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# HOUSE RESEARCH ORGANIZATION

## daily floor report

Wednesday, May 08, 2019  
86th Legislature, Number 61  
The House convenes at 10 a.m.  
Part One

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

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



Dwayne Bohac  
Chairman  
86(R) - 61

## HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Wednesday, May 08, 2019

86th Legislature, Number 61

Part 1

HB 297 by Murr	Reducing school property taxes, requiring study of consumption taxes	1
HB 1662 by Herrero	Establishing grants for monitoring family violence victims and defendants	5
HB 3266 by Raney	Raising certain student fees for the Texas A&M University System	7
HB 3303 by Bowers	Considering whether certain defendants were sole caretaker of a child	10
HB 3284 by Sheffield	Requiring e-prescribing of controlled substances under certain scenarios	12
HB 3285 by Sheffield	Establishing certain programs to address substance use disorders	16
HB 545 by Nevárez	Prohibiting the transfer of weapons to certain individuals	21
HB 769 by Davis	Requiring approval for severance payments made to certain superintendents	23
HB 737 by Cortez	Issuing specialty license plates for certain teachers and retired teachers	25
HB 2205 by Clardy	Specifying informal dispute resolution between HHSC and nursing homes	27
HB 3088 by Martinez	Exempting certain contracting personnel from contracting training	29
HB 62 by Zerwas	Excepting certain emergency meetings from open meetings requirements	30
HB 4493 by Deshotel	Specifying programs for the Supplemental Environmental Project	32

SUBJECT: Reducing school property taxes, requiring study of consumption taxes

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 8 ayes — Burrows, Guillen, Bohac, Murphy, Noble, Sanford, Shaheen, Wray

3 nays — Cole, Martinez Fischer, E. Rodriguez

WITNESSES: For — Terry Holcomb, Republican Party of Texas; Mark Ramsey, Republican Party of Texas, SREC SD7; Tom Glass; Terri Hall; Roy Morales; (*Registered, but did not testify*: Drew Schebrele, The Greater Austin Chamber of Commerce; Don Dixon)

Against — (*Registered, but did not testify*: Laurie Filipelli, League of Women Voters of Texas; Robert Braziel, Texas Automobile Dealers Association; James LeBas, Texas Oil and Gas Association; Dale Craymer, Texas Taxpayers and Research Association)

On — (*Registered, but did not testify*: Vance Ginn, Texas Public Policy Foundation)

BACKGROUND: School districts levy a maintenance and operations tax on local property to pay for school operations. This tax is capped at \$1.17 per \$100 of taxable property value. A district's tax revenue is used to calculate the level of state funding in school finance formulas.

DIGEST: CSHB 297 would end school district maintenance and operations taxes in January 2022 and require the formation of a joint interim legislative committee to study funding schools with consumption taxes.

The bill would prohibit a school district from imposing a tax for maintenance and operations beginning January 1, 2022. Districts would still be allowed to impose an enrichment tax at a rate not to exceed 17 cents per \$100 of taxable property value to provide additional revenue to enrich student educational opportunities.

The bill also would create the Joint Interim Committee on the Elimination of School District Maintenance and Operations Ad Valorem Taxes. The committee would be composed of five House members appointed by the speaker and five senators appointed by the lieutenant governor. The appointments would have to be made by the 60th day after the bill became effective, and the speaker and lieutenant governor each would designate a co-chair from among the committee members.

The committee would have to consider and evaluate:

- the effectiveness of increasing the rate or expanding the application of state consumption taxes and using the revenue to meet the state's constitutional duty to fund schools;
- the effectiveness of imposing consumption taxes not currently imposed by the state and using the revenue to meet the state's constitutional duty to fund schools;
- the ability of state-imposed consumption taxes to adequately respond to annual changes in school districts' unique funding needs; and
- the effects of an increase in consumption taxes on Texas residents and businesses.

The committee would be required to submit a report to the Legislature by November 1, 2020. This report would have to:

- address the feasibility of using consumption taxes for the support and maintenance of an efficient public school system;
- propose a comprehensive plan to use consumption tax revenue for the support and maintenance of an efficient school system; and
- propose legislation necessary to implement the comprehensive plan.

The report's proposals would have to allow a school district to impose a property tax for school enrichment of up to 17 cents per \$100 of taxable property value.

The committee 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.

**SUPPORTERS  
SAY:**

CSHB 297 would address the reliance on property taxes to fund education by eliminating maintenance and operations (M&O) taxes that account for roughly half of property taxes paid by Texans and requiring a legislative study on funding schools through consumption taxes. The bill would continue the legislative conversation about how best to fund public education, and it would place a January 2022 deadline to eliminate M&O taxes to ensure the Legislature took action before the end of the 2021 legislative session.

Property taxes in many areas of the state increase year after year and can inhibit homeownership. Eliminating M&O taxes would end the need for the unpopular recapture system that redistributes tax revenue from property-wealthy districts to those of lower wealth. While some have said districts would lose local control over their budgets if they were unable to levy M&O taxes, districts already have little local control under the school finance formulas. Districts would retain control to levy a small property tax for local enrichment programs.

The bill would be revenue-neutral for school districts because the M&O taxes would be replaced by another revenue source. It also would address criticism that the state's share of education funding has been declining. While some have raised concerns about the level of consumption taxes that would be needed to replace \$58.5 billion in local property taxes, the committee could also look at broadening the base of taxable items and services. Consumption taxes allow Texans to control their taxation by reducing consumption and would be preferable to continually rising property taxes.

**OPPONENTS  
SAY:**

CSHB 297 would eliminate a stable source of revenue and replace it with one that is less stable. Sales taxes tend to rise and fall as consumers adjust spending in response to economic trends. The level of sales taxes needed to replace \$58.5 billion in M&O taxes over a two-year period could result in Texas consumers paying some of the highest sales tax rates in the

country. The bill also would unfairly shift the state's tax burden onto those least able to pay it by increasing the sales tax to pay for a decrease in property taxes. By eliminating the ability of school districts to levy M&O taxes, a significant amount of local control over revenue for public schools could be lost.

**NOTES:** According to the Legislative Budget Board, the bill would have a negative impact of about \$58.5 billion on general revenue related funds for fiscal 2022-23.

SUBJECT: Establishing grants for monitoring family violence victims and defendants

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 8 ayes — Bohac, Anderson, Biedermann, Cole, Dominguez, Huberty,  
Rosenthal, Stickland

0 nays

1 absent — Coleman

WITNESSES: For — Alexandra Cantrell, Texas Council on Family Violence;  
(*Registered, but did not testify*: Robert Johnston, Anderson County; Jim  
Allison, County Judges and Commissioners Association of Texas;  
Heather Bellino, Texas Advocacy Project; Alexis Tatum, Travis County  
Commissioners Court)

Against — None

On — Inna Klein, 214th District Court; (*Registered, but did not testify*:  
Reilly Webb, Office of the Governor)

BACKGROUND: Government Code sec. 772.006(a) requires the governor to establish a  
criminal justice division in the governor's office. Sec. 772.006(a)(9)  
requires this office to submit a biennial report to the Legislature reporting  
the division's activities during the previous two years.

Code of Criminal Procedure arts. 17.292 and 17.49 establish that  
magistrates in certain family violence cases may order a defendant to  
participate in a global positioning monitoring system or allow a victim to  
participate in such a system.

DIGEST: HB 1662 would require the criminal justice division of the governor's  
office to establish and administer a grant program to reimburse counties  
for all or part of the costs incurred from monitoring defendants and  
victims in family violence cases who participate in a global positioning  
monitoring system.

Grant recipients could use received funds only for monitoring conducted to provide a measure of security and safety for a victim of family violence.

The criminal justice division would be required to establish:

- additional eligibility criteria for grant applicants;
- grant application procedures;
- guidelines relating to grant amounts;
- procedures for evaluating grant applications; and
- procedures for monitoring the use of a grant and ensuring compliance with the conditions of the grant.

The criminal justice division would have to include a detailed reporting of the results and performance of the grant program in its biennial report.

The bill would allow the criminal justice division to use any revenue available in order to carry out its provisions.

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: Raising certain student fees for the Texas A&M University System

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 10 ayes — C. Turner, Stucky, Frullo, Howard, E. Johnson, Pacheco,  
Schaefer, Smithee, Walle, Wilson

0 nays

1 absent — Button

WITNESSES: For — Anthony Gacasan, Student Affairs Fee Advisory Board of Texas  
A&M; Amy Sharp, Texas A&M Student Government; (*Registered, but  
did not testify*: Gregory Cross, Texas A&M Student Government)

Against — None

On — Martha Dannenbaum and Tom Reber, Texas A&M University

BACKGROUND: Education Code sec. 54.507 authorizes the board of regents at the Texas  
A&M University System to levy and collect from each student in any  
system institution of higher education a compulsory group hospital and  
medical services fee that cannot exceed \$75 per student for each regular  
semester or \$25 for each term of each summer session. The fee can only  
be used to provide hospital or other medical services to students registered  
at that component institution.

Sec. 54.521(a) authorizes the board to set a fixed student fee for the  
purpose of acquiring, constructing, renovating, operating, maintaining,  
improving, adding to, replacing, financing, and equipping student center  
facilities. The fee cannot exceed \$100 per student for each regular  
semester or \$50 for each term of the summer session or any fractional part  
of a session.

Sec. 54.521(e) Prohibits the board from increasing fees from one  
academic year to the next unless the increase is approved by a majority  
vote of the students at the affected institution participating in a general

election called for that purpose, except that at Tarleton State University the fee may be increased by not more than 10 percent from one academic year to the next without holding an election. The fee may not exceed the maximum amounts provided by sec. 54.521(a).

Interested parties have called for certain student fees at the Texas A&M University System to be raised to meet the needs of a rapidly expanding student population.

DIGEST:

HB 3266 would raise the cap on, expand the purpose of, and rename the group hospital and medical service fee for the Texas A&M University System. The bill also would raise the cap on the Texas A&M System's student center facility fee and set parameters for raising the fee.

**Student medical services fee.** The bill would set the cap on the group hospital and medical services fee, renamed the "student medical services fee," at \$200 per student for each regular semester and \$100 for each term of each summer session.

The bill would expand the authorized purposes of the fee to include the financing, construction, operation, renovation, maintenance, or improvement of new or existing student medical facilities.

**Student center facility fee.** The bill would set the cap on the student center facility fee at \$200 per student for each regular semester and \$100 for each term of the summer session, or any fractional part of a session.

The amount of the fee could not be increased from one academic year to the next by 10 percent or more unless the increase was approved by a majority vote of the students at the affected institution. An increase of less than 10 percent would have to be approved by a majority vote of the board of regents after giving students an opportunity for public comment on the increase.

The bill would remove an exception for Tarleton State University that enabled the institution to raise the fee by no more than 10 percent from one academic year to the next without holding an election.

The bill would apply beginning with fees charged for the 2019-2020 academic 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.

- SUBJECT:** Considering whether certain defendants were sole caretaker of a child
- COMMITTEE:** Corrections — committee substitute recommended
- VOTE:** 7 ayes — White, Allen, Bailes, Bowers, Dean, Morales, Stephenson  
0 nays  
2 absent — Neave, Sherman
- WITNESSES:** For — Lauren Johnson, ACLU of Texas; Lindsey Linder, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Traci Berry, Goodwill Central Texas; David Johnson, Grassroots Leadership and Texas Advocates for Justice; Greg Hansch, National Alliance on Mental Illness Texas; Will Francis, National Association of Social Workers-Texas Chapter; Josette Saxton, Texans Care for Children; Lori Henning, Texas Association of Goodwills; Samantha Smothermon, Texas Criminal Justice Coalition; Lauren Oertel, Texas Inmate Families Association; Eric Knustrom, Texas Probation Association)  
  
Against — Elmer Beckworth, Cherokee County District Attorney's Office; (*Registered, but did not testify*: Mike Gomez, Texas Municipal Police Association; Kirsten Ricketts)  
  
On — (*Registered, but did not testify*: Carey Green, Texas Department of Criminal Justice)
- BACKGROUND:** Code of Criminal Procedure art. 42A.751 authorizes judges to issue warrants when defendants violate conditions of community supervision (probation). Defendants can be arrested and detained in the county jail before being taken before the judge for a determination regarding the violation. Judges then determine whether to revoke, continue, or modify the defendants' community supervision.  
  
Concerns have been raised that when the sole caretaker of a child is jailed for a probation violation, including for a minor traffic offense, the child may suffer negative effects, including a potential risk of entering the

foster care system.

**DIGEST:**

CSHB 3303 would require courts to consider if a defendant was the sole caretaker of a child when deciding whether to revoke, continue, or modify community supervision for a violation of probation unless the violation involved being arrested for, charged with, or convicted of an offense that was not a fine-only traffic offense. Prosecutors would have to include in a motion to revoke, continue, or modify probation a statement from the defendant's probation officer about whether the defendant was a sole caretaker of a child.

The bill would define "sole caretaker of a child" to mean a person who had assumed or would soon assume sole responsibility for a dependent child younger than 18 years old by providing for the child's needs, including housing, health care, financial support, education, family support, or safety.

The bill would take effect September 1, 2019, and would apply to persons on community supervision on or after that date.

SUBJECT: Requiring e-prescribing of controlled substances under certain scenarios

COMMITTEE: Public Health — committee substitute recommended

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

0 nays

1 absent — Lucio

WITNESSES: For — (*Registered, but did not testify*: Ashley Bishop, AIP Texas; Duane Galligher and Cynthia Humphrey, Association of Substance Abuse Programs; Will Francis, National Association of Social Workers-Texas Chapter; Marshall Kenderdine, Texas Academy of Family Physicians; Price Ashley, Texas College of Emergency Physicians; Nora Belcher, Texas e-Health Alliance; Cameron Duncan, Texas Hospital Association; Dan Finch, Texas Medical Association; Bobby Hillert, Texas Orthopaedic Association; Jim Keffer, Texas Association of Physical Therapists; Bruce McAnally)

Against — Kristin McGarity

On — Rick Wall, Texas Veterinary Medical Association; (*Registered, but did not testify*: Allison Benz, Texas State Board of Pharmacy)

BACKGROUND: Health and Safety Code ch. 481 establishes the Texas Controlled Substances Act. This act regulates the prescription and dispensing of certain controlled substances and the Prescription Monitoring Program.

Observers have noted the increase in prescription drug abuse, including opioids, in recent years and suggest better prescription monitoring through electronic means is necessary to curb substance abuse and addiction.

DIGEST: CSHB 3284 would require prescriptions for controlled substances to be submitted electronically rather than in writing, with certain exceptions. The bill also would create an advisory committee to make

recommendations on information submitted to the Texas State Board of Pharmacy (TSBP) and establish continuing education requirements for veterinarians.

**Electronic prescribing requirements.** CSHB 3284 would require a person to prescribe or dispense a controlled substance using an electronic prescription unless it met certain criteria.

**Exemptions.** Under the bill, a prescription would not be required to be issued electronically and could be issued in writing, orally, or telephonically if it was issued:

- by a veterinarian;
- in circumstances in which electronic prescribing was not available due to temporary technological or electronic failure;
- by a practitioner to be dispensed by an out-of-state pharmacy;
- when the prescriber and dispenser were the same entity;
- in circumstances in which necessary elements were not supported by the most recent electronic prescription drug software;
- for a drug for which the U.S. Food and Drug Administration required additional information in the prescription that was not possible with electronic prescribing;
- for a non-patient-specific prescription pursuant to a standing order or other circumstances;
- for a drug under a research protocol;
- by a prescriber who was employed by or was practicing a health care profession at a health-related institution of higher education;
- by a practitioner who had received a waiver from the requirement to use electronic prescribing; or
- when a practitioner reasonably determined that it would be impractical for the patient to obtain electronically prescribed drugs and that a delay would adversely impact the patient's medical condition.

A pharmacist who received a non-electronic prescription would not be required to verify that the prescription was exempt from being submitted electronically.

**Waiver.** The board would have to adopt rules to establish eligibility for a waiver in which a practitioner could be exempt from the electronic prescribing requirements, including:

- economic hardship;
- technological limitations not reasonably within the practitioner's control; or
- other exceptional circumstances the practitioner demonstrated.

The waiver could be issued to practitioners for one year.

**Advisory committee.** The pharmacy board would have to establish an advisory committee to make recommendations on information submitted to the board and access to that information under the Prescription Monitoring Program (PMP), including recommendations for:

- operational improvements to the electronic system that stored information;
- resolutions to identified data concerns;
- methods to improve data accuracy, integrity, and security and to reduce technical difficulties; and
- the addition of any new data set or service.

The advisory committee would include five licensed physicians specializing in certain areas, an oral and maxillofacial surgeon, a physician assistant or advanced practice registered nurse to whom a physician had delegated prescriptive authority, three pharmacists, and two representatives of the health information technology industry.

The committee would meet at least twice a year and could be reimbursed by the board for actual expenses incurred in performing committee duties.

**Prescription Monitoring Program.** Under the bill, TSBP could not authorize access to information under the PMP by the Department of Public Safety or other law enforcement or prosecutorial official that was investigating or enforcing laws governing illicit drugs unless the board

was provided a warrant, subpoena, or other court order compelling the disclosure.

The bill would require the pharmacy board to make PMP information available to the State Board of Veterinary Medical Examiners for routine inspections and investigations.

**Continuing education.** The pharmacy board by rule would require a veterinarian every two years to complete two hours of continuing education on opioid abuse and controlled substance diversion, inventory, and security to renew a license to practice veterinary medicine. Continuing education requirements would apply only to the renewal of a veterinary license on or after September 1, 2020.

**Penalties.** The bill would allow the pharmacy board to discipline an applicant for or holder of a nonresident pharmacy license if the board found that the applicant or license holder did not comply with the bill's provisions.

Under the bill, a person would commit an offense if the person knowingly possessed a controlled substance by using a fraudulent electronic prescription.

**Other provisions.** The pharmacy board could adopt rules to administer the bill's provisions.

**Effective date.** The bill would take effect September 1, 2019, and would apply to a prescription issued on or after that date.

SUBJECT: Establishing certain programs to address substance use disorders

COMMITTEE: Public Health — committee substitute recommended

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

0 nays

1 absent — Lucio

WITNESSES: For — (*Registered, but did not testify*: Duane Galligher and Cynthia Humphrey, Association of Substance Abuse Programs; Frank McStay, Baylor Scott and White Health; Tim Schauer, Community Health Choice; Eric Woome, Federation of Texas Psychiatry; Mark Vane, Husch Blackwell Strategies; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Greg Hansch, National Alliance on Mental Illness-Texas; Will Francis, National Association of Social Workers-Texas Chapter; Marshall Kenderdine, Texas Academy of Family Physicians; Jessica Boston, Texas Association of Business; Price Ashley, Texas College of Emergency Physicians; Lee Johnson, Texas Council of Community Centers; Reginald Smith, Texas Criminal Justice Coalition; Nora Belcher, Texas e-Health Alliance; Cameron Duncan, Texas Hospital Association; Dan Finch, Texas Medical Association; Monty Wynn, Texas Municipal League; Bobby Hillert, Texas Orthopaedic Association; Bonnie Bruce, Texas Society of Anesthesiologists; John Heal, Texas TrueCare Pharmacies; Allison Greer, The Center for Health Care Services; Jim Keffer, Texas Association of Physical Therapists; Nataly Saucedo, United Ways of Texas; Connie Gray; Carl F. Hunter)

Against — None

On — Kristin McGarity; (*Registered, but did not testify*: Manda Hall, Department of State Health Services; Brad Fitzwater and Lisa Ramirez, Health and Human Services Commission; Allison Benz, Texas State Board of Pharmacy)

**BACKGROUND:** Health and Safety Code sec. 483.101 defines "opioid-related drug overdose" as a condition, evidenced by symptoms such as extreme physical illness, decreased level of consciousness, constriction of pupils, respiratory depression, or coma, that a layperson would reasonably believe to stem from opioid consumption. "Opioid antagonist" is defined as any drug that binds to opioid receptors and inhibits the effects of opioids acting on those receptors.

Observers suggest that the increase in prescription drug abuse, including opioids, in recent years requires a multi-pronged approach to address prevention, intervention, and treatment of substance use disorders.

**DIGEST:** CSHB 3285 would amend the statewide behavioral health strategic plan, establish opioid antagonist programs, require Medicaid reimbursements for certain substance use disorder treatments, increase awareness of opioid risks, and require continuing education in pain management for certain providers.

**Strategic plan.** Under the bill, the Statewide Behavioral Health Coordinating Council would have to incorporate into the statewide behavioral health strategic plan strategies for:

- addressing challenges of existing prevention, intervention, and treatment programs;
- evaluating substance use disorder prevalence involving opioid abuse;
- identifying substance abuse treatment services availability and gaps; and
- collaborating with state agencies to expand substance abuse treatment services capacity in Texas.

**Opioid antagonists.**

*Grant program.* The bill would require the Office of the Governor's Criminal Justice Division to establish and administer a grant program to provide financial assistance to a law enforcement agency that wanted to provide opioid antagonists to peace officers, evidence technicians, and other personnel who would encounter persons suffering from an apparent

opioid-related drug overdose. Before applying for a grant, the law enforcement agency would have to adopt a policy addressing opioid antagonist usage for a person suffering from an apparent opioid-related drug overdose. In the application, the law enforcement agency would have to provide information to the Criminal Justice Division on the frequency of:

- interactions between peace officers and persons suffering from an apparent opioid-related drug overdose;
- calls for assistance based on an apparent opioid-related drug overdose; and
- any exposure of personnel to opioids or suspected opioids while performing their duties and any reactions by personnel to those substances.

As soon as practicable after receiving the grant, a law enforcement agency would have to provide to the Criminal Justice Division proof of purchasing opioid antagonists.

*Opioid antagonist program.* The bill would require the executive commissioner of the Health and Human Services Commission (HHSC) to establish a program to provide opioid antagonists for opioid overdose prevention. The executive commissioner could provide opioid antagonists to EMS personnel, first responders, public schools, community centers, and other persons likely to be in a position to respond to an opioid overdose. HHSC could accept gifts, grants, and donations to administer the program and would adopt rules to implement these provisions.

**Treatment.** The bill would define medication-assisted treatment (MAT) for opioid or substance use disorder as the use of methadone, buprenorphine, oral buprenorphine/naloxone, or naltrexone to treat opioid or substance abuse disorder. The bill would require HHSC to provide Medicaid reimbursement for MAT for opioid or substance use disorder without requiring a Medicaid recipient or health care provider to obtain prior authorization or precertification for the treatment. The reimbursement requirement for opioid or substance use disorder treatment would not apply to:

- a prescription for methadone;
- a recipient for whom MAT was determined to be medically contraindicated by the recipient's physician; or
- a recipient who was subject to an age-related MAT restriction.

HHSC could provide Medicaid reimbursement for MAT only if the treatment was prescribed by a licensed health care provider who was authorized to prescribe methadone, buprenorphine, oral buprenorphine/naloxone, or naltrexone. These provisions would expire August 31, 2023.

The bill would require the executive commissioner by rule to establish a program to expand access to telehealth treatment for substance use disorders.

**Continuing education.** The bill would require a prescriber or dispenser whose practice included opioid prescriptions or dispensation to annually attend at least one hour of continuing education covering best practices, alternative treatment options and multimodal pain management approaches that could include physical therapy, psychotherapy, and other treatments. The Texas State Board of Pharmacy (TSBP) would adopt rules to establish the continuing education content. These provisions would expire August 31, 2023.

**Public awareness campaign.** The bill would require the executive commissioner of HHSC by rule to develop and the Department of State Health Services (DSHS) to implement a statewide public awareness campaign to explain certain opioid misuse risks, including the risk of overdose, addiction, respiratory depression, or over-sedation and risks involved in mixing opioids with alcohol or other medications. These provisions would expire August 31, 2023

**Data collection and research.** The HHSC executive commissioner would have to ensure DSHS collected data on opioid overdose deaths and the co-occurrence of substance use disorders and mental illness.

The Texas Higher Education Coordinating Board would have to encourage health-related institutions of higher education to conduct

research on substance use disorders and addiction issues involving prescription drugs.

**Other provisions.** The bill would remove from the list of health care facilities exempt from pain management clinic regulations a clinic owned or operated by a licensed advanced practice nurse who treated patients in the nurse's specialty area and who personally used other forms of treatment with prescriptions for a majority of patients.

By December 1, 2019, the executive commissioner of HHSC would have to develop the opioid misuse public awareness campaign and establish the opioid antagonist grant program.

The bill would require TSBP to encourage pharmacists to participate in a program that provided a comprehensive approach to early intervention and treatment services for persons with and at risk of developing substance use disorders, such as a program promoted by the federal Substance Abuse and Mental Health Services Administration.

The bill would take effect September 1, 2019.

**NOTES:**

According to the Legislative Budget Board, the Health and Human Services Commission estimates a potential negative fiscal impact of \$1.2 million in general revenue related funds in fiscal 2020-21 by removing prior authorization requirements for drugs used in medication-assisted treatment for opioid and substance use disorders.

- SUBJECT:** Prohibiting the transfer of weapons to certain individuals
- COMMITTEE:** Criminal Jurisprudence — committee substitute recommended
- VOTE:** 7 ayes — Collier, K. Bell, J. González, Hunter, Moody, Murr, Pacheco  
2 nays — Zedler, P. King
- WITNESSES:** For — Elva Mendoza, Moms Demand Action for Gun Sense in America; Gyl Switzer, Texas Gun Sense; (*Registered, but did not testify*: Karen Kelley, League of Women Voters of Texas; Leesa Ross, Lock Arms for Life; Vicki Altounian, Melanie Greene, Julia Heilrayne, Nancy Leeper, Robert Leeper, Beth Martinez, Jennifer Price, and Alice Spencer, Moms Demand Action for Gun Sense in America; Julia Egler, NAMI Texas; Cheri Siegelin, Texas Correctional Employees-Huntsville; Troy Alexander, Texas Medical Association; Kerry Brosnihan; Ann Compton; Carol Edwards; Idona Griffith; Maria Person)
- Against — Michael Cargill, Central Texas Gun Works; Rachel Malone, Gun Owners of America; Rick Briscoe, Open Carry Texas; Bradley Hodges; Bonnie Thomas); (*Registered, but did not testify*: CJ Grisham, Open Carry Texas; Jason Vaughn, Texas Young Republicans; and 17 individuals)
- On — (*Registered, but did not testify*: Steve Moninger, Department of Public Safety; Jeff Buuck, Texas Department of Public Safety)
- BACKGROUND:** Penal Code sec. 46.06 governs the unlawful transfer of certain weapons. This offense is a class A misdemeanor (up to one year in jail and/or a maximum fine of \$4,000), unless the actor intentionally or knowingly sells, rents, leases, or gives a handgun to a child younger than 18 or offers to do so, in which case the offense is a state-jail felony (180 days to two years in a state jail and an optional fine of up to \$10,000).
- DIGEST:** CSHB 545 would expand the offense of unlawful transfer of certain weapons to include an individual who knowingly sold, rented, leased, loaned, or gave a firearm to a person whom the actor knew, or had

reasonable cause to believe, was:

- receiving court-ordered inpatient mental health services;
- acquitted in a criminal case by reason of insanity or lack of mental responsibility, regardless of whether the person was ordered by a court to receive inpatient treatment or residential care;
- determined to have an intellectual disability and was committed by a court for long-term placement in a residential care facility; or
- determined to be incompetent to stand trial.

It would be a defense to prosecution that the transfer was to a person who was the subject of a judicial order or finding that entitled the person to relief from disabilities or to a person who had obtained notice of relief from disabilities under federal law. It also would be a defense to prosecution if the actor had reasonable cause to believe the person fit the criteria of the bill but was not such a person.

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

SUBJECT: Requiring approval for severance payments made to certain superintendents

COMMITTEE: Public Education — committee substitute recommended

VOTE: 13 ayes — Huberty, Bernal, Allen, Allison, Ashby, K. Bell, Dutton, M. González, K. King, Meyer, Sanford, Talarico, VanDeaver

0 nays

WITNESSES: For — (*Registered, but did not testify*: Cheri Siegelin, Texas Association of Taxpayers; Robert Norris)

Against — (*Registered, but did not testify*: Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Mark Terry, Texas Elementary Principals and Supervisors Association; Dee Carney, Texas School Alliance)

On — (*Registered, but did not testify*: Hannah LaPorte, IDEA Public Schools; Pablo Barrera, Texas Charter School Association; Eric Marin, Heather Mauze, Chris Jones, and Mike Meyer, Texas Education Agency; Heather Smith)

BACKGROUND: Education Code sec. 11.201 defines "severance payment" as the amount paid to a superintendent on early termination of the superintendent's contract that exceeds the amount earned by the superintendent under the superintendent's contract as of the date of termination.

The board of trustees of a school district is required to report to the commissioner of education the terms of the severance payment made to a superintendent. The commissioner is required to reduce the district's Foundation School Program funds in an amount equal to the sum of the severance payment that exceeds one year of the superintendent's salary and benefits.

Concerns have been raised that school districts can make severance payments to a superintendent to buy out the remainder of a

superintendent's contract, resulting in reduced Foundation School Program funds available to educate students.

DIGEST:

CSHB 769 would require the board of trustees of a school district to receive approval from the commissioner of education for any severance payment it planned to make to a superintendent if the superintendent:

- was terminated because of malfeasance, defined in the bill as an act that was an element of a criminal offense under state or federal law, was unethical, or was a breach of fiduciary duty;
- resigned to avoid being terminated based on malfeasance; or
- was terminated or resigned in lieu of termination while under investigation for malfeasance.

The board of trustees' request for approval of a severance payment would have to include the school district fund from which the severance payment would be paid, provided that Foundation School Program funds could not be used, and the manner in which the funds would be used if the district did not make the severance payment.

The commissioner could not approve the request for a severance payment to a superintendent if less than 51 percent of the superintendent's contract was completed.

The bill would take effect September 1, 2019.

NOTES:

The bill's author plans to offer a floor amendment that would prohibit a school board from making a severance payment if the superintendent's contract was terminated for good cause, not renewed for cause, or if the superintendent resigned in lieu of termination or nonrenewal for cause.

SUBJECT: Issuing specialty license plates for certain teachers and retired teachers

COMMITTEE: Transportation — committee substitute recommended

VOTE: 11 ayes — Canales, Landgraf, Bernal, Y. Davis, Goldman, Hefner,  
Krause, Leman, Martinez, Thierry, E. Thompson

0 nays

2 absent — Ortega, Raney

WITNESSES: For — Luis A. Cortes, Disabled American Veterans KEL-LAC Chapter 114; Belinda Cortes; (*Registered, but did not testify*: Jeffrey Baldwin, Randie Baldwin, Michael Gonzales, Olvin Maisonet, and Sandra Maisonet, Disabled American Veterans Chapter 114, Helotes; Dwight Harris, Texas American Federation of Teachers; Lisa Dawn-Fisher, Texas State Teachers Association; and 18 individuals)

Against — None

On — (*Registered, but did not testify*: Jeremiah Kuntz, Texas Department of Motor Vehicles)

DIGEST: CSHB 737 would require the Texas Department of Motor Vehicles (TxDMV) to issue specialty license plates for certain classroom teachers and retired classroom teachers. The plates would be designed in consultation with the Texas Education Agency.

For classroom teachers with at least 15 years of service teaching public school students, TxDMV would be required to issue specialty license plates that included the words "Texas Teacher" and depicted a Texas public education logo. The issuance fee for these license plates would be \$10, and a person would be issued one set of plates without being required to pay a vehicle registration fee.

For retired classroom teachers with at least 20 years of service teaching public school students, TxDMV would be required to issue specialty

license plates that included the words "Retired Texas Teacher" and depicted a Texas public education logo. The issuance fee for the license plates for retired classroom teachers would be \$5, and a person would be issued one set of plates without being required to pay a vehicle registration fee.

The bill would take effect September 1, 2019.

SUBJECT: Specifying informal dispute resolution between HHSC and nursing homes

COMMITTEE: Human Services — committee substitute recommended

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

0 nays

2 absent — Deshotel, Rose

WITNESSES: For — Gavin Gadberry, Texas Health Care Association; (*Registered, but did not testify*: David Thomason, LeadingAge Texas; Diana Martinez, Texas Assisted Living Association; Lara Cline, Texas Healthcare Association)

Against — None

On — David Kostroun and Allison Levee, Health and Human Services Commission

BACKGROUND: Government Code sec. 531.058 establishes a process for resolving informal disputes between the Health and Human Services Commission (HHSC) and long-term care facilities.

DIGEST: CSHB 2205 would expand requirements for the informal dispute resolution process for disputes between the Health and Human Services Commission (HHSC) and long-term care facilities.

Under the bill, the informal dispute resolution process would have to require the surveyor who prepared a statement of violations that was the subject of dispute to be available to clarify or answer questions asked by the facility or person reviewing the dispute. The process also would have to require that for standard of care violations, HHSC's review of the institution's or facility's information dispute resolution request be conducted by a registered nurse with experience in long-term care.

If HHSC or its representative conducting an inspection, survey, or

investigation identified a violation that constituted immediate jeopardy to the health or safety of a resident, HHSC would have to immediately notify the facility's management and an HHSC representative would have to remain in or be accessible to the facility until HHSC received the facility's plan of removal related to the violation.

If a state agency determined that a waiver or authorization from a federal agency was necessary for implementation of any provision of the bill, the state agency would be required to request the waiver and would be permitted to delay implementation of the provision until the waiver or authorization was granted.

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 contracting personnel from contracting training

COMMITTEE: Transportation — favorable, without amendment

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

0 nays

1 absent — Landgraf

WITNESSES: For — None

Against — (*Registered, but did not testify*: Jennifer Walker, Homespun Kitchen and Bar; Walter West II, Republican Party of Texas-Senate District 4; Terri Hall, Texans Uniting for Freedom and Reform, Texans for Toll-Free Highways; Stephanie Ingersoll; Ruth York)

On — (*Registered, but did not testify*: Rich McMonagle, Texas Department of Transportation)

DIGEST: HB 3088 would exempt certain Texas Department of Transportation (TxDOT) purchasing personnel from comptroller-administered training for state agency purchasing personnel. Exempted personnel would include those whose duties related primarily to TxDOT contracts for highway construction or engineering or that were subject to contract claims procedures established by Texas Transportation Commission rule.

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: Excepting certain emergency meetings from open meetings requirements

COMMITTEE: County Affairs — committee substitute recommended

VOTE: 8 ayes — Bohac, Anderson, Biedermann, Cole, Dominguez, Huberty,  
Rosenthal, Stickland

0 nays

1 absent — Coleman

WITNESSES: For — Andy Meyers, Fort Bend County; (*Registered, but did not testify*: Robert Johnston, Anderson County; Sofia Benavides, Cameron County; Jim Allison, County Judges and Commissioners Association of Texas; KP George, Robert Pechukas, and Jim Short, Fort Bend County; Joel Romo, Nueces County Commissioners Court; Russell Schaffner, Tarrant County; Kelsey Bernstein, Texas Association of Counties; Alexis Tatum, Travis County Commissioners Court)

Against — Fred Hartman, Texas Press Association; (*Registered, but did not testify*: Kelley Shannon, Freedom of Information Foundation of Texas; Mary Berger; Marie Day)

On — (*Registered, but did not testify*: Jennie Hoelscher, Office of the Attorney General)

BACKGROUND: Government Code sec. 551.041 requires a governmental body to give written notice of the date, hour, place, and subject of each meeting held by the body. Sec. 551.043 requires that the notice of a meeting be posted in a place readily accessible to the general public for at least 72 hours before the scheduled time of the meeting.

Interested parties have noted that the commissioners courts of some counties affected by Hurricane Harvey were unable to meet and deliberate emergency matters because of concerns that meeting without public notice would violate the state open meetings law.

**DIGEST:** CSHB 62 would allow county commissioners courts under certain emergency circumstances to meet without complying with certain open meetings requirements.

The bill would apply only to the commissioners court of a county for which the governor had issued an executive order or proclamation declaring a state of disaster or emergency and in which transportation to the meeting location was dangerous or difficult as a result of the disaster or emergency.

Under such conditions, the commissioners court of the county would be allowed to hold an open or closed meeting, including a telephone conference call, without complying with state open meeting requirements, including requirements to provide notice before a meeting or to first convene in an open meeting. The commissioners court could meet solely to deliberate about disaster or emergency conditions and related public safety matters that required an immediate response.

A commissioners court could not vote or take final action on a matter during the meeting and would be required to keep minutes or recordings and to make them available to the public as soon as practicable.

To the extent practicable under the circumstances, the commissioners court would be required to provide reasonable public notice of a meeting called during an emergency or disaster and, if the meeting was open, to allow members of the public and the press to observe the meeting.

The bill's provisions would expire September 1, 2025.

The bill would take effect September 1, 2019.

- SUBJECT:** Specifying programs for the Supplemental Environmental Project
- COMMITTEE:** Environmental Regulation — favorable, without amendment
- VOTE:** 8 ayes — Lozano, E. Thompson, Kacal, Kuempel, Morrison, Reynolds, J. Turner, Zwiener
- 0 nays
- 1 absent — Blanco
- WITNESSES:** For — Cyrus Reed, Lone Star Chapter Sierra Club; (*Registered, but did not testify*: Rick Thompson, Texas Association of Counties; Grover Campbell, Texas Association of School Boards; Alexis Tatum, Travis County Commissioners Court)
- Against — None
- On — (*Registered, but did not testify*: Bryan Sinclair, Texas Commission on Environmental Quality)
- BACKGROUND:** Supplemental Environmental Projects (SEP) are environmentally beneficial projects that a respondent agrees to undertake in settlement of an enforcement action. Money directed to Texas Commission on Environmental Quality-approved environmental projects may be used to offset assessed penalties in enforcement actions.
- DIGEST:** HB 4493 would allow the Texas Commission on Environmental Quality (TCEQ) to determine the types of projects that may be approved as a Supplemental Environmental Project (SEP).
- For a respondent that was a local government, those types of projects would be required to include:
- purchasing, operating, or maintaining alternative fuel vehicles, including passenger cars, light trucks, heavy trucks, and buses, as well as alternative fuel heavy equipment, including tractors,

- bulldozers, front-end loaders, and motor graders;
- constructing, operating, or maintaining alternative fuel refueling infrastructure necessary to operate an alternative fuel fleet; and
  - providing energy efficiency upgrades to buildings and facilities owned by the local government, including heating, ventilation, air conditioning, lighting, and building envelope upgrades.

For a SEP involving alternative fuel vehicles, TCEQ would be required to allow the project to include the entire cost of the vehicle and any alternative fuel equipment or upgrades involved. TCEQ could not limit the project to including only the difference in cost between conventional fuel vehicles and their alternative fuel counterparts.

The bill would prohibit TCEQ from requiring a contract associated with a SEP to be for a term of less than five years, and would be required to allow a contract associated with a supplemental environmental project to be renewable for periods of at least five years.

The bill would take effect September 1, 2019.