including for an appeal.

The bill would take effect September 1, 2019.

SUPPORTERS SAY: HB 250 would increase the cost-effectiveness of animal cruelty investigations by holding the animal owner liable, effectively funding enforcement for investigations that often can be cost-intensive.

Such enforcement against mistreatment of animals would make communities safer because animal cruelty has been found to be a gateway

crime to violent crimes against people.

The order to pay county or municipal attorney's fees would apply only to a person who was found, after due process, to have abused animals. This would not constitute an arbitrary fee or penalty because it would be used to fund greater enforcement against bad actors, a shared goal of all stakeholders.

Adequate legal safeguards of due process exist to discern standard industry practices of animal husbandry from animal cruelty, and widely accepted animal husbandry is neither pursued by law enforcement nor prosecuted by district attorneys in large counties.

Indigent defendants would not be disproportionately affected by the bill, as the court would have discretion whether to impose attorney's fees, and existing mechanisms for a person to claim indigent status would remain in place. Funding enforcement for pursuing animal cruelty cases should outweigh concerns about the burden of fees for the person found to have treated an animal cruelly, regardless of the person's income.

OPPONENTS SAY:

HB 250 could unfairly target urban and suburban livestock owners who are facing increasing litigation from animal rights groups and concerned individuals.

Sometimes individuals who lack knowledge of industry practices lodge complaints against standard, humane livestock practices, causing small and midsize urban and suburban livestock owners with limited resources to incur significant legal expense.

This is especially true in Harris County, where a quarter of the total area of the county is used for agricultural production and residents live near livestock operations.

OTHER OPPONENTS SAY:

Allowing the imposition of additional court costs and fees in animal cruelty proceedings has a disproportionate effect on indigent defendants. Current requirements to pay all court costs, including administrative costs and costs of housing and caring for an animal during its impoundment, already impose a significant cost on a person found to have treated an

animal cruelly.

SUBJECT: Delivering protest hearing notice by certified or electronic mail on request

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 11 ayes — Burrows, Guillen, Bohac, Cole, Martinez Fischer, Murphy, Noble, E. Rodriguez, Sanford, Shaheen, Wray

0 nays

WITNESSES: For — (*Registered, but did not testify*: Cheryl Johnson, Galveston County Tax Office; R. Clint Smith, Texas Association of Property Tax Consultants; Julia Parenteau, Texas Realtors; Calvin Tillman; Al Zito)

Against — None

BACKGROUND: Tax Code sec. 41.46 requires an appraisal review board to deliver written notice of the date, time, and place of a protest hearing to the property owner who initiated the protest no later than 15 days before the hearing.

Concerns have been raised that the current process for notifying property owners about an upcoming protest hearing may not adequately ensure that the property owner receives the notice.

DIGEST: HB 1060 would require an appraisal review board (ARB) to deliver notice of a protest hearing by certified mail if requested by the property owner. The board could require the property owner to pay the cost of postage.

The bill also would require an ARB to deliver notice of a protest hearing by email, if the property owner requested electronic delivery and provided a valid email address. A property owner would not have to enter into an agreement with the ARB to receive an emailed notice.

The bill would take effect September 1, 2019.

SUBJECT: Expediting proceedings relating to dangerously substandard buildings

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Krause, Meyer, Neave, Smith, White

0 nays

WITNESSES: For — Christopher Mosley, City of Fort Worth; Amber McKeon-Mueller, Texas Municipal League; (*Registered, but did not testify*: Brie Franco, City of Austin; Tammy Embrey, City of Corpus Christi; Guadalupe Cuellar, City of El Paso; Sally Bakko, City of Galveston; Jon Weist, City of Irving; Trevor Minyard, City of McKinney; Brandi Youngkin, City of Plano; Christine Wright, City of San Antonio; Ricardo Ramirez, City of Sugar Land; Bill Kelly, City of Houston Mayor's Office; Sandy Hoy, Texas Apartment Association; Ned Munoz, Texas Association of Builders)

Against — None

BACKGROUND: Local Government Code sec. 214.001 allows a municipality to require by ordinance the vacation, relocation of occupants, securing, repair, removal, or demolition of certain dangerously substandard or unoccupied buildings.

Local Government Code sec. 54.012 allows a municipality to bring a civil action for the enforcement of an ordinance relating to dangerously damaged or deteriorated structures or improvements. Sec. 214.0012 allows certain persons aggrieved by a municipality's order under such an ordinance to file a petition for review of the order in district court.

DIGEST: HB 36 would require courts to expedite proceedings that involve the enforcement of a municipality's ordinance relating to dangerously damaged or deteriorated structures or improvements. Appeals in these proceedings would be governed by the procedures for accelerated appeals in civil cases under the Texas Rules of Appellate Procedure. An appellate court would render its final order or judgment with the least possible

delay.

The bill also would allow for an appeal from an interlocutory order of a district court, county court at law, statutory probate court, or county court that denied a motion filed by a governmental unit in such a proceeding.

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 36 would promote the health, safety, and welfare of communities in Texas by prioritizing the speedy resolution of cases involving dangerously substandard buildings.

Dangerously damaged or deteriorated structures are one of the major problems facing cities, especially older urban areas. Residents often complain that these buildings are safety hazards and that they bring down the value of surrounding properties. Such structures are typically unoccupied, are used sometimes by vagrants and criminals, and are harmful to the economic development of communities. Court proceedings to address these problems typically result in the buildings' demolition. However, such proceedings can take several years to be resolved, during which time these buildings can become even more unsafe.

By expediting proceedings involving dangerously substandard buildings, HB 36 would help resolve these problems more quickly and protect the public and economic health of the communities in which these buildings are found. Judges still would have discretion over their dockets and would prioritize these cases only over others that they deemed less important.

OPPONENTS SAY:

HB 36 would provide unduly preferential treatment to proceedings involving dangerously substandard buildings compared to other worthy cases in the state's crowded court system.

SUBJECT: Allowing Taylor County to create a local provider participation fund

COMMITTEE: County Affairs — favorable, without amendment

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

0 nays

WITNESSES: For — Norm Archibald, Hendrick Medical Center; (*Registered, but did not testify*: John Hawkins, Texas Hospital Association; Don McBeath, Texas Organization of Rural and Community Hospitals; Matt Gilbert; Tonn Larry)

Against — None

BACKGROUND: Local provider participation funds were first authorized by the Legislature in 2013 as a way for counties to access federal funding for their nonpublic hospitals without expanding Medicaid, requiring state funding, or taxing the residents of the county. The funds provide a mechanism by which the county can collect mandatory payments from such institutions to provide the nonfederal share of Medicaid supplemental payments in order to access federal matching funds. Local provider participation funds are administered by county health care provider participation programs.

DIGEST: HB 1142 would allow a county that is not served by a public hospital or hospital district, has a population between 125,000 and 140,000, and is not adjacent to a county with a population of 1 million or more (Taylor County) to administer a county health care provider participation program.

Establishment of provider participation program. The bill would authorize the county's commissioners court, by a majority vote, to create the program and to require a mandatory payment from institutional health care providers. If the commissioners court authorized such a program, the court would have to require each hospital in the county to submit to the county a copy of any financial and utilization data required to be submitted to the Department of State Health Services (DSHS) or the

Health and Human Services Commission (HHSC). The county commissioners would be allowed to inspect the records of any hospital to the extent necessary to ensure compliance with this requirement.

Collection, holding and disbursement of funds. The bill would require the commissioners court to hold a publicized public hearing on the amounts of any mandatory payments in each year that it authorized a health care provider participation program. A representative of any paying hospital would be allowed to attend and to be heard at any such meeting.

The commissioners court would establish a local provider participation fund in one or more banks that would be designated as depositories for the mandatory payments. The fund would consist only of the required payments including penalties and interest, money received from HHSC as a refund of federal Medicaid supplemental program payments, and fund earnings. Monies in the fund could not be commingled with other funds.

Money in the fund could only be used to:

- fund intergovernmental transfers from the county to the state to provide for the nonfederal share of a Medicaid supplemental payment program or a successor waiver program, and payments to Medicaid managed care organizations;
- subsidize indigent programs;
- pay the administrative expenses of the program;
- refund mandatary payments collected in error; and
- refund to hospitals a proportionate share of any funds collected by the county but not used to fund the payment of the nonfederal share of the Medicaid supplemental payment program.

Medicaid expansion. The bill would prohibit the use of intergovernmental transfers from the county to the state under this program to fund expanded Medicaid eligibility under the federal Affordable Care Act.

Mandatory payments. HB 1142 would require the commissioners court to assess the annual mandatory payment required of each hospital on the

basis of its net patient revenue. The county would be required to update the amount of this payment on an annual basis and to collect the payment at least annually but not more often than quarterly.

The bill would also require that the amount of annual payment be uniformly proportionate to the amount of net patient revenue generated by each hospital and adequate to cover the expenses of the program, including intergovernmental transfers and indigent programs. The bill would limit the mandatory payment to no more than 6 percent of a hospital's net patient revenue. The commissioners court would be prohibited from using more than the lesser of 4 percent of the mandatory payments or $20,000 per year for administrative expenses.

HB 1142 would prohibit a hospital from adding a mandatory payment required under the bill as a surcharge to a patient. As required by federal law, the bill would prohibit a mandatory payment under the program from holding harmless any hospital.

The bill would state that any interest, penalties, and discounts on mandatory payments under this program were governed by the law applicable to county ad valorem taxes.

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.

SUBJECT: Exempting certain students from the Texas Success Initiative assessment

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 — Chandra Villanueva, Center for Public Policy Priorities; Tanya Haug, Educational Testing Service; Randy Trask, GED Testing Service; (*Registered, but did not testify*: Brian Smith, GED Testing Service; Traci Berry, Goodwill Central Texas; William Fullerton, Texas Aspires; Justin Yancy, Texas Business Leadership Council; Drew Scheberle, The Greater Austin Chamber of Commerce)

Against — None

On — (*Registered, but did not testify*: Jerel Booker, Texas Higher Education Coordinating Board)

BACKGROUND: Education Code ch. 51 subch. F-1 establishes the Texas Success Initiative and requires institutions of higher education to use instruments designated by the Texas Higher Education Coordinating Board to assess student readiness to perform freshman-level academic coursework. Sec. 51.338 allows institutions of higher education to exempt certain students from this assessment requirement.

Some have suggested that students who achieve certain scores on a high school equivalency exam should be able to bypass additional assessment requirements.

DIGEST: CSHB 1891 would exempt students who achieved a certain score on a high school equivalency exam from the assessment requirements of the Texas Success Initiative. The score that would allow a student to be exempted from this requirement would be set by the Texas Higher Education Coordinating Board, and the commissioner of higher education

would establish the period for which the exemption would be valid.

The bill would apply beginning with the assessment of entering undergraduate students at public institutions of higher education for the 2020 fall semester.

This bill would take effect September 1, 2019.

SUBJECT: Creating a Medicaid transportation pilot program for women and children

COMMITTEE: Human Services — committee substitute recommended

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

0 nays

1 absent — Meza

WITNESSES: For — Moss Hampton, American College of Obstetricians and Gynecologists Texas section; Frank Dominguez, El Paso Health; Junda Woo, San Antonio Metropolitan Health District; Linda Litzinger; (*Registered, but did not testify*: Anne Dunkelberg, Center for Public Policy Priorities; Jason Sabo, Children at Risk, Mental Health America of Greater Houston; Jo DePrang, Children's Defense Fund-Texas; Christina Hoppe, Children's Hospital Association of Texas; Kaycee Crisp, Laura Lee Daigle, and Tegra Swogger, Circle Up: United Methodist Women for Moms; Taylor Fuerst, First United Methodist Church; Nancy Walker, Harris Health System; Erika Ramirez, Healthy Futures of Texas; Lindsay Lanagan, Legacy Community Health; Will Francis, National Association of Social Workers-Texas; Greg Hansch, National Alliance on Mental Illness-Texas; Elaine Cavazos, Pregnancy and Postpartum Health Alliance of Texas; Jessica Schleifer, Teaching Hospitals of Texas; Adriana Kohler, Texans Care for Children; Lauren Spreen, Texas Academy of Family Physicians; Mary Allen, Texas Association of Community Health Centers; Kay Ghahremani, Texas Association of Community Health Plans; Laurie Vanhoose, Texas Association of Health Plans; Jennifer Biundo, Texas Campaign to Prevent Teen Pregnancy; Gregg Knaupe, Texas Hospital Association; Joshua Houston, Texas Impact; Darren Whitehurst, Texas Medical Association; Clayton Travis, Texas Pediatric Society; Lee Nichols, TexProtects; Nataly Sauceda, United Ways of Texas; Joe Garcia, University Medical Center El Paso; Knox Kimberly, Upbring; Robbie Ausley)

Against — None

On — Stephanie Muth, Texas Health and Human Services Commission

BACKGROUND: Government Code sec. 531.02414 establishes the medical transportation program to provide nonemergency transportation services to and from covered health care services, based on medical necessity, to recipients of Medicaid who have no other means of transportation.

Sec. 533.00257 requires the Health and Human Services Commission to provide nonemergency medical transportation program services on a regional basis through a managed transportation delivery model using managed transportation organizations and providers.

Concerns have been raised that women enrolled in the STAR Medicaid managed care program during pregnancy or after delivery often miss prenatal or postpartum appointments because the medical transportation service program does not provide an option for women to bring their children along with them to appointments.

DIGEST: CSHB 25 would require the Health and Human Services Commission (HHSC) to collaborate with the Maternal Mortality and Morbidity Task Force to develop a pilot program for providing medical transportation services to certain women and their children. The program would apply to women enrolled in the STAR Medicaid managed care program during pregnancy and after delivery and would have to be implemented in at least one health care service region by September 1, 2020.

A managed transportation organization that participated in the pilot program would be required to:

- provide medical transportation services in a manner that would not result in additional costs to Medicaid or HHSC;
- provide demand response transportation services, including through a transportation network company if the request was made within two working days of the appointment or if a shared trip was not possible; and
- ensure effective information sharing and service coordination with the managed care organizations providing health care services to the women who participated in the program.

The bill would require HHSC to ensure that managed transportation organizations participating in the pilot program were operating in a safe and efficient manner.

HHSC would be required to evaluate the results of the pilot program to determine whether it:

- was cost effective;
- improved the efficiency and quality of services provided under the medical transportation program; and
- was effective in increasing access to prenatal and postpartum health care services, reducing pregnancy-related complications, and decreasing the rate of missed appointments for covered health care services by women in rolled in the STAR Medicaid managed care program.

HHSC would be required to report to the Legislature on the implementation of the pilot program by December 1, 2020. HHSC also would be required to submit a report to the Legislature on the results of the pilot program by December 1, 2022. The report would have to include a recommendation on whether the program should be continued, expanded, or terminated.

The bill would permit the executive commissioner of HHSC to adopt rules to implement the bill. The bill's provisions would expire September 1, 2023. If any provision of the bill would require a state agency to receive authorization from a federal agency, the state agency would be permitted to request authorization and delay implementation of the bill until authorization was received.

The bill would take effect September 1, 2019.

SUBJECT: Repealing prima facie evidence of intent to sell alcohol in dry areas

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — T. King, Goldman, Geren, Guillen, Harless, Hernandez, Paddie, S. Thompson

0 nays

3 absent — Herrero, K. King, Kuempel

WITNESSES: For — (*Registered, but did not testify*: Lance Lively, Texas Package Stores Association)

Against — None

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

BACKGROUND: Alcoholic Beverage Code sec. 101.31 makes it an offense to possess in a dry area an alcoholic beverage with the intent to sell it. Offenses are class B misdemeanors (up to 180 days in jail and/or a maximum fine of $2,000). Under sec. 101.32, possession in a dry area of more than 1 quart of liquor or possession of more than 24 12-ounce bottles of beer, or an equivalent amount, is prima facie evidence that the alcohol was possessed with the intent to sell.

DIGEST: HB 2790 would repeal Alcoholic Beverage Code sec. 101.32, removing provisions that make possession in a dry area of more than 1 quart of liquor or possession of more than 24 12-ounce bottles of beer prima facie evidence of possession with intent to sell.

The bill would take effect September 1, 2019.

SUBJECT: Allowing importation of beer, ale, and malt liquor for manufacturing

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 — Omar Alsaigh, Refresco

Against — None

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

BACKGROUND: Under Alcoholic Beverage Code sec. 12.01, the holder of a brewer's permit may manufacture, bottle, package and sell malt liquor, import ale and malt liquor from holders of nonresident brewer's permits, and sell ale and malt liquor to wholesalers.

Under sec. 62.01, a holder of a manufacturer's license may manufacture or brew beer and sell it in Texas to holders of distributor's licenses and to qualified persons outside of Texas and may bottle and can beer and pack it into containers for resale in Texas, regardless of whether it was brewed in Texas or another state.

Some have suggested that a recent interpretation of the Alcoholic Beverage Code could prevent an independent Texas bottler from continuing to import a malt-based product that it uses to manufacturer an alcoholic drink.

DIGEST: HB 1998 would allow the holders of a brewer's permit to import ale and malt liquor for manufacturing purposes from a holder of a nonresident

brewer's permit and to mix and blend imported ale and malt liquor to bottle and sell the product. The state tax on ale and malt liquor would not accrue until the ale or malt liquor had been used for manufacturing and the product had been placed in containers to sell.

The bill would authorize the holder of a manufacturer's license to import for manufacturing purposes beer from a holder of a nonresident manufacturer's license and ale and malt liquor from a holder of a nonresident brewer's permit. The holder of a manufacturer's license could mix and blend imported beer, ale, and malt liquor and bottle and sell the product. The state tax on the beer, ale, or malt liquor would not accrue until they had been used for manufacturing and the product had been placed in containers to sell.

HB 1998 would expand the current authority of those with manufacturer's licenses to import beer in barrels and other containers to include importing ale and malt liquor and would remove a prohibition on importing beer in tank cars.

The bill would take effect September 1, 2019.

SUBJECT: Establishing ownership of fluid oil and gas waste

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 10 ayes — Paddie, Anchia, Bailes, Craddick, Darby, Geren, Gutierrez, Harris, Perez, Rosenthal

0 nays

1 absent — Herrero

WITNESSES: For — Frank Cusimano, Chevron USA; Kerry Harpole, Marathon Oil Company; John Tintera, Texas Alliance of Energy Producers; (*Registered, but did not testify*: Lindsey Miller, Anadarko Petroleum; Lauren Spreen, Apache Corporation; Paula Bulcao, BP America, Inc.; Corbin Casteel, Centennial Resource Development; Mark Harmon, Chesapeake Energy; Steve Perry, Chevron USA; Royce Poinsett, Cimarex Energy Co.; Stan Casey, Concho Resources; Tom Sellers, ConocoPhillips; Teddy Carter, Devon Energy; Betsy Madru, Diamondback Energy; Greg Macksod, Encana Oil and Gas; Morgan Johnson, Endeavor Energy Resources; Caleb Troxclair, EOG Resources, SM Energy; Jimmy Carlile, Fasken Oil and Ranch; Amy Maxwell, Guidon Energy, Primexx Energy; Hugo Gutierrez, Marathon Oil Company; Bill Stevens, Panhandle Producers and Royalty Owners, Texas Alliance of Energy Producers; Michael Lozano, Permian Basin Petroleum Association; Mark Gipson, Pioneer Natural Resources; Carol Sims, Texas Civil Justice League; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; Ben Sebree, Texas Water Recycling Association; Cory Pomeroy, TXOGA)

Against — Brice Ferguson, Cactus Water Services, LLC; Robert Crain, Micheal Dobbs, Kathryn McIntyre, Texas Pacific Land Trust; (*Registered, but did not testify*: Peyton Schumann, Texas and Southwestern Cattle Raisers Association; Jimmy Gaines, Texas Landowners Council)

On — (*Registered, but did not testify*: Leslie Savage, Railroad Commission of Texas)

BACKGROUND:

Natural Resources Code sec. 122.001 defines fluid oil and gas waste as waste containing salt or other mineralized substances, brine, hydraulic fracturing fluid, flowback water, produced water or other fluid that arises out of or is incidental to the production of oil and gas.

Sec. 122.002 assigns ownership of oil and gas waste to a person who takes it for the purpose of treating it for subsequent beneficial use and considers it to be that person's property until it is transferred to another person for disposal or use, unless otherwise provided in a legally binding document.

DIGEST:

CSHB 3246 would establish that when fluid oil and gas waste was produced and used by a person who took possession of that waste for the purpose of treating the waste for subsequent beneficial use, the waste would be considered to be the property of the person who took possession of it for subsequent beneficial use until the person transferred the waste or treated waste to another person for disposal or use. This would apply unless otherwise expressly provided by a legally binding document, including an oil or gas lease and a surface use agreement.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 3246 would promote fluid oil and gas waste recycling by providing greater certainty that oil and gas producers had ownership rights in oil and gas waste. This would close a gap where the ownership of oil and gas waste was not clear while it was in the hands of the oil and gas operators who handled and managed waste prior to recycling and treatment. This could encourage recycling, reduce the need for disposal wells, and create new sources of water, material, and hydrocarbons. Historically, management of oil and gas waste has been a cost absorbed by operators. If royalty owners are concerned about the value of oil and gas waste, they can account for it in future agreements.

OPPONENTS SAY:

CSHB 3246 could deprive royalty owners of ownership of potentially valuable oil and gas waste by assigning ownership of it to the operator without compensation. Oil and gas waste can have financial value that should be subject to royalty agreements.

SUBJECT: Requiring reporting on certain information regarding pre-k programs

COMMITTEE: Public Education — committee substitute recommended

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

0 nays

1 present not voting — Sanford

WITNESSES: For —David Feigen, Texans Care For Children; Nancy Tovar; (*Registered, but did not testify*: Cynthia Humphrey, Association of Substance Abuse Programs; Andrea Chevalier, Association of Texas Professional Educators; Chandra Villanueva, Center for Public Policy Priorities; Steven Aleman, Disability Rights Texas; Lisa Flores, Easter Seals Central Texas; Karen Kelley, League of Women Voters of Texas; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc; Alissa Sughrue, National Alliance on Mental Illness (NAMI) Texas; Will Francis, National Association of Social Workers -Texas Chapter; Bob Popinski, Raise Your Hand Texas; Ted Raab, Texas American Federation of Teachers; Lonnie Hollingsworth, Texas Classroom Teachers Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Linda Litzinger, Texas Parent to Parent; Clayton Travis, Texas Pediatric Society; Kyle Ward, Texas PTA; Lisa Dawn-Fisher, Texas State Teachers Association; Kyle Piccola, The Arc of Texas; Ashley Harris, United Ways of Texas)

Against — None

On — Jacquie Porter, Texas Education Agency; (*Registered, but did not testify*: Ami Cortes-Castillo, Austin ISD; Barry Haenisch, Texas Association of Community Schools; Eric Marin and Monica Martinez, Texas Education Agency)

BACKGROUND:

Education Code sec. 29.1532 requires school districts to provide information to the Texas Education Agency about their prekindergarten programs, including the number of half- and full-day prekindergarten classes the school district offers and the class size and ratio of staff to students for each class. This information is included in reports the agency is required to make available on its website.

Some have called for public schools and private providers of prekindergarten education programs to provide more information about class sizes and student-teacher ratios in order to help the state enhance prekindergarten program quality.

DIGEST:

CSHB 55 would require the Texas Education Agency (TEA) to instruct each school district that offered a prekindergarten program and each private entity that provided a prekindergarten program under contract with a school district to report information about the offered prekindergarten classes to TEA. The information would have to include:

- the number of students, certified teachers, and teacher's aides in each prekindergarten class offered by the district or private entity;
- whether each prekindergarten class was full-day or half-day; and
- if the district or entity offered half-day classes, whether two half-day classes were offered per day.

Based on the information provided, TEA would determine the total number of teachers and teacher's aides in prekindergarten classes in the state. To calculate the student-teacher ratio for each prekindergarten class offered by a school district or contracted private entity, TEA would count each teacher or teacher's aide once for a full-day class and twice for a half-day class if the district offered two half-day classes per day.

TEA would have to prepare and submit a report to the Legislature based on the information collected under the bill by August 1 of each year. The initial report would have to be submitted by August 1, 2020.

The bill would take effect September 1, 2019.

SUBJECT: Exempting certain retired officers from handgun license course

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — Nevárez, Paul, Burns, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt

0 nays

WITNESSES: For — Chris Jones, Combined Law Enforcement Associations of Texas; Pete Elizalde, Combined Law Enforcement Associations of Texas Retiree Association; (*Registered, but did not testify*: David Sinclair, Game Warden Peace Officers Association; Mitch Landry, Texas Municipal Police Association)

Against — None

On — Chris Sims, Texas Department of Public Safety; (*Registered, but did not testify*: Steve Moninger, Texas Department of Public Safety)

BACKGROUND: Government Code sec. 411.199 allows honorably retired peace officers to apply for a license to carry a handgun. Sec. 411.199(b) requires a retired officer to submit a sworn statement from the head of the law enforcement agency that employed the applicant and that included certain information listed in statute.

Sec. 411.188 requires each applicant for a license to carry to take a handgun proficiency course consisting of both classroom and range instruction, including demonstration of the applicant's ability to safely and proficiently use a handgun.

Occupations Code sec. 1701.357 allows the head of a state or local law enforcement agency to issue a certificate of proficiency to certain honorably retired peace officers who demonstrated weapons proficiency by satisfying requirements listed in statute.

DIGEST:

CSHB 2137 would exempt an honorably retired peace officer from completing the classroom instruction portion of the required handgun proficiency course under Government Code sec. 411.188, if the officer complied with certain requirements to obtain a license to carry a handgun as listed in the bill.

An honorably retired peace officer who complied with those requirements and held a current certificate of proficiency under Occupations Code sec. 1707.357 would be exempt from the range instruction portion of the handgun proficiency course. As part of a license-to-carry application for a retired officer, a law enforcement agency would have to include in its sworn statement whether the applicant held a current certificate of proficiency.

The bill would require the Department of Public Safety to waive the application fee for honorably retired peace officers.

The bill would take effect September 1, 2019, and would apply to applications submitted on or after that date.

SUBJECT: Exempting certain volunteer fire departments from certain fuel taxes

COMMITTEE: Ways and Means — favorable, without amendment

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

0 nays

1 absent — E. Rodriguez

WITNESSES: For — Adam Haynes, Conference of Urban Counties; (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; Chuck Statler, Taylor County; John Carlton, Texas State Association of Fire and Emergency Districts; Susan Gezana)

Against — None

BACKGROUND: Tax Code ch. 162 exempts fuel sold to a volunteer fire department in the state for the department's exclusive use from the state's motor fuel taxes.

It has been noted that because the Tax Code does not define "volunteer fire department" for the purpose of motor fuel tax exemptions, some departments may not qualify for the exemption.

DIGEST: HB 791 would define a "volunteer fire department" for the purpose of motor fuel tax exemptions as a fire department that was operated by its members, including a part-paid fire department composed of at least 50 percent volunteer firefighters that was operated on a not-for-profit basis, including a department that was exempt from federal income tax.

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. The bill would not affect tax liability accruing before the effective date.

SUBJECT: Extending the interval between inspections of certain boilers

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 8 ayes — T. King, Goldman, Harless, Herrero, K. King, Kuempel, Paddie, S. Thompson

0 nays

3 absent — Geren, Guillen, Hernandez

WITNESSES: For — Will Nipper, Dow Chemical; (*Registered, but did not testify*: Joe Arnold and Mike Meroney, BASF Corporation; Daniel Womack, Dow Chemical; Samantha Omey and Keith Strama, ExxonMobil; Bill Oswald, Koch Companies; Courtney Reid, LyondellBasell; Austin McCarty, Texas Chemical Council)

Against — None

On — Steve Bruno, Texas Department of Licensing and Regulation

BACKGROUND: Health and Safety Code ch. 755 defines a process steam generator as an evaporator, heat exchanger, or vessel in which steam is generated by the use of heat resulting from the operation of a processing system that contains a number of pressure vessels, such as used in the manufacture of chemical and petroleum products.

Sec. 755.026 permits an extension of the interval between internal inspections of steam collection drums of process steam generators, with the approval of the executive director of the Texas Department of Licensing and Regulation and the inspection agency that has jurisdiction over the boiler. The inspection interval may be extended to the next scheduled downtime but may not exceed a total of 120 months. The extension may be granted only under certain conditions.

It has been suggested that the interval time for inspections be extended in

the case of more modern process steam generators and that inspection authorities should be allowed discretion in granting inspection extensions.

DIGEST:

CSHB 2228 would increase to 144 months the length of time the inspection interval could be extended for steam collection or liberation drums of process steam generators manufactured on or after January 1, 1970.

The bill would allow the executive director of the Texas Department of Licensing and Regulation and the appropriate inspection agency to grant, on request, an additional extension of the inspection interval of no more than 24 months for steam collection or liberation drums of process steam generators manufactured before January 1, 1970. This request would have to include a report from a certified engineer certifying that:

- a quantitative engineering assessment for in-service equipment, repairs, and alterations prescribed by the National Board Inspection Code had been completed to industry standards; and
- the industrial equipment in question was safe to operate.

The bill would take effect September 1, 2019.

SUBJECT: Revising hearing instrument fitters testing and examination requirements

COMMITTEE: Licensing and Administrative Procedures — committee substitute recommended

VOTE: 7 ayes — T. King, Goldman, Geren, Harless, Hernandez, Kuempel, Paddie

0 nays

4 absent — Guillen, Herrero, K. King, S. Thompson

WITNESSES: For — (*Registered, but did not testify*: Bradford Shields, Texas Academy of Audiology; Scott Pospisil, Texas Hearing Aid Association, Inc.)

Against — None

On — (*Registered, but did not testify*: Carla James, Texas Department of Licensing and Regulation)

BACKGROUND: Occupations Code ch. 402 governs hearing instrument fitters and dispensers. The Texas Department of Licensing and Regulation (TDLR) is responsible for overseeing the profession, including by evaluating and examining applicants for a license to fit and dispense hearing instruments.

Sec. 402.104 establishes requirements for the exam for a license to fit and dispense hearing instruments. The exam is developed and administered by TDLR and can include written, oral, or practical tests. The exam must be administered at least twice a year by one or more qualified proctors and must be validated by an independent testing professional. The Texas Commission of Licensing and Regulation sets the qualifications for proctors of the exam.

Some suggest that aspects of the law related to hearing instrument fitter and dispenser examinations are out of date and do not follow standard TDLR testing and examination policies.

DIGEST:

CSHB 2699 would revise the testing and examination requirements for hearing instrument fitters and dispensers.

Under the bill, the Texas Department of Licensing and Regulation (TDLR) would have to develop and maintain an exam for hearing instrument fitters and dispensers that could include a written or practical test but not an oral exam.

The department could arrange for a representative to administer and validate the exam, but would not be required to have the test validated by an independent testing professional. The bill would remove a requirement that the exam be administered at least twice a year.

TDLR or its representative would have to give each applicant due notice of the date and place of the applicant's exam and the subjects and skills that would be tested. The bill would repeal a provision allowing TDLR to refuse to examine an applicant who had been convicted of a misdemeanor involving moral turpitude or a felony.

An applicant who previously failed an examination or test to become licensed under the bill could retake the exam or test. If the applicant had previously failed a practical test, the applicant would have to be retested only on the portions of the test the applicant had failed.

TDLR would be required to issue an apprentice permit to fit and dispense hearing instruments to a training permit holder who had passed the required examination and met other requirements.

The bill would take effect September 1, 2019, and would apply only to a person who applied to take an examination on or after that date.

SUBJECT: Exempting items sold by a nonprofit at a county fair from sales tax

COMMITTEE: Ways and Means — favorable, without amendment

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

0 nays

1 absent — E. Rodriguez

WITNESSES: For — (*Registered, but did not testify*: Alexie Swirsky)

Against — None

BACKGROUND: Tax Code sec. 151 requires the seller of a taxable item to collect sales and use taxes from the purchaser and remit that money to the comptroller.

Some have suggested that it can be a burden for certain nonprofit organizations selling taxable items at a county fair to collect sales and use taxes from a purchaser and remit that money to the comptroller.

DIGEST: HB 2684 would exempt the sale of a taxable item from a sales and use tax if the seller or retailer was a 501(c)(3) nonprofit organization, the sale took place at a county fair, and the purchaser was a person attending or participating in the fair.

The bill would take effect September 1, 2019.

SUBJECT: Allowing certain search warrants to be executed in adjacent counties

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — Nevárez, Paul, Burns, Calanni, Clardy, Goodwin, Israel, Lang, Tinderholt

0 nays

WITNESSES: For — Brian England and Shawn Roten, City of Garland; (*Registered, but did not testify*: Joseph Chacon and Justin Newsom, Austin Police Department; Chris Jones, Combined Law Enforcement Associations of Texas; Jim Allison, County Judges and Commissioners Association of Texas; David Sinclair, Game Warden Peace Officers Association; Monty Wynn, Texas Municipal League)

Against — None

On — (*Registered, but did not testify*: Cody Jones, Texas Parks and Wildlife Department Law Enforcement Division; David Palmer, Texas Department of Public Safety)

BACKGROUND: Some suggest the current process law enforcement officers must use while executing a search warrant to obtain a blood draw for certain intoxication offenses outside their jurisdiction is cumbersome and poses problems for those communities whose closest hospital is in another county.

DIGEST: CSHB 1355 would allow certain search warrants to be executed in any county adjacent to the county in which it was issued and by any law enforcement officer authorized to make an arrest in the county of execution.

The bill would apply to a search warrant issued to collect a blood specimen from a person suspected of committing the following intoxication offenses under Penal Code ch. 49:

- driving, flying, or boating while intoxicated;
- driving while intoxicated with child passenger;
- assembling or operating an amusement ride while intoxicated;
- intoxication assault; and
- intoxication manslaughter.

The bill would take effect September 1, 2019, and would apply only to a search warrant issued on or after that date.

SUBJECT: Changing maximum allowable fees for food service permits

COMMITTEE: County Affairs — favorable, without amendment

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

0 nays

WITNESSES: For — Shaun May, Bi-City-County Public Health District; (*Registered, but did not testify*: Jim Allison, County Judges and Commissioners Association of Texas; Russell Schaffner, Tarrant County; Craig Holzheauser, Texas Association of City and County Health Officials; Gabriela Villareal, Texas Conference of Urban Counties; Julie Wheeler, Travis County Commissioners Court)

Against — None

BACKGROUND: Health and Safety Code secs. 437.012 and 437.0123 allow counties and public health districts to charge fees for issuing or renewing permits for food service establishments, retail food stores, mobile food units, and roadside food vendors. These fees are capped at certain amounts and are required to be spent only on conducting inspections.

Some suggest the upper limits on these fees may no longer cover the expenses incurred by many counties and districts in performing inspections.

DIGEST: HB 2755 would limit the fee charged by any county or public health district for issuing or renewing a food service permit to the amount necessary to recover the costs of conducting required inspections.

The bill would take effect September 1, 2019.

SUBJECT: Requiring personal financial literacy courses for high school students

COMMITTEE: Public Education — committee substitute recommended

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

0 nays

1 absent — Sanford

WITNESSES: For — Chris Masey, Coalition of Texans With Disabilities; Lourdes Zuniga, Financial Literacy Coalition of Central Texas; Pat Hardy; Margaret Kofron; Dean Somerville) (*Registered, but did not testify*: Tom Morgan, American Collectors Association of Texas; Drew Scheberle, Austin Chamber of Commerce; Angela Smith, Fredericksburg Tea Party; Meredyth Fowler, Independent Bankers Association of Texas; Jane McFarland, League of Women Voters of Texas; Will Francis, National Association of Social Workers-Texas Chapter; Scott Bush, Texas Social Studies Supervisors Association; Celeste Embrey, Texas Bankers Association; Kyle Ward, Texas PTA; Julia Parenteau, Texas Realtors; Martha Leal, Texas School Counselor Association; Nataly Sauceda, United Ways of Texas; and nine individuals)

Against — (*Registered, but did not testify*: Bill Kelberlau; Ronda McCauley)

On — (*Registered, but did not testify*: Barry Haenisch, Texas Association of Community Schools; Eric Marin and Monica Martinez, Texas Education Agency; Dee Carney, Texas School Alliance)

BACKGROUND: Education Code sec. 28.0021 requires each school district and each open-enrollment charter school that offers a high school program to provide an elective course in personal financial literacy that meets the requirements of one-half elective credit.

DIGEST:

CSHB 1182 would require school districts and open-enrollment charter schools that offer a high school program to provide a course in personal financial literacy. The bill would require students to take the course to fulfill their curriculum graduation requirements under the Foundation High School Program.

CSHB 1182 would decrease the amount of elective credits required of students under the Foundation High School Program from five to four and one-half.

The bill would apply beginning with students entering the 9th grade during the 2019-2020 school year.

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 1182 would ensure that every Texas high school student graduated with basic personal financial literacy. Being knowledgeable about finances helps to prevent financial hardships such as credit card debt and bankruptcy and encourages smart financial habits such as budgeting and saving. The bill would cover a wide array of financial topics and would allow for the State Board of Education to designate existing courses to satisfy the personal financial literacy requirement or set the curriculum requirements as they deemed appropriate.

The bill would provide flexibility to school districts by allowing them to use an existing state, federal, private, or nonprofit program that provides students the personal financial literacy instruction without charge. Because the bill also would lower the elective credit requirements, it would not pose an additional burden on schools or students.

OPPONENTS SAY:

CSHB 1182 would increase costs for districts by requiring them to hire and train qualified teachers to fulfill the mandated financial literacy course. Requiring the course would add an additional burden on schools to provide it and on students to sacrifice other electives to fulfill the financial literacy graduation requirement.