HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, May 07, 2019
86th Legislature, Number 60
The House convenes at 10 a.m.
Part Four

The bills and joint resolutions analyzed or digested in Part Four of today's *Daily Floor Report* are listed on the following page.

The House also will consider a Local, Consent, and Resolutions Calendar.

All HRO bill analyses are available online through TLIS, TLO, CapCentral, and the HRO website.

Dwayne Bohac
Chairman
86(R) - 60

HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Tuesday, May 07, 2019

86th Legislature, Number 60

Part 4

SUBJECT: Allowing courts to commute sentences of certain parolees

COMMITTEE: Corrections — favorable, without amendment

VOTE: 7 ayes — White, Allen, Bailes, Bowers, Dean, Morales, Stephenson

0 nays

2 absent — Neave, Sherman

WITNESSES: For — Marc Levin, Texas Public Policy Foundation; Charlie Malouff; (*Registered, but did not testify*: Caitlin McClune, Austin Justice Coalition; Allison Franklin, Texas Criminal Justice Coalition)

Against — None

BACKGROUND: Code of Criminal Procedure art. 42A.701 allows courts to reduce or terminate probation periods for certain persons, sometimes referred to as judicial clemency.

Some have called for judicial clemency for certain persons who have successfully completed a required number of years on parole.

DIGEST: HB 4163 would allow a person released on parole to file a motion with the court in which the person was convicted requesting that the court commute the person's sentence if:

- the person was released on parole at least 10 years before the motion was filed;
- the person's release on parole had not been revoked at any time; and
- the person was not required to register as a sex offender.

The person would have to submit information relevant to the person's rehabilitation, including employment history, any educational or training programs completed while confined or on parole, any volunteer activities, and letters of support.

On receipt of a motion, the court would be required to notify the prosecutor in the jurisdiction in which the person was convicted and request from the Texas Department of Criminal Justice information related to the person's conduct while on parole.

The court could hold a hearing to consider the motion and take testimony from any person with relevant information. If a hearing were held, the court would have to provide notice to the prosecutor to allow the prosecutor's participation.

Within 180 days after the motion was filed, the court would have to review the motion and provided information and testimony to determine whether the person met the eligibility requirements for commutation. If eligible, the court would issue an order commuting the person's sentence if it was determined to be in the best interest of justice, the public, and the person.

A court's authority under the bill would be limited to commuting a person's sentence to reflect the time served while confined or released on parole as of the order's issue date. The court could not impose conditions on the issuance of the order or otherwise related to the person's release, and a person who received an order of commutation would be considered to have fully discharged the person's sentence.

The bill would apply to a person on parole on or after the bill's effective date.

The bill would take effect December 1, 2019, but only if a constitutional amendment authorizing the Legislature to enact laws providing for a court to grant a commutation of punishment to a person who had successfully served the required number of years on parole was approved by voters. If the amendment was not approved by voters, the bill would have no effect.

NOTES: HB 4163 is the enabling legislation for HJR 130 by S. Thompson, which was sent to the House Calendars Committee on May 1.

SUBJECT: Conducting limited-scope reviews of appraisal districts in disaster areas

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 8 ayes — Burrows, Guillen, Murphy, Noble, E. Rodriguez, Sanford, Shaheen, Wray

0 nays

3 absent — Bohac, Cole, Martinez Fischer

WITNESSES: For — Marya Crigler, Texas Association of Appraisal Districts; (*Registered, but did not testify*: Christopher Young, Linebarger Goggan Blair and Sampson, LLP)

Against — None

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

BACKGROUND: Tax Code sec. 5.102 requires the comptroller at least once every two years to review the governance of each appraisal district, the taxpayer assistance provided, and the operating and appraisal standards, procedures, and methodology used by each district to determine compliance with generally accepted standards, procedures, and methodology.

Some have noted that Hurricane Harvey damaged several appraisal district buildings and impacted resources, which could affect their statutorily required reviews.

DIGEST: HB 3384 would allow the comptroller to conduct a limited-scope review in place of the review required under Tax Code sec. 5.102 if the appraisal district was established in a county located wholly or partly in a declared disaster area during the tax year in which the review was required and the chief appraiser requested that the review conducted be limited in scope.

The comptroller also would have to determine that one of the following

circumstances existed and was caused by the disaster:

- a building used by the appraisal district to conduct business was destroyed, inaccessible, or damaged to the extent that it was unusable for at least 30 days;
- the appraisal district's records or computer systems were destroyed or unusable for at least 30 days; or
- the appraisal district did not have the resources to undergo a review unless it was limited in scope.

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: Allowing vendors to issue renewal and duplicate driver's licenses and IDs

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 8 ayes — Nevárez, Paul, Burns, Clardy, Goodwin, Israel, Lang, Tinderholt

0 nays

1 absent — Calanni

WITNESSES: For — Jeff Adams; (*Registered, but did not testify*: Carlos Reyna, Aceable DSC Course Provider; Mary Gregory, Central Representative of Texas Professional Driver Education Association; Cecilia Jackson, Driving School Association of the Americas, Texas Professional Drivers Education Association; Nina Saint, SafeWay Driving; Kenton Fox, Gregory's Driving School; Debbie Callahan, Texas Professional Driver Education Association; Greg Peters, Vista Ridge Driving School, Inc.; Stephen Hilz; Tammy Hilz; Bernadette Mora; Earnest Weatherford)

Against — David Carter; (*Registered, but did not testify*: Virginia Ramirez)

On — Amanda Arriaga, Texas Department of Public Safety

BACKGROUND: Transportation Code sec. 521.009 allows the Department of Public Safety to enter into an agreement with a county or a municipality for the provision of services related to the issuance of renewal and duplicate driver's licenses, election identification certificates, and personal identification certificates at a county or municipal office.

Under sec. 521.428, a county or municipality that provides services under such an agreement may collect an additional fee of up to $5 for each transaction relating to driver's licenses and personal identification certificates.

Due to recent reports of increased wait times at driver's license offices, some have suggested increasing locations to obtain a renewal or duplicate license and extending the duration of licenses to benefit customers.

DIGEST:

CSHB 838 would expand the program under Transportation Code sec. 521.009 to allow a private vendor to enter into an agreement with the Department of Public Safety for the provision of services related to the issuance of renewal and duplicate driver's licenses, election identification certificates, and personal identification certificates at a location determined by the vendor.

The bill would increase from $5 to $10 the cap on the fee a county, municipality, or private vendor that provided services under an agreement could collect for transactions relating to driver's licenses and personal identification certificates.

The bill would take effect September 1, 2019.

SUBJECT: Creating a procedure to request a new criminal trial if all parties agree

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

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

0 nays

WITNESSES: For — Nicolas Hughes, Harris County Public Defender's Office; Mike Ware, Innocence Project of Texas; Shea Place, Texas Criminal Defense Lawyers Association; Elsa Alcala, Texas Defender Service; Maite Sample; (*Registered, but did not testify*: Pete Gallego, Bexar County Criminal District Attorney's Office; Christian Henricksen, Bexar County District Attorney's Office; Kathleen Mitchell, Just Liberty; Douglas Smith, Texas Criminal Justice Coalition; Emily Gerrick, Texas Fair Defense Project; Jennifer Erschabek and Lauren Oertel, Texas Inmate Families Association; Marc Levin, Texas Public Policy Foundation; Susan Lippman)

Against — (*Registered, but did not testify*: Randall Sims, 47th District Attorney's Office; John Hubert, Kleberg and Kenedy Counties District Attorney's Office; Kent Birdsong, Oldham County Attorney's Office)

On — Raoul Schonemann

BACKGROUND: Some have noted that Texas does not have a provision to allow requests for a new criminal trial in the interest of justice, even when all parties agree with the request, and that allowing these requests would fill a gap when other remedies are not available or would not be timely or efficient.

DIGEST: CSHB 4202 would establish a procedure for requesting a new criminal trial in certain cases if all parties agreed to the request. The bill would allow defendants to file a motion for a new trial with the convicting court at any time during a prison term of more than three years or any time after the death penalty had been imposed if the defendant had the written consent of the district attorney or criminal district attorney. The motion

would have to include an agreed statement of facts for the court to consider.

After a hearing, the court could grant the defendant a new trial in the interest of justice. The court could rely on the agreed statement in granting a new trial, and the agreed statement of facts could constitute the entire record in the cause.

A decision to grant a new trial could be appealed, but neither the prosecutor nor the defendant could appeal a decision to deny a motion for a new trial. The prosecutor could condition consent to a motion for a new trial on any appropriate reason, including a requirement that the defendant plead guilty and accept a specific punishment, waive parole eligibility, or waive the right to appeal.

Until the trial court granted the motion for a new trial, the defendant could withdraw the motion or the prosecutor could withdraw consent to the motion. If the motion or consent was withdrawn, the court would be prohibited from granting a new trial in the case based on that motion.

The bill would take effect September 1, 2019.

SUBJECT: Making the theft of certain packages a class A misdemeanor

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Collier, Zedler, K. Bell, Hunter, P. King, Moody, Murr, Pacheco

1 nay — J. González

WITNESSES: For — (*Registered, but did not testify*: Frederick Frazier, Dallas Police Association State FOP; Jessica Anderson, Houston Police Department; Jimmy Rodriguez, San Antonio Police Officers Association; Michael Cargill, Texans for Accountable Government; Noel Johnson, TMPA; Anthony Kivela; Al Zito)

Against — Kathleen Mitchell, Just Liberty; Douglas Smith, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Larissa Rodionov)

On — Chas Moore, Austin Justice Coalition

DIGEST: CSHB 760 would make it a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) to steal a package with a value of less than $2,500 that:

- had been delivered by a common carrier but not yet received by the addressee or had been left to be collected for delivery by a common carrier; and
- was stolen from a residential or commercial property, including the driveway, porch, front door, or any other area of the property.

It would not be a defense to prosecution that the package was addressed to a person who was not the owner of the residential or commercial property from which the package was stolen.

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

SUPPORTERS SAY:

CSHB 760 would protect the private property of Texans and Texas businesses by ensuring that the theft of delivered packages was prosecuted appropriately.

Currently, criminal penalties for the theft of a package from private property are issued based on the dollar amount value of the package's contents. However, this does not account for the violation of personal property rights and privacy that such theft entails or for the increasing reliance of Texans on home delivery to receive goods. The bill would address this by codifying package theft in the Penal Code and providing for an appropriate level of punishment in line with other forms of theft.

CSHB 760 would not provide for inappropriately harsh penalties since it would punish theft based on the nature of how and from where a package was stolen. Just as burglary is not prosecuted based on the value of items stolen, package theft should not be treated as less serious simply because the items in a stolen package may not have had a high monetary value.

The bill would not raise costs for the state because it would not result in a significant number of individuals being sentenced to jail time. While individuals convicted of a class A misdemeanor may be sentenced to jail time, judges would still take into account the dollar amount of the items stolen when determining an appropriate penalty.

The bill would not work against Texas' criminal justice reform initiatives but would simply align policy with technological changes. Many Texans rely on delivery to provide their households and businesses with items needed to function. Penalizing theft of these delivered items would ensure law-abiding working citizens and their families were protected.

OPPONENTS SAY:

CSHB 760 would impose inappropriately harsh penalties, could raise costs for the state, and would work against the state trend of reducing the number of people incarcerated for low-level crimes by creating a new criminal penalty for package theft.

The bill would provide for criminal penalties that exceeded the nature of the crime committed. While theft should be punished, a class A

misdemeanor is too severe a punishment for stealing a package of indeterminate value from a residential or commercial property.

The bill also could raise costs for the state by requiring the state to prosecute more individuals for petty theft and to potentially incarcerate these individuals if they were sentenced to jail time. Because the bill could lead to more individuals being sentenced to jail time, it could undo some of the Legislature's work to reduce the number of individuals incarcerated for low-level crimes and undermine ongoing criminal justice reform initiatives.

NOTES:

According to the Legislative Budget Board, the probable fiscal impact of implementing the bill is indeterminate due to the lack of data or information available specifying the number of times a package to be delivered or collected whose value was less than $2,500, was stolen from a residential or commercial property. These data are necessary to estimate the fiscal impact of the bill's enhancement provision.

SUBJECT: Reporting employee turnover at certain day-care or family home facilities

COMMITTEE: Human Services — committee substitute recommended

VOTE: 7 ayes — Frank, Hinojosa, Clardy, Meza, Miller, Noble, Rose

0 nays

2 absent — Deshotel, Klick

WITNESSES: For — (*Registered, but did not testify*: Jason Sabo, Children at Risk; Kimberly Kofron, Texas Association for the Education of Young Children)

Against — None

On — (*Registered, but did not testify*: Jean Shaw, Texas Health and Human Services Commission)

BACKGROUND: Human Resources Code sec. 42.025 requires the Department of Family and Protective Services to maintain a searchable database on the department's website that includes the name, address, and any applicable identification number of each family home registered or previously registered with the department that had previously had a registration involuntarily suspended or revoked. Each home's listing would include a permanent notation indicating the involuntary suspension or revocation and the year in which it took effect.

It has been suggested that employee turnover rates are a strong indicator of a child-care program's quality and that granting parents access to information about turnover rates could help them select a high quality program for their children.

DIGEST: CSHB 2786 would require certain child-care facilities to disclose the number of employees who had left the facilities' employment during the preceding calendar year.

Under the bill, the application for renewal of a day-care center or group day-care home license would have to require the license holder to disclose the total number of employees who had left the license holder's employment during the preceding calendar year.

The executive commissioner of the Health and Human Service Commission (HHSC) also would have to adopt rules requiring that as part of the certification and registration renewal process, a registered family home was required to disclose the total number of employees who had left employment with the registration holder during the preceding calendar year.

The searchable database maintained by the Department of Family and Protective Services would be required to include the employment information disclosed under the bill.

The executive commissioner of HHSC would have to adopt rules necessary to implement the bill as soon as practicable after the bill's effective date.

The bill would take effect September 1, 2019, and would apply only to a license or registration renewed on or after that date.

SUBJECT: Authorizing revenue bonds to fund certain ship channel improvements

COMMITTEE: Transportation — committee substitute recommended

VOTE: 12 ayes — Canales, Bernal, Y. Davis, Goldman, Hefner, Krause, Leman, Martinez, Ortega, Raney, Thierry, E. Thompson

0 nays

1 absent — Landgraf

WITNESSES: For — Keith Strama, Sabine Neches Navigation District; (*Registered, but did not testify*: Gabriel Garza, International Longshoremen's Association, Local Union 24; Elise Richardson, Port Freeport; Chris Fisher, Port of Beaumont; Mario Martinez, Port of Brownsville; Nelda Olivo, Port of Corpus Christi; and 14 individuals)

Against — None

BACKGROUND: Transportation Code ch. 56 establishes the ship channel improvement revolving fund and the revolving loan program, which are overseen by the Texas Transportation Commission. The revolving loan program uses money from the fund to provide financing to navigation districts for qualified ship channel projects.

It has been suggested that refining the ways in which financing can be provided through the ship channel improvement revolving fund would allow for greater flexibility in providing needed aid for ship channel projects.

DIGEST: CSHB 3850 would authorize the Texas Transportation Commission to issue revenue bonds to provide money for the ship channel improvement revolving fund. The commission would be required to deposit proceeds from issued bonds in the fund.

Under the bill, the revolving loan program would use money from the ship channel improvement revolving fund to enhance the financing capabilities

of entities responsible for the local share of qualified project costs by providing revenue or security for:

- low-interest loans;
- longer repayment terms for loans; and
- flexible loan repayment terms, including loan structures similar to a line of credit and the authorized prepayment of loans.

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: Creating the Commission on Texas Workforce of the Future

COMMITTEE: International Relations and Economic Development — committee substitute recommended

VOTE: 6 ayes — Anchia, Blanco, Larson, Metcalf, Perez, Raney

1 nay — Cain

2 absent — Frullo, Romero

WITNESSES: For — Traci Berry, Goodwill Central Texas; Judea Goins-Andrews, Project Lead The Way; (*Registered, but did not testify*: Priscilla Camacho, Dallas Regional Chamber; Ben Melson and Lindsay Munoz, Greater Houston Partnership; Annie Spilman, NFIB; James Mathis, Occidental Petroleum; Lori Henning, Texas Association of Goodwills; Mike Meroney, Texas Association of Manufacturers; Austin McCarty, Texas Chemical Council; Drew Scheberle, Greater Austin Chamber of Commerce)

Against — (*Registered, but did not testify*: Jim Baxa)

On — Rene Lara, Texas AFL-CIO

DIGEST: CSHB 3511 would establish the Commission on Texas Workforce of the Future to engage businesses, state agencies, and local workforce system partners in the efforts of state and local authorities to build the state's workforce talent pipeline.

Recommendations. The commission would make recommendations to address issues related to workforce development and the future of the state's workforce, including:

- strengthening public-private partnerships that connected people with careers and employers with skilled talent;
- improving regional coordination and alignment among industry, the public workforce system, public schools, higher education, and

community-based organizations to create college and career pathways;

- attracting, educating, developing, and placing workers in high-demand industry sectors;
- addressing the current and future skills gap across the state economy;
- increasing work-based learning opportunities, including for persons historically underrepresented in high-growth, high-wage industries;
- developing a plan to expand adult high school and industry certification charter school programs to meet industry needs; and
- making changes to the laws governing the public workforce system, public education, and higher education.

Members would be tasked with providing reliable and accurate data pertinent to college and career readiness, industry-based workforce credentials, associate and bachelor's degree programs, and high-demand industry jobs and careers.

Makeup, administration, and funding. The commission would be composed of 17 members who would be appointed by or would themselves be state government officials, as specified in the bill. In making appointments, state officials would have to coordinate to ensure that the members appointed to the commission reflected, to the extent possible, the ethnic and geographic diversity of Texas. The presiding officer of the commission would be a business executive designated by the governor.

The bill would require the commission to establish one or more working groups to study, discuss, and address specific policy issues. The commission would hold public meetings as needed to fulfill its duties. The commission would be subject to open government and public information laws.

Commissioners would not be entitled to compensation but would be entitled to reimbursement for actual and necessary expenses incurred in performing their duties. Texas Education Agency (TEA) staff would provide administrative support for the commission. Funding for

administrative and operational expenses of the commission would be provided by appropriations to TEA.

Report. By December 31, 2020, the commission would prepare and deliver a report to the governor and the Legislature making recommendations for statutory and regulatory changes to enhance workforce development. The commission would be abolished January 12, 2021.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSHB 3511 would engage businesses in defining current and future workforce needs and deepening partnerships with the state's education, workforce development, and economic development systems. This would contribute to the development of a future-ready workforce in which Texans had the skills they need to compete in a changing economy.

The bill would bring lawmakers into conversation with state agencies and other stakeholders to study the changing dynamics of the workforce and determine needed statutory and regulatory changes, which ultimately would contribute to a more limited and effective government.

OPPONENTS SAY:

CSHB 3511 would represent an unnecessary expansion of government.

SUBJECT: Adjusting payments to survivors of certain peace officers for inflation

COMMITTEE: Appropriations — committee substitute recommended

VOTE: 22 ayes — Zerwas, Longoria, C. Bell, Buckley, Capriglione, Cortez, S. Davis, Hefner, Howard, Miller, Minjarez, Muñoz, Schaefer, Sheffield, Sherman, Smith, Stucky, Toth, J. Turner, VanDeaver, Walle, Wu

0 nays

5 absent — G. Bonnen, M. González, Jarvis Johnson, Rose, Wilson

WITNESSES: For — Chris Jones, CLEAT; John Riddle, Texas State Association of Fire Fighters; (*Registered, but did not testify*: Donald Baker, Austin Police Association; Eve Stephens, Austin Police Department; Rita Ostrander, Dallas Combined Law Enforcement Associations of Texas, National Latino Law Enforcement Organization; Michael Glynn, Fort Worth Firefighters Association; Jessica Anderson, Houston Police Department; Ray Hunt, Houston Police Officers Union; Aidan Alvarado, Laredo Fire Fighters Association; Jimmy Rodriguez, San Antonio Police Officers Association; Randy Cain, Texas Fire Chiefs Association)

Against — None

On — Ed Heimlich, Citizens United 4 Accountable Government

BACKGROUND: Government Code sec. 615.022 fixes the payment to survivors of certain law enforcement officers, firefighters, or other public employees killed in the line of duty at $500,000. The payment is paid out in equal shares if there is more than one eligible recipient.

Some have noted that the payment to survivors is not adjusted for inflation and could lose value over time.

DIGEST: CSHB 3635 would entitle an eligible survivor of certain law enforcement officers, firefighters, or other public employees to receive a lump sum payment as determined by the bill. If there was more than one eligible

recipient, the lump sum payment would be paid to eligible survivors in equal shares.

For the 12 months beginning September 1, 2019, the payment amount would be $500,000. Effective September 1 of each following year, the board of trustees of the Employees Retirement System of Texas by rule would be required to adjust the amount of the lump sum payment by an amount equal to the percentage change in the Consumer Price Index for All Urban Consumers, published by the U.S. Department of Labor for the preceding year.

The bill would take effect September 1, 2019, and would apply only to payments made to survivors on or after the bill's effective date.

SUBJECT: Creating the Next Generation Commission on Digital Learning

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 — Jennifer Bergland, Texas Computer Education Association; (*Registered, but did not testify*: Casey McCreary, Texas Association of School Administrators; Drew Scheberle, The Greater Austin Chamber of Commerce; John Kelso)

Against — None

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

DIGEST: HB 4186 would establish the Next Generation Commission on Digital Learning to develop and make recommendations for a framework that would incorporate digital teaching and learning in public schools.

Recommendations. The commission would develop recommendations to:

- provide a funding proposal to present to the Legislature for digital teaching and learning that included funding to improve student outcomes and to provide high-quality professional learning for educators;
- develop a framework for effective statewide deployment of digital teaching and learning materials; and
- develop and implement strategies that assisted school districts in the adoption and implementation of such materials.

Makeup, administration, and funding. The commission would include

15 members who would be appointed by or would themselves be state government officials, as specified in the bill. The governor would designate a presiding officer.

The commission could hold public meetings as needed to fulfill its duties and would be subject to open meetings and public information laws.

Commission members would not be entitled to compensation for service on the commission except for reimbursement for actual and necessary expenses incurred in performing commission duties. Texas Education Agency staff would provide administrative support for the commission, and funding for administrative and operational expenses would be provided by appropriation to the agency for that purpose.

Report. By September 1, 2020, the commission would be required to prepare and deliver a report to the governor and Legislature that recommended statutory changes to develop a framework to incorporate digital teaching and learning in public schools. The commission would be abolished January 1, 2021.

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.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of about $412,000 to general revenue related funds through fiscal 2020-21.

SUBJECT: Making changes to DFPS case management system

COMMITTEE: Human Services — committee substitute recommended

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

0 nays

1 absent — Rose

WITNESSES: For — (*Registered, but did not testify*: Adam Haynes, Conference of Urban Counties; Sheri Doss, Texas PTA; Aimee Mobley Turney)

Against — None

On — Kristene Blackstone and Lisa Kanne, Department of Family and Protective Services; (*Registered, but did not testify*: Liz Kromrei and Tiffany Roper, Department of Family and Protective Services; Joel Schwartz, Health and Human Services Commission)

BACKGROUND: Interested parties note that child protective services case files can be changed by caseworkers, investigators, and supervisors without tracking changes or ensuring that a record of the original information is maintained.

DIGEST: CSHB 2490 would make changes to the Department of Family and Protective Services' (DFPS) case tracking and information management system. The bill would require DFPS to ensure that the system:

- locked information related to any stage of service entered in a case narrative in the system by DFPS staff, representatives, or agents after approval by department management;
- prevented modification of locked information unless authorized by court order and allowed appropriate staff to make relevant supplemental entries; and
- for any substantive change to information in the system, required the inclusion of the identity of the person making a change and the

date the change was made.

The bill would take effect September 1, 2019.

NOTES: According to the Legislative Budget Board, the bill would have an estimated negative impact of $1.6 million to general revenue related funds through fiscal 2020-21.

SUBJECT: Continuing education requirements for surgical technologists

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — S. Thompson, Wray, Allison, Frank, Ortega, Price, Sheffield, Zedler

0 nays

3 absent — Coleman, Guerra, Lucio

WITNESSES: For — Jeff Feix, Texas State Assembly of AST; (*Registered, but did not testify*: Bobby Hillert, Texas Orthopaedic Association; Stefanie Steele-Galchutt, Texas State Assembly of AST; Tony Tran)

Against — None

DIGEST: CSHB 1748 would require certified surgical technologists employed by a health care facility to practice surgical technology who had completed an accredited educational program to complete the number of hours of continuing education required to maintain certification.

Certain other individuals who were employed by a health care facility to practice surgical technology would have to complete 30 hours of continuing education related to surgical technology every two years. These individuals would include those who had completed an appropriate training program for surgical technology in the U.S. armed forces or the U.S. Public Health Service, were employed to practice surgical technology prior to September 1, 2009, or were granted an appropriate exception by a health care facility to work as a surgical technologist.

Upon the request of a health care facility, a surgical technologist would have to submit evidence of completion of the required continuing education. A health care facility could restrict the ability of a person employed to practice surgical technology in the facility if the person failed to complete the required continuing education.

An individual employed by a health care facility to practice surgical technology would not have to complete the required continuing education before September 1, 2020.

The bill would take effect September 1, 2019.

SUBJECT: Authorizing certain legal representation of the indigent by private lawyers

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 — Michael Young, Bexar County Texas; Alex Bunin, Harris County Public Defender's Office (*Registered, but did not testify*: Nick Hudson, American Civil Liberties Union of Texas; M Paige Williams, Dallas County Criminal District Attorney John Creuzot; Kathleen Mitchell, Just Liberty; Mary Mergler, Texas Appleseed; Gabriela Villareal, Texas Conference of Urban Counties; Douglas Smith, Texas Criminal Justice Coalition; Emily Gerrick, Texas Fair Defense Project; Marc Levin, Texas Public Policy Foundation; Susan Lippman)

Against — None

On — (*Registered, but did not testify*: Wesley Shackelford, Texas Indigent Defense Commission)

BACKGROUND: Under Code of Criminal Procedure art. 26.044, attorneys employed by a public defender's office may not engage in the private practice of criminal law.

It has been suggested that it might be appropriate to allow some attorneys practicing criminal law in private practice to have limited involvement in representing indigent defendants due to their expertise and the convenience of such arrangements.

DIGEST: HB 1457 would authorize attorneys engaged in the private practice of criminal law to be employed by a public defender on a part-time basis for the sole purpose of providing counsel in relation to an indigent person's appearance before a magistrate after arrest.

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 cable and phone service providers from certain fees

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 9 ayes — Phelan, Guerra, Harless, Hunter, P. King, Parker, Raymond, Smithee, Springer

2 nays — Hernandez, E. Rodriguez

2 absent — Deshotel, Holland

WITNESSES: For — Deborah Collier, Council for Citizens Against Government Waste; Thomas Aiello, National Taxpayers Union; James Hines, Texas Association of Business; Walt Baum and James LeBas, Texas Cable Association; Mia McCord, Texas Conservative Coalition; (*Registered, but did not testify*: Donnis Baggett, Texas Press Association; Weldon Gray, Texas Statewide Telephone Cooperative, Inc.)

Against — David Rutledge, City of Bridge City; Rudy Garza, Jr., City of Corpus Christi; Don Knight, City of Dallas; Adam Niolet, City of Hico; Yushan Chang, City of Houston; Gaelan Frazier and Charles Jackson, City of Pearsall; Russell Huff, City of San Antonio; Eddie Daffern, City of Staples; Himesh Gandhi, City of Sugar Land; Dion Miller, City of Tulia; Curtis Seidlits, Texas Municipal League; Snapper Carr, Texas Coalition of Cities for Utility Issues and the Texas Municipal League; (*Registered, but did not testify*: Rebecca Campbell, Austin Film Society; Drusilla Rogers, Bastrop City Council; Rondella Hawkins, City of Austin; Vivianna Hamilton, Lyle Nelson, and Connie Schroeder, City of Bastrop; Guadalupe Cuellar, City of El Paso; Benjamin Brezina, City of Frisco; Sally Bakko, City of Galveston; Jamaal Smith, City of Houston Mayor's Office; Jon Weist, City of Irving; Angela Hale, City of McKinney, Frisco Chamber of Commerce, McKinney Chamber of Commerce; Karen Kennard, City of Missouri City Texas; Brandi Youngkin, City of Plano; Karen Kennard, City of Port Arthur; Jeff Coyle, City of San Antonio; Ricardo Ramirez, City of Sugar Land; Kwame Walker, City of Fort Worth; Julie Acevedo, City of Round Rock; and six individuals)

BACKGROUND:

Local Government Code sec. 283.051 requires a certified telecommunications provider that provides services within a city to pay compensation to the city for use of the public rights-of-way. The amount of compensation is determined by the Public Utility Commission under sec. 283.055.

Utilities Code sec. 66.005 requires the holder of a state-issued certificate of franchise authority to pay each city in which it provides cable or video service a franchise fee of 5 percent of gross revenues.

Tax Code sec. 171.0001 defines "affiliated group" as a group of one or more entities in which a controlling interest is owned by a common owner, either corporate or noncorporate, or by one or more of the member entities.

DIGEST:

CSHB 3535 would exempt an entity providing telecommunications, cable, and video services from paying cities both the compensation for the use of a public right-of-way and the franchise fee for state-issued cable and video franchise. The entity would pay either the compensation or the franchise fee, whichever was larger.

Exemption from right-of-way compensation. The bill would exempt a certified telecommunications provider from paying compensation to a city for use of the public rights-of-way if the provider determined that the sum of the compensation due for the provider and any member of the provider's affiliated group to all cities was less than the sum of franchise fees due to all cities for state-issued cable and video franchise. "Affiliated group" would have the same meaning as in Tax Code sec. 171.0001.

The bill would not exempt a telecommunications provider from paying compensation to a city if the provider was not required to pay a state or federal cable franchise fee to that city.

Exemption from franchise fee. The holder of a state-issued certificate of franchise authority would not be subject to a cable franchise fee if the holder determined that the sum of fees due from the holder and any member of the holder's affiliated group to all cities was less than the sum of the compensation for the use of the public rights-of-way due to all

cities.

The bill would not exempt a certificate holder from paying franchise fees to a city if the holder was not required to pay compensation for use of a right-of-way to that city.

Basis for determination. A determination under the bill would have to be based on amounts actually paid or amounts that would have been paid during the 12-month period ending June 30 of the preceding year.

Annual notification of exemption. A telecommunications provider or certificate holder would have to file by October 1 an annual notification to each city of the requirement to pay compensation for use of a right-of-way or a cable franchise fee, or exemption from those requirements.

Non-applicability. The bill would not affect the application of certain statutes to any holder of a state-issued certificate of franchise authority, including requirements to provide cities with certain in-kind contributions and access to channels for noncommercial programming.

Prevailing statutes. In the case of a conflict between the provisions of this bill and the determination of fees by the Public Utility Commission under Local Government Code sec. 283.055, the bill would prevail.

Effective date and applicability. The bill would take effect September 1, 2019, and would apply only to a payment made on or after January 1, 2020. A determination of compensation or fees for year 2020 would have to be based on amounts actually paid between July 1, 2018, and June 30, 2019.

SUPPORTERS SAY:

CSHB 3535 would eliminate a fee that effectively is a double tax on companies that pay fees for cable and phone services, despite transmitting both services over a single line. Current law was established to ensure that telecommunications companies paid for the use of a city right-of-way for phone services and that cable companies paid a franchise fee. However, this law is now outdated due to the development of technology and the bundling of cable and phone services.

If the bill was passed, telecommunications companies would continue to pay millions of dollars to city budgets through either the compensation for use of right-of-way or cable franchise fee, whichever was larger. The loss of city revenue would only be a small percentage of cities' operating budgets and should not greatly affect their ability to retain staff and services.

By eliminating this burdensome fee, the bill could allow cable and phone providers to save money and pass those savings on to consumers. While residential consumers may only see a savings of a few dollars each month, small businesses could save hundreds of dollars in a year.

Current law also needs to be updated because cities themselves do not experience an additional burden from providers using rights-of-way for both telecommunications and cable services transmitted over the same line. It makes sense to charge only for the use of a right-of-way one time.

The bill would not provide a "gift" to any specific businesses, nor would it allow cities to provide free use of a public right-of-way. The bill simply would ensure that cable and phone providers were not assessed two fees for use of a single public facility.

OPPONENTS SAY:

CSHB 3535 would cost millions of dollars in local revenue for cities, which could result in a loss of services or even jobs. Exempting telecommunications providers from either the cable franchise fee or the compensations for the use of a right-of-way unnecessarily would gift large corporations an amount that ultimately could cost local taxpayers.

The bill could have an adverse impact on city budgets, as described by the bill's fiscal note. By exempting cable and phone providers from paying all appropriate fees, larger cities could lose millions of dollars in revenue and have to cut certain city services or employment. Small cities could be harmed the most because those that do not impose a property tax have little other means of gaining revenue. Fees paid by phone, cable, and other companies make up a large percentage of certain small city budgets. Any increase in taxes to make up for this would mean that taxpayers effectively would subsidize cable and phone providers.

There is no guarantee the bill would provide savings for consumers of cable and phone services since state law cannot regulate cable rates. Certain companies already have announced in recent months that subscriber charges will be increased.

It is reasonable to charge companies a fee on the service of cable and for phone service, since companies profit from both. The amount assessed increases if a company is providing both services, since that means the right-of-way is more valuable. Thus, the fee is charged in proportion to the use of an in-demand facility. State and federal courts have held that these payments are rent on public facilities, not taxes.

The bill also could conflict with two provisions of the Texas Constitution prohibiting the gift of public property and stating that the Legislature has no power to authorize a city to grant public money or thing of value to any individual or corporation.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated cost of between $17.1 million and $27.5 million to Houston, $9.2 million to Dallas, $7.9 million to San Antonio, and $6.3 million to Austin, as well as costs to other cities.

SUBJECT: Modifying public school class size limits

COMMITTEE: Public Education — favorable, without amendment

VOTE: 10 ayes — Huberty, Allen, Allison, Ashby, K. Bell, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

1 absent — M. González

2 present not voting — Bernal, Dutton

WITNESSES: For — (*Registered, but did not testify*: David Anderson, Arlington ISD Board of Trustees; Adam Cahn, Cahnman's Musings; Eddie Solis, City of Arlington; Michelle Davis, Convention of States; Dylan Cromley, League of Women Voters of Texas; Fran Rhodes, Northeast Tarrant Tea Party; Harley Eckhart, Texas Elementary Principals and Supervisors Association; Dee Carney, Texas School Alliance; Shelia Franklin; Norma Hopkins; Nova Hou; Columba Wilson)

Against — (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Fatima Menendez, MALDEF; Dwight Harris, Texas American Federation of Teachers; Paige Williams, Texas Classroom Teachers Association; Lisa Dawn-Fisher, Texas State Teachers Association; Darren Grissom, Texas PTA)

On — (*Registered, but did not testify*: AJ Crabill, Texas Education Agency)

BACKGROUND: Education Code sec. 25.112(a) prohibits a school district from enrolling more than 22 students in a kindergarten, first, second, third, or fourth grade class. Sec. 25.112(d) allows the commissioner of education, on application of a district, to except the district from the limit based on an undue hardship. Such an exception expires at the end of the school year for which it is granted.

DIGEST:

HB 1133 would revise the limit on the number of students who could be in each class in the kindergarten, first, second, third, or fourth grade levels from 22 students per class to a campus-wide average in each grade of 22 students per class. The commissioner could, on application of a school district, except the district from the limit for the school year.

A campus or district that was granted an exception would have to specify, in the written notice to parents, the grade level rather than the class for which an exception was granted, as well as the number of children in each class at that grade level. Texas Education Agency regional and district level reports also would include the number of grade levels for which an exception was granted at each campus.

The bill would apply beginning with 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:

HB 1133 would provide school districts with flexibility in managing student enrollment by allowing them to use campus grade level averages rather than the number of students in each individual classroom in meeting the 22-student class size limits for kindergarten through fourth grade. The bill would not lead to large spikes in class size but would give districts local control to address their specific needs in allocating students to teachers and would allow them to avoid moving students from class to class during the year to stay under the limits.

While current law provides districts with ways to waive the class size limits, those methods require extensive paperwork. The bill would provide a reasonable modification of class size limits and would remove the need for so many districts to seek waivers.

OPPONENTS SAY:

HB 1133 could lead to larger class sizes than are appropriate for students in elementary schools, which could negatively impact working conditions for teachers and the learning environment for students. Districts currently may apply to the Texas Education Agency for a waiver from the class size limit or may reorganize as a district of innovation and exempt their

schools from the limit. Districts do not need another way to avoid appropriate limits on the number of students per teacher that have existed in Texas law for decades.

SUBJECT: Adopting a uniform plumbing standard

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 6 ayes — T. King, Goldman, Geren, K. King, Kuempel, Paddie

1 nay — S. Thompson

4 absent — Guillen, Harless, Hernandez, Herrero

WITNESSES: For — Michael Olson, Building Officials Association of Texas; Jim Cika, Lee Clifton, Shirley Ellis, Hamid Naderi, Kelly Sadler and Dominic Sims, International Code Council; Geoffrey Tahuahua, Real Estate Council of Austin; Scott Turner, Riverside Homes; J.D. Hale, Texas Association of Builders; Jim Olk; Thomas Rice; Kevin Robinson; (*Registered, but did not testify*: Chance Sparks, American Planning Association Texas Chapter; Jake Posey, Aquatic Professionals Education Council; Jon Fisher, Associated Builders and Contractors of Texas; Hal Caton, Caton Consulting; Tammy Embrey, City of Corpus Christi; Clifford Sparks, City of Dallas; Rick Ramirez, City of Sugar Land; Robert Hanley, Hanley PM Services; David Glenn, Home Builders Association of Greater Austin; Tammy Betancourt, Houston Building Owners and Managers Association; Suzanne Arnold, North Texas Chapter; Steve Koebele, Pool and Hot Tub Alliance; Thomas Phillips, Target; Todd Kercheval, Texas Affiliation of Affordable Housing Providers; Kyle Jackson, Texas Apartment Association; Sarah Lacy, Texas Building Owners and Managers Association; JJ Rocha, Texas Municipal League; Jim Sheer, Texas Retailers Association; Jack Baxley, TEXO The Construction Association; Rick Moore and Brian Yarbrough, The Home Depot; Mike Beard)

Against — John Mata, International Association of Plumbing and Mechanical Officials; Richard Lord and Jeremy Pavlich, Plumbers Local 68; Stanley Biers, Texas Plumbing, AC, Mechanical Association; (*Registered, but did not testify*: Alicia Dover, Associated Plumbing-Heating-Cooling Contractors of Texas; Bill Kelly, City of Houston Mayor’s Office; Eric Wright, International Association of Plumbing and

Mechanical Officials; Joe Cooper, Plumbers and Pipefitters Local 286; David Bowman, Plumbers Local 68; Leonard Aguilar, Southwest Pipe Trade Association; Rene Lara, Texas AFL-CIO; Cheri Siegelin, Texas Correctional Employees Huntsville; Stephen Cox, Texas Plumbing Heating Cooling Contractors Association; Lee Medley, United Steelworkers District 13 Council; Russell Shelton; Edward Sills)

On — Richard Anderson, City of Austin

BACKGROUND: Occupations Code sec. 1301.255(a) requires the Texas State Board of Plumbing Examiners to adopt as its plumbing codes the Uniform Plumbing Code (UPC), as published by the International Association of Plumbing and Mechanical Officials, and the International Plumbing Code (IPC), as published by the International Code Council.

Sec. 1301.255(d) allows a municipality to amend any provisions of the plumbing code to conform to local concerns, provided that the amendments do not vary substantially from board rules or other rules of the state.

DIGEST: HB 3622 would eliminate the requirement that the Texas State Board of Plumbing Examiners adopt the Uniform Plumbing Code and would specify that the board would have to adopt the 2015 edition or later of the International Plumbing Code. The board would have to adopt rules to implement this change by December 1, 2019.

The bill would take effect September 1, 2019.

SUPPORTERS SAY: HB 3622 would end the confusing system under which the Texas State Board of Plumbing is required to adopt two different codes. The current system creates difficulties for plumbers unfamiliar with the Uniform Plumbing Code (UPC) who wish to work in a new area that uses this code and for those who have to study a code they may never use in order to get a plumbing license.

The International Plumbing Code (IPC) is widely used, and Texas will benefit from formally adopting it. Cities have long been allowed to choose between the IPC and the UPC, and today very few use the latter.

Since the law already allows municipalities to amend the plumbing code to adjust to local needs, concerns about local control are misplaced. The bill would be a move toward increased standardization and greater efficiency.

OPPONENTS SAY:

HB 3622 would harm the ability of municipalities to decide what code worked best for them and would eliminate the more effective of the two codes. Plumbing done to UPC specifications will generally meet IPC guidelines, but the reverse is not true. UPC jobs often cost more because they are done to more specific and exacting standards intended to protect the safety of the public.

Cities should be allowed to choose for themselves which code meets their local needs, and some cities such as Houston and Austin, which use UPC, would face a difficult and expensive challenge in switching over to the new code.

SUBJECT: Revising toll project operations, comprehensive development agreements

COMMITTEE: Transportation — committee substitute recommended

VOTE: 8 ayes — Canales, Bernal, Goldman, Krause, Leman, Raney, Thierry, E. Thompson

3 nays — Landgraf, Y. Davis, Hefner

2 absent — Martinez, Ortega

WITNESSES: For — James Hines, Texas Association of Business; (*Registered, but did not testify*: Michael Johnson, Pinnacle Landscaping, Shorebird Capital; David White, Texans for Traffic Relief; Fred Bosse, Webber, LLC)

Against — Crystal Main, NE Tarrant Tea Party; Arturo Ballesteros, North Texas Tollway Authority; Jack Finger, Texans Uniting for Reform and Freedom; Terri Hall, Texas TURF, Texans for Toll-free Highways; and six individuals; (*Registered, but did not testify*: Anne Oryan, AAA Texas; Steven Albright, AGC of Texas-Highway Heavy Branch; Gary Bushell, Alliance for I-69 Texas, I-14, Gulf Coast Strategic Highway Coalition; Peyton McKnight, American Council of Engineering Companies of Texas; Matthew Geske, Austin Chamber of Commerce; James Hernandez, Brazoria County Toll Road Authority, Harris County Toll Road Authority; C. Brian Cassidy, Central Texas Regional Mobility Authority, Alamo Regional Mobility Authority, North East Texas Regional Mobility Authority, Cameron County Regional Mobility Authority; Adam Haynes, Conference of Urban Counties; Priscilla Camacho, Dallas Regional Chamber; Brandi Bird and Drew Campbell, Dallas Regional Mobility Coalition; Casey Burack, Downtown Austin Alliance; Angela Smith, Fredericksburg Tea Party; Aimee Bertrand, Harris County Commissioners Court; Byron Campbell, North Texas Commission; Victor Boyer, San Antonio Mobility Coalition; Vic Suhm, Tarrant Regional Transportation Coalition; Michael Cargill, Texans For Accountable Government; Mackenna Wehmeyer, Transportation Advocacy Group Houston; Alexis Tatum, Travis County Commissioners Court; and seven individuals)

On — Lee Kleinman, City of Dallas; (*Registered, but did not testify*: James Bass, Texas Department of Transportation)

DIGEST:

CSHB 1951 would revise regulation of comprehensive development agreements (CDAs); repeal several provisions regarding state, county, and regional toll billing and enforcement; and replace those provisions with toll regulations applicable to more than one type of toll project.

Comprehensive development agreements. The bill would allow the Texas Department of Transportation (TxDOT) to enter into a CDA with a private entity for a toll project if:

- the estimated capital costs for construction exceeded $1 billion;
- TxDOT demonstrated that state funding was not available without significant reprioritization of existing funds; and
- construction did not require the use of the State Highway Fund.

TxDOT could enter into no more than two CDAs in a fiscal year.

Voter approval. TxDOT or a private entity could not construct or operate a project subject to a CDA unless it was approved by a majority of voters:

- in all counties in which a portion of the project would be located; or
- in each county in which a portion of the project would be located, if at least one county had a population of 500,000 or more and another had a population of no more than 50,000.

On request of TxDOT, a county commissioners court would have to order an election, provided that an election could not be ordered until the scope of the project had been finalized, including the route, number of lanes, number of tolled lanes, and method of financing for the project.

An election would have to be held on the first November uniform election date that allowed sufficient time to comply with law and could not be held within five years of a previous election to approve the same or a substantially similar project.

The ballot would have to state specific information about the toll project, including whether the toll charged would be at a variable or static rate. TxDOT would have to contract with each county for election services.

Toll collection and enforcement. The bill would specify that the operator of a vehicle that was driven or towed through a toll collection facility would pay the proper toll, unless the vehicle was an authorized emergency vehicle.

The exemption for emergency vehicles would apply regardless of whether the vehicle was responding to an emergency, displaying a flashing light, or marked as an emergency vehicle.

The bill would allow a toll project entity to waive the toll or authorize a reduced toll for any vehicle or class of vehicles.

Toll invoice. The bill would require a toll project entity to use video billing or other tolling methods as an alternative to requiring payment at the time a vehicle was driven through a collection facility. A toll project entity could use automated enforcement technology, including video recordings, photography, electronic data, or other methods to identify the registered owner of the vehicle for billing, collection, and enforcement.

A toll project entity would have to mail to the registered owner of a vehicle a written invoice containing a toll assessment. The invoice would be sent to the owner's address shown in the records of the Texas Department of Motor Vehicle or another government agency or an alternate address provided by the owner.

If the owner agreed to the terms, a toll project entity could provide the invoice as an electronic record instead of by mail.

Collection. A toll invoice would have to require payment within 30 days of being mailed and conspicuously state the amount due, the due date, and that failure to pay would result in an administrative fee.

A person who received an invoice would have to pay the amount owed or

send a written request to the toll project entity for a review of the toll assessment. A toll project entity could add an administrative fee of up to $6 for failure to comply.

An administrative fee would have to be set by rule in an amount that did not exceed the cost of collecting the toll and no more than $48 in a year.

A toll project entity other than certain counties could contract with a person to collect the unpaid toll and any administrative fees before referring the matter to a court.

Enforcement. A person who received two or more invoices for unpaid tolls without paying would be subject to a civil penalty of $25. Only one civil penalty could be assessed in a six-month period. An appropriate district or county attorney could sue to collect the penalty, toll, and administrative fees.

In determining liability for a civil penalty, it would be presumed that the unpaid invoices were received five days after being mailed. It would be a defense to liability that the person was not liable for payment of each toll assessed or paid the amount owed.

Proof that a vehicle passed through a toll collection facility without payment, together with proof that the invoice recipient was the registered owner or the driver, would create a presumption that the recipient was liable for the toll. The proof could be by a written statement of a peace officer or toll project entity employee, video surveillance, or other reasonable evidence specified in the bill.

The court in which a person was found liable for a civil penalty would have to collect the penalty, tolls, administrative fees, and court costs and forward the amounts to the toll project entity.

Exception to liability. The bill would make it an exception to liability of the vehicle's registered owner for a toll incurred by the vehicle if:

- the owner was a lessor of the vehicle;
- ownership of the vehicle was transferred before the toll was

incurred; or

- the vehicle was stolen before the toll was incurred.

The owner or former owner would have to provide certain information to the toll project entity no later than 30 days after the invoice was mailed to show that the vehicle was leased, transferred, or stolen.

Upon receiving information that the vehicle was leased or ownership was transferred, the toll project entity could send the invoice to the lessee or person to whom ownership was transferred.

Confidentiality. The bill would make information used for toll collection and enforcement confidential and not subject to public disclosure laws.

Regional authorities. The bill would specify that regional tollway authorities and regional mobility authorities had the same powers and duties as TxDOT and certain counties regarding toll collection and enforcement for the authorities' turnpike projects and other toll projects.

Repealed provisions. The bill would repeal several provisions from Transportation Code regarding CDAs, toll projects contracting with TxDOT or certain counties, regional authorities, and habitual toll violators.

Comprehensive development agreements. The bill would repeal certain provisions regarding CDAs, including the expiration date on the authority to enter into a CDA and environmental clearance requirements.

State, county, and regional tolls. The bill would repeal provisions regarding toll projects under the authority of TxDOT, particular counties, regional tollway authorities, or regional mobility authorities, including requirements for toll collection and enforcement and a provision making nonpayment of tolls within a certain time frame a misdemeanor punishable by a fine of up to $250.

The bill also would repeal a provision making the operation of a vehicle on a county project having failed to pay tolls within a certain timeframe a class C misdemeanor (maximum fine of $500).

Habitual violators. The bill would repeal provisions of law relating to habitual toll violators who had aggregated 100 or more events of nonpayment in a year, including the authorization of a county assessor-collector to refuse to register the vehicle of a habitual violator.

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

SUPPORTERS SAY:

CSHB 1951 would bring necessary reform to toll roads by revising toll regulations, allowing the Texas Department of Transportation (TxDOT) to partner with private entities, and requiring voter approval of comprehensive development agreements (CDAs). Regulation of toll projects currently is split under separate provisions of Transportation Code based on whether the toll was operated by TxDOT, a regional authority, or certain counties. The bill would provide more certainty for toll users by consolidating regulations on toll collection and enforcement.

Late fee cap. While some may be concerned that the bill would cause regional toll authorities to lose money, the bill would not prevent those authorities from collecting tolls. If a toll entity predicted that they would lose money from this bill, it means that the entity expects to receive revenues from assessing administrative late fees, rather than just through toll collections. Authorities should not receive the majority of their funds through late fees or penalties, and should be able to pay for debt and maintenance and operations costs through normal toll revenues.

Toll enforcement. The bill would remove toll enforcement practices that can trap individuals in debt by piling administrative fees on low-income Texans who cannot afford the tolls but must access toll roads for work. The bill would allow for a civil penalty on nonpayment of tolls, which is more appropriate than a criminal penalty. People should not be criminalized or prevented from using their vehicles just for the inability to pay a toll.

Toll billing. While the bill may change the billing practices of certain regional authorities, it would provide uniform billing regulations to fix the current patchwork of different regional toll road billing procedures. Toll

users have reported receiving a bill for one toll but paying that money to a different tolling authority, proving that the current billing system is not working. CSHB 1951 would streamline the process, providing greater clarity and transparency and ensuring that users were not confused about how and to whom toll bills should be paid.

Comprehensive development agreements. The bill would bring back the ability of private entities to enter into a CDA with TxDOT in a specific and limited manner. CDAs provide necessary financing for transportation projects, which cumulatively require many billions of dollars to construct. In addition, projects that go through the traditional process can take years to even begin construction, leading to long delays in improvements for vital infrastructure. Public-private partnerships under a CDA can provide an alternative method of financing for these projects, and the bill would ensure that TxDOT could only enter into two each year and only for projects that the department could not otherwise fund.

OPPONENTS SAY:

CSHB 1951 would restrict the ability of tolling authorities to use billing and enforcement practices that have been developed over years of operations and have proven to be efficient at collecting tolls, flexible for irregular toll violators, and responsive to local communities.

Late fee cap. By capping the administrative late fee on all toll authorities, the bill would cause regional authorities to lose money, perhaps millions of dollars. Several toll authorities are supported through local property taxes to ensure that debt service or maintenance and operations were paid for in the case that toll revenues did not cover that cost. If authorities cannot fully collect all revenues, they may have to assess property taxes to make up for that money. This loss of revenue also is problematic for county or regional authorities that are not backed by the full faith and credit of the state and could have their bond ratings lowered.

Toll enforcement. Under the bill, the problem with the late fee cap would be compounded because CSHB 1951 also would remove certain toll collection enforcement measures. Current law ensures that people who take advantage of a toll project and never intend to pay are labeled as habitual violators and have their vehicle registration blocked until payment is made. Habitual violators also may receive a criminal penalty.

The bill would remove all of these measures, leaving toll enforcement practices toothless and preventing toll authorities from collecting toll payments.

Toll billing. The bill also would remove local flexibility in billing by requiring regional authorities to use pay-by-mail as an alternative means of revenue collection. Pay-by-mail is not as efficient as collecting tolls at the time of transaction. While pay-by-mail may be more convenient to consumers, camera technology can make mistakes capturing license plate numbers and the collection of toll revenue is cumbersome and costly for authorities, leading to a lower percentage of collection.

OTHER OPPONENTS SAY:

Rather than expanding the number of CDAs in the state, CSHB 1951 should remove private toll roads. Private toll projects tax citizens for the use of public roads, unfairly burdening motorists who already pay for the roads through other taxes and fees, including the gas tax. CDAs are public-private partnerships that privatize the benefits and socialize the risks of transportation projects. Allowing for more CDAs also would be unnecessary, since TxDOT already has the ability, scope, and funding to deliver large projects through traditional procurement methods.