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HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, May 15, 2019
86th Legislature, Number 66
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) - 66

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Wednesday, May 15, 2019
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Part 1

SUBJECT: Using full-time employees to expedite certain air permit applications

COMMITTEE: Environmental Regulation — favorable, without amendment

VOTE: 8 ayes — Lozano, E. Thompson, Blanco, Kacal, Kuempel, Morrison, J. Turner, Zwiener

0 nays

1 absent — Reynolds

SENATE VOTE: On final passage, March 26 — 31-0

WITNESSES: *On House companion bill, HB 1708:*
For — Sam Gammage, Texas Chemical Council; (*Registered, but did not testify:* Lindsey Miller, Anadarko Petroleum Corporation; Scott Hutchinson, Association of Electric Companies of Texas; Mike Meroney, BASF Corporation; Price Ashley, Cheniere Energy; Martin Hubert, CITGO; Daniel Womack, Dow Chemical; Caleb Troxclair, EOG Resources, Texas Alliance of Energy Producers; Samantha Omey, ExxonMobil; Buddy Garcia, Jupiter MLP; Bill Oswald, Koch Companies; Mindy Ellmer, Lyondellbasell; Randy Cubriel, Nucor; James Mathis, Occidental Petroleum; Michael Lozano, Permian Basin Petroleum Association; Beth Cubriel, Plains All American Pipeline; Stephen Minick, Republic Services; Mark Vickery, Texas Association of Manufacturers; Ryan Paylor, Texas Independent Producers and Royalty Owners Association; Shana Joyce, Texas Oil and Gas Association; Thure Cannon, Texas Pipeline Association; Jay Brown, Valero; Mance Zachary, Vistra Energy; Paula Kothmann)

Against — Michael Zimmerman

On — Tonya Baer, Emily Lindley, Michael Wilson, and Mike Wilson, Texas Commission on Environmental Quality; (*Registered, but did not testify:* Elizabeth Sifuentez-Koch, Texas Commission on Environmental Quality)

BACKGROUND:

Health and Safety Code ch. 382, the Clean Air Act, authorizes the Texas Commission on Environmental Quality (TCEQ) to issue permits to construct a new facility or modify an existing facility that may emit air contaminants, among other permits related to air quality.

Under sec. 382.05155, a permit applicant may request the expedited processing of an application that will benefit the economy of the state or an area of the state. TCEQ may use overtime or contract labor to process expedited air permit applications, and the commission may add a surcharge to the application fee for an expedited application in an amount sufficient to cover expenses incurred by the expedited process, including overtime, contract labor, and other costs.

DIGEST:

SB 698 would allow the Texas Commission on Environmental Quality (TCEQ) to use full-time equivalent employees to support the expedited processing of air permit applications under the Clean Air Act. The expedited application surcharge could cover the costs of those employees, and money from the surcharge could be used to support expedited permit processing.

TCEQ could set the overtime compensation rate for employees supporting the expedited processing of air permit applications. Full-time equivalent employees authorized by this bill would not be included in the calculation of full-time equivalent TCEQ employees allotted under other law.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

SB 698 would improve the air permitting process at the Texas Commission on Environmental Quality (TCEQ) by allowing the agency to use additional labor to process expedited permit applications for certain facilities that may emit air contaminants.

Currently, applicants for certain air quality permits may pay a surcharge to TCEQ to expedite the processing of their application, and TCEQ uses these surcharges to cover overtime or contract labor costs incurred for the expedited processing. However, the commission is not allowed to use full-time employees to process expedited air permits during the work week, and this has led to delays in the issuance of expedited permits. SB 698

would specify that the surcharge also could cover full-time employee salaries, allowing TCEQ to hire additional employees to deal with the increasing demand for expedited permits.

The bill would not reduce the rigor of the technical review of each permit applicant, but simply would allow TCEQ to hire additional staff to appropriately process expedited permit applications. There is no evidence to suggest that the expedited process gives less consideration to environmental or health standards.

OPPONENTS SAY:

SB 698 would expand the ability of TCEQ to issue expedited air permit applications, which do not adequately consider facilities' potential effects on the environment or human health and safety. The Legislature instead should repeal this expedited process and better regulate air polluting industries.

SUBJECT: Eliminating requirements that certain commissions submit certain reports

COMMITTEE: County Affairs — favorable, without amendment

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

0 nays

SENATE VOTE: On final passage, April 4, 2019 — 31-0

WITNESSES: *On House companion bill, HB 3002:*
For — None

Against — None

On — Frank Alvarez, Comptroller of Public Accounts

BACKGROUND: Local Government Code sec. 391.0095(e) requires regional planning commissions, councils of governments, or similar regional planning agencies to send to the governor, the state auditor, the comptroller, and the Legislative Budget Board a copy of certain reports relating to the administration of these bodies.

DIGEST: SB 790 would eliminate a requirement by which regional planning commissions, councils of governments, or similar regional planning agencies had to send to the comptroller a copy of certain reports relating to the administration of these bodies.

The bill would take effect September 1, 2019.

SUBJECT: Allowing Edinburg to use hotel occupancy taxes for certain infrastructure

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — Burrows, Guillen, Bohac, Cole, Martinez Fischer, Murphy, Noble, E. Rodriguez, Shaheen

0 nays

2 absent — Sanford, Wray

SENATE VOTE: On final passage, April 10 — 29-1 (Hall)

WITNESSES: *On House companion bill, HB 4203:*
For — Scott Joslove, Texas Hotel and Lodging Association; (*Registered, but did not testify:* Elvia Lopez, City of Edinburg, Edinburg Economic Development Corporation)

Against — None

BACKGROUND: Tax Code sec. 351.1068 allows a municipality that is the county seat of a county that is located on the Texas-Mexico border, has a population of 500,000 or more, and is adjacent to two or more counties with populations of 50,000 or more (Edinburg) to use revenue derived from the municipal hotel occupancy tax to construct, maintain, or expand a sporting-related facility or sporting-related field on property owned by the municipality, provided the municipality's sports facilities and fields have been used in the preceding calendar year a combined total of more than 10 times for district, state, regional, or national sports tournaments, games, or events.

The municipality must determine the amount of revenue generated by the sports events held on the facilities or fields for 10 years and cannot spend more than this amount for the construction, enhancement, or upgrading of facilities or fields.

Local Government Code sec. 334.001 defines "related infrastructure" as any store, restaurant, on-site hotel, concession, automobile parking

facility, area transportation facility, road, street, water or sewer facility, park, or other on-site or off-site improvement that relates to and enhances the use, value, or appeal of a venue, including areas adjacent to the venue, and any other expenditure reasonably necessary to construct, improve, renovate, or expand a venue, including an expenditure for environmental remediation.

DIGEST:

SB 2137 would expand the list of possible uses for revenue derived from the municipal hotel occupancy tax by a municipality that was the county seat of a county that was located on the Texas-Mexico border, had a population of 500,000 or more, and was adjacent to two or more counties with populations of 50,000 or more (Edinburg) to include the construction, maintenance, or expansion of infrastructure directly related to and within 2,500 feet of a facility or field.

Use of the municipal hotel occupancy tax for related infrastructure would be subject to the same conditions currently in statute for use of the hotel occupancy tax for constructing, maintaining, and expanding sporting-related facilities and fields.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

SB 2137 would allow the city of Edinburg to use hotel occupancy tax revenues to pay for infrastructure projects within 2,500 feet of its professional soccer stadium, improve the area around the stadium, and attract more tourists to the city. The city already is experiencing rapid growth and quickly becoming a tourist destination because of the stadium, and the bill would help enable the area to adequately accommodate development nearby. The bill would not add a new tax but merely expand the permissible uses of the existing hotel occupancy tax.

OPPONENTS SAY:

SB 2137 would expand Edinburg's use of hotel occupancy tax revenues, which, in general, should not be used by municipalities to aid the tourism or travel industries. There is no clear way for lawmakers to evaluate whether the benefits to the tourism industry outweigh the costs of the hotel occupancy tax.

SUBJECT: Notifying school districts of planned charter schools, repealing mandates

COMMITTEE: Public Education — favorable, without amendment

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

SENATE VOTE: On final passage, April 25 — 30-0

WITNESSES: *On House companion bill, HB 3521:*
For — Christine Nishimura, Texas Charter Schools Association; (*Registered, but did not testify*: David Anderson, Raise Your Hand Texas; Andrea Chevalier, Association of Texas Professional Educators; Lisa Dawn-Fisher, Texas State Teachers Association; Casey McCreary, Texas Association of School Administrators; Seth Rau, San Antonio ISD; Emily Sass, Texas Public Policy Foundation; Paige Williams, Texas Classroom Teachers Association)

Against — Grover Campbell, Texas Association of School Boards

On — Priscilla Aquino Garza, Educate Texas; (*Registered, but did not testify*: Kelly Kravitz, Eric Marin, Monica Martinez, Heather Mauze, and Mark Olofson, Texas Education Agency)

DIGEST: SB 668 would add certain notification provisions relating to charter school establishments and expansions. The bill would adopt a standard definition of homeless children and students. It would repeal or revise certain Education Code requirements.

Charter schools. The bill would require the commissioner of education by rule to allow a charter holder to provide written notice to the commissioner of the establishment of a new open-enrollment charter school up to 18 months before the campus was anticipated to open. Such notice would not obligate the charter holder to open a new campus.

The bill would add certain school district superintendents to persons who must be notified on receipt by the education commissioner of an

application for a charter for an open-enrollment charter school or the establishment by a charter holder of a new campus. Notification would be made to the superintendent of each school district from which a proposed charter school or campus would be likely to draw students, as determined by the education commissioner.

A charter holder could submit a request for approval for an expansion amendment up to 18 months before the date on which the expansion would be effective. Such a request would not obligate the charter holder to complete the proposed expansion.

Educator preparation. The bill would change a requirement for the Board for Educator Certification to provide information on the perseverance of beginning teachers as part of consumer information about each educator preparation program. Instead of determining perseverance on the basis of the number of beginning teachers who maintain status as active contributing members in the Teacher Retirement System, the determination would be based on information reported through the Public Education Information Management System on the number of beginning teachers employed as classroom teachers for at least three years after certification in comparison to similar programs.

Instructional materials. The bill would remove an annual June 1 deadline by which a school district or charter school is required to make a requisition for instructional material using the online requisition program maintained by the commissioner of education.

Homeless children. The bill would adopt a federal law definition of "homeless children and youths" and make conforming changes to Education Code references to a child, person, or student who was homeless.

Epinephrine auto-injectors. SB 668 would remove the commissioner of education as a recipient of a required report by a school where a personnel member or school volunteer administered an epinephrine auto-injector in accordance with a district, charter school, or private school policy.

Energy efficiency. The bill would repeal a requirement that school

districts purchase energy-efficient light bulbs for use in instructional facilities.

Other provisions. SB 688 would repeal a requirement that the Texas Education Agency (TEA) take certain actions regarding recognition of high school completion and success and college readiness programs as additional rewards under the public school accountability system.

The bill would repeal a requirement that TEA, in coordination with the Legislative Budget Board, establish an online clearinghouse of information relating to best practices of campuses, school districts, and charter schools.

School districts would be removed from a requirement in Government Code sec. 2265.001 for governmental entities to record in an electronic repository and report on a public website the entity's electricity, water, and natural gas consumption.

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:

SB 668 would implement recommendations from a group of education stakeholders that worked during the interim to develop policy recommendations to end unfunded mandates and encourage local education innovation.

The bill would expand notification to school districts about planned charter schools in their area by including superintendents among those receiving notice from the commissioner of education. It would maintain flexibility for charter schools by establishing a process for them to provide written notice to the commissioner up to 18 months before establishing a new school. Both districts and charter schools need time to plan for new schools, and the bill would permit, rather than require, notification under a flexible timeline. Concerns expressed by some about the notification process being permissive and the timeline for notification being too open-

ended could be addressed by a floor amendment.

The bill would authorize more efficient collection and reporting of data related to the persistence rate of beginning teachers by collecting the data through district reporting about classroom teachers to the Texas Education Agency rather than through information provided by the Teacher Retirement System.

SB 668 would give school districts and charter schools more flexibility to make requisitions for instructional materials by eliminating the June 1 deadline.

The bill would establish a uniform definition of "homeless children and youth." It would repeal certain Education Code requirements identified by the workgroup as being unnecessary or of limited use.

OPPONENTS SAY:

SB 668 would not provide school districts with sufficient notice of new charter schools that could impact the district's enrollment, teaching staff, and budget. The bill should require, rather than permit, charter schools to notify districts at least 18 months ahead of a planned new school opening. This would allow districts to prepare for the loss of students and make decisions related to staffing and budgeting.

NOTES:

The bill sponsor plans to offer a floor amendment that would require, rather than allow, a charter holder to provide written notice to the education commissioner of the establishment of a new charter school not later than 18 months before the date on which the campus was anticipated to open.

The amendment also would permit a charter holder to submit a request for approval by the education commissioner for an expansion amendment up to 18 months before the date on which the expansion would be effective. A charter holder would have to submit a request for an expansion amendment establishing a new campus not later than 16 months before the date on which the campus was anticipated to open. A request for an expansion amendment would not obligate the charter holder to complete the proposed expansion.

The floor amendment would require the education commissioner, on receipt of a request for approval of an expansion amendment to a charter, to notify the superintendent of each school district from which the charter school was likely to draw students.

SUBJECT: Increasing allowable compensation for guardians of Medicaid recipients

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 7 ayes — Leach, Farrar, Y. Davis, Julie Johnson, Meyer, Smith, White

0 nays

2 absent — Krause, Neave

SENATE VOTE: On final passage, April 17 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Steven Fields, Texas Guardianship Association; (*Registered, but did not testify*: Karen Collins)

Against — None

BACKGROUND: Estates Code sec. 1155.202(a) establishes that a court that appoints a guardian for a Medicaid recipient who has applied income may order certain items to be deducted as an additional personal needs allowance in the calculation of the recipient's applied income. The following items may be deducted:

- a monthly maximum compensation of $175 to the guardian;
- costs directly related to establishing or terminating the guardianship, not to exceed $1,000 except for certain attorney's fees; and
- other administrative costs regarding guardianship, not to exceed $1,000 during any three-year period.

Sec. 1115.201 defines applied income as the portion of the earned or unearned income of a Medicaid recipient or, if applicable, the recipient and the recipient's spouse that is paid under Medicaid to an institution or long-term care facility in which the recipient resides.

Observers have noted that the cost of providing guardianship services has increased and the number of counties served by nonprofit guardianship

programs has decreased in recent years. Interested parties suggest that increasing the compensation that could be paid to guardians would encourage the provision of more guardianship services for certain Medicaid recipients throughout the state.

DIGEST:

SB 1784 would increase from $175 to $250 the monthly maximum compensation to a guardian that could be deducted as an additional personal needs allowance in the calculation of the Medicaid recipient's applied income.

The bill would apply to a guardianship created before, on, or after the bill's effective date.

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: Prohibiting referral of state enforcement actions to multidistrict litigation

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Leach, Krause, Meyer, Smith, White

3 nays — Farrar, Julie Johnson, Neave

1 absent — Y. Davis

SENATE VOTE: On final passage, April 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 2083:*
For — (*Registered, but did not testify*: Lee Parsley, Texans for Lawsuit Reform)

Against — None

On — Ryan Bangert, Office of the Attorney General

BACKGROUND: Government Code sec. 74.162 allows the judicial panel on multidistrict litigation to transfer civil actions involving one or more common questions of fact pending in the same or different constitutional courts, county courts at law, probate courts, or district courts to any district court for consolidated or coordinated pretrial proceedings, including summary judgment and other dispositive motions, but not for trial on the merits.

Business and Commerce Code ch. 17, also known as the Deceptive Trade Practices Act, protects consumers against false, misleading, and deceptive business practices, unconscionable actions, and breaches of warranty. Secs. 17.47 and 17.48 allow the attorney general and district and county attorneys to obtain injunctive relief and penalties from persons engaged in such practices, actions, or breaches of warranty. Sec. 17.50 also provides consumers with causes of action in certain circumstances.

Human Resources Code ch. 36, or the Medicaid Fraud Prevention Act, allows the attorney general to obtain injunctive relief and penalties from

persons engaging in certain unlawful acts with regard to benefits and payments under the Medicaid program. The act also authorizes private persons to bring certain causes of actions on behalf of the state.

DIGEST:

SB 827 would prohibit the judicial panel on multidistrict litigation from transferring actions brought under the Deceptive Trade Practices Act, except for certain actions brought by consumers, or under the Medicaid Fraud Prevention Act.

The Texas Supreme Court could not amend or adopt rules in conflict with the bill.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019, and would apply only to actions commenced on or after that date.

SUPPORTERS SAY:

SB 827 would allow the state to take swift action against bad actors by prohibiting actions brought under the Deceptive Trade Practices Act (DTPA) and Medicaid Fraud Prevention Act (TMFPA) from being referred to the multidistrict litigation process.

The attorney general is charged with enforcing the DTPA and TMFPA, which protect consumers from scammers, promote fair markets, and allow for the recovery of taxpayer dollars. While private actions also can be brought, only the state can sue for injunctions to prevent immediate harm to citizens from ongoing violations of these acts.

However, the attorney general's recent enforcement actions have been hampered by being referred to the multidistrict litigation process, an administrative process that allows multiple related cases throughout the state to be referred to a single judicial panel for pretrial proceedings. Referral of enforcement actions to the multidistrict litigation process has led to indefinite delays in the attorney general's ability to investigate and enjoin persons who may continue to violate the DTPA and TMFPA.

While the multidistrict litigation process serves an important purpose in promoting judicial economy, it should not prevent the state from

protecting the public from ongoing violations of the DTPA and TMFPA. SB 827 would correct this problem by exempting suits brought by the state in enforcing these acts from being referred to the multidistrict litigation process. The bill would not apply to private parties seeking to bring claims under the DTPA.

OPPONENTS SAY:

SB 827 could allow the state to jump ahead of pending private litigation by prohibiting certain state actions from being referred to the multidistrict litigation process. This could potentially leave private parties that later prevailed in such litigation with less money for damages and relief.

SUBJECT: Allowing confidentiality of CPS caseworkers' personal information

COMMITTEE: Human Services — favorable, without amendment

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

0 nays

2 absent — Miller, Rose

SENATE VOTE: On final passage, April 11 — 31-0

WITNESSES: *On House companion bill, HB 759:*
For — (*Registered, but did not testify*: Will Francis, National Association of Social Workers-Texas Chapter; Sarah Crockett and Sabrina Gonzalez, Texas CASA; Tyler Sheldon, Texas State Employees Union; Jennifer Lucy, TexProtects; Knox Kimberly, Upbring)

Against — None

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

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

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

Some have noted the potential risks faced by Child Protective Services investigators and caseworkers due to the availability of their personal identifying information.

DIGEST:

SB 1494 would add certain employees and contractors of the Department of Family and Protective Services (DFPS) to the list of persons whose personal information would be excepted from the public availability requirement of the Public Information Act and to the list of state employees to whom Tax Code provisions on confidentiality of home address information would apply.

The bill would apply to current or former Child Protective Services investigators, caseworkers, or contractors performing those functions on behalf of DFPS.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019, and would apply only to a request for information received by a governmental body or officer on or after the effective date.

SUBJECT: Establishing duties for law enforcement and security personnel in schools

COMMITTEE: Public Education — favorable, without amendment

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

0 nays

SENATE VOTE: On final passage, April 17 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 3470:*
For — Deborah Fowler, Texas Appleseed; Kyle Piccola, The Arc of Texas; (*Registered but did not testify*: Christine Broughal, Texans for Special Education Reform; Lisa Dawn-Fisher, Texas State Teachers Association; Jo DePrang, Children's Defense Fund-Texas; Lisa Flores, Easter Seals Central Texas; Will Francis, National Association of Social Workers-Texas Chapter; Greg Hansch and Alissa Sughrue, National Alliance on Mental Illness-Texas; Marilyn Hartman and Tesia Krzeminski, National Alliance on Mental Illness-Austin; Chris Jones, Combined Law Enforcement Associations of Texas; Chris Masey, Coalition of Texans with Disabilities; Patty Quinzi, Texas American Federation of Teachers; Josette Saxton, Texans Care for Children; Matt Simpson, ACLU of Texas; Gyl Switzer, Texas Gun Sense; Sophie Torres, San Antonio Hispanic Chamber of Commerce; Velma Ybarra, Texas Latino Education Coalition; Emma Thomson; CJ Grisham)

Against — None

On — Adrian Gaspar, Disability Rights Texas; Morgan Craven, Intercultural Development Research Association; (*Registered but did not testify:* Megan Aghazadian, Von Byer, and Melody Parrish, Texas Education Agency; Craig Schiebel)

BACKGROUND: Interested parties have noted the presence of school police on campus and their involvement with incidents or administrative tasks that may not address a safety or security issue but are instead ordinary student

discipline or monitoring matters. Some have expressed concern that this practice unnecessarily puts children in contact with the juvenile or criminal justice system.

DIGEST:

SB 1707 would authorize the board of trustees of any public school district and the governing board of the Texas School for the Deaf to enter into a memorandum of understanding with a local law enforcement agency for the provision of school resource officers. The board would have to determine the jurisdiction of a school resource officer as well as the enforcement duties of peace officers, school resource officers, and security personnel.

Duties would have to include protecting the safety and welfare of any person in the jurisdiction of the peace officer, resource officer, or security personnel and the property of the school district. School districts could not assign or require officers or security personnel to engage in:

- routine student discipline or school administrative tasks; or
- contact with students unrelated to prescribed duties.

Officers or security personnel would not be prohibited from informal contact with a student unrelated to assigned duties or an incident involving student behavior or law enforcement.

In determining law enforcement duties, the board of trustees of the school districts would be required to coordinate with district campus behavior coordinators and other district employees to ensure that officers and security personnel were tasked only with duties related to law enforcement intervention and not with behavioral or administrative duties better addressed by other district employees.

The duties of officers and security personnel would have to be included in the district improvement plan, the student code of conduct, any memorandum of understanding providing for a school resource officer, and any other campus or district document describing the role of peace officers, school resource officers, or security personnel in the district.

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: Regulating deceptive TV advertising of legal services for medical issues

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Leach, Krause, Meyer, Smith, White

3 nays — Farrar, Julie Johnson, Neave

1 absent — Y. Davis

SENATE VOTE: On final passage, April 11 — 20-10 (Alvarado, Hinojosa, Johnson, Menéndez, Miles, Powell, Rodríguez, Watson, West, Whitmire)

WITNESSES: *On House companion bill, HB 2251:*
For — Dennis Borel, Coalition of Texans with Disabilities; Lee Parsley, Texans for Lawsuit Reform; Tiffany Jones-Smith, Texas Kidney Foundation; Kevin Finkel; (*Registered, but did not testify:* Joe Woods, American Property Casualty Insurance Association; James Grace, Jr., CNA Insurance Companies; Lee Loftis, Independent Insurance Agents of Texas; Martha Doss, Latinos for Trump; Chris Counts, National Infusion Center Association; C.L. Matthews, Partnership to Protect Patient Health; Terry Harper, Republican Party of Texas SD21; Kinnan Golemon, Shell Oil Company; Jon Opelt, Texas Alliance for Patient Access; James Hines, Texas Association of Business; Michael Garcia, Texas Association of Manufacturers; George Christian, John W. Fainter, Jr., and Carol Sims, Texas Civil Justice League; Thomas Kowalski, THBI; Cesar Lopez, Texas Hospital Association; Darren Whitehurst, Texas Medical Association; Lucas Meyers, The Travelers Companies, Inc. and Subsidiaries; Cathy DeWitt, USAA; Cary Roberts, U.S. Chamber Institute for Legal Reform; Mark McCaig; Charlotte Owen; Denise Seibert; Jacqueline Stringer; Tiffany Young)

Against — Craig Eiland and Michael Gallagher, Texas Trial Lawyers Association; Ware Wendell, Texas Watch; Charles Herring; (*Registered, but did not testify:* James McCormack; Jason Panzer; Sean Tracey)

On — Richard Hile, State Bar of Texas; Vincent Johnson

DIGEST:

SB 1189 would prohibit certain TV advertisements for legal services regarding medical issues from using deceptive language or imagery, require such ads to include verbal and visual warnings and disclosures, and establish remedies for a violation of these provisions.

Prohibited advertisements. The bill would prohibit advertisements for legal services from presenting the advertisement as a "medical alert," "health alert," "consumer alert," "drug alert," "public service announcement," or substantially similar phrase that suggested to a reasonable viewer that the advertisement was offering professional, medical, or government agency advice about medications or medical devices rather than legal services.

The bill also would prohibit ads for legal services from displaying the logo of a federal or state government agency in a manner that suggested to a reasonable viewer that the advertisement was presented by a federal or state agency or by an entity approved by or affiliated with such an agency. An advertisement could not use the term "recall" when referring to a product that had not been recalled by a government agency or through an agreement between a manufacturer and a government agency.

Warnings and disclosures. An advertisement for legal services would have to verbally and visually state the phrase "This is a paid advertisement for legal services" at the beginning of the ad. An ad also would have to state the identity of the ad's sponsor and either:

- the identity of the attorney or law firm primarily responsible for providing solicited legal services to a person who engaged the attorney or firm in response to the advertisement; or
- the manner in which a responding person's case would be referred to an attorney or law firm if the ad's sponsor was not legally authorized to provide legal services to clients.

An advertisement for legal services soliciting clients who could allege injury from a prescription drug approved by the U.S. Food and Drug Administration would have to include the verbal and visual statement, "Do not stop taking a prescribed medication without first consulting a physician."

A visual statement required by the bill would have to be presented clearly, conspicuously, and for a sufficient length of time for a viewer to see and read the statement. A required verbal statement would have to be audible, intelligible, and presented with equal prominence as other parts of the ad.

A court could not find that a required visual statement was noncompliant with the bill's requirements if the statement was presented in the same size and style of font and for the same duration as the telephone number or website of the entity a responding person would contact for the legal services offered or discussed in the ad.

A court also could not find that a required verbal statement was noncompliant with the bill's requirements if the statement was made at approximately the same volume and using approximately the same number of words per minute as the longest voice-over in the ad other than information required by the bill.

Enforcement. A violation of the bill's provision would constitute a deceptive act or practice actionable under the Deceptive Trade Practices-Consumer Protection Act and could be enforced by the attorney general or by a district or county attorney, as applicable. All remedies available under the Deceptive Trade Practices-Consumer Protection Act would be available for a violation of the bill's provisions.

The bill would not create a private cause of action.

Court authority. SB 1189 could not be construed to limit or otherwise affect the authority of the Texas Supreme Court to regulate the practice of law, enforce the Texas Disciplinary Rules of Professional Conduct, or discipline persons admitted to the state bar.

Applicability. The bill would apply only to an advertisement presented on or after the bill's effective date that promoted a person's provision of legal services or solicited clients to receive legal services. The bill would not apply to an advertisement by a federal, state, or local government entity.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

SB 1189 would protect Texas consumers from misleading and confusing advertisements for legal services by prohibiting ads from making certain statements, requiring warnings and disclosures, and providing remedies and penalties for violating these rules.

Advertisements. Currently, advertisements for legal services relating to pharmaceutical drugs or medical devices can unnecessarily alarm consumers. Elderly and disabled individuals are particularly vulnerable to this kind of misleading advertising. Individuals also may stop taking needed medications due to a misleading legal ad, which can seriously endanger the person's health. The bill would remedy this problem and protect consumers by prohibiting advertisements for legal services related to medications or medical devices from making misleading or potentially harmful statements. Requiring such advertisements to state that consumers should not discontinue medication until speaking to a physician would help to ensure that individuals did not abruptly stop taking needed medications. The bill also would protect the integrity of the doctor-patient relationship by preventing the proliferation of false or misleading information that differed from a doctor's advice.

Public information. The bill would not require lawyers to give medical advice, prevent lawyers from being able to advertise, prevent lawsuits, or hinder lawyers from accepting clients. It simply would impose common-sense regulations on deceptive advertising to protect vulnerable consumers from potentially dangerous and inaccurate medical advice.

Enforcement. The bill would not duplicate the State Bar of Texas' rules governing attorney advertisements, since the bill also would apply to non-attorneys who sponsored ads. This would ensure that consumer protections were applied more broadly to all entities making misleading claims and not just to attorneys. The bill also would allow the attorney general to take actions against violators located outside of Texas, a power the state bar does not possess.

Constitutionality. The bill would not infringe protected speech under the First Amendment because the bill specifically targets ads for legal services that provide false information on drug recalls and misleading

medical statements or imagery.

OPPONENTS SAY:

SB 1189 could remove a potentially valuable source of information about dangerous medications and medical devices from the public by prohibiting certain commercial speech. The bill also would create redundant regulations on false advertisements that could conflict with rules from the State Bar of Texas and the First Amendment.

Public information. The bill would remove a potentially valuable source of information for consumers by prohibiting advertisements warning them of pharmaceutical drugs approved by the FDA that nonetheless had significant safety warnings. The bill also would require lawyers to give medical advice to consumers, as it would require statements in advertisements instructing viewers to not cease taking a certain medication without first consulting a physician.

Enforcement. The bill would be unnecessary and redundant, since there already are adequate remedies and disciplinary rules in place for false legal advertisements. The State Bar of Texas has some of the strongest regulations on attorney ads in the country and provides for appropriate penalties for misleading ads. The Deceptive Trade Practices-Consumer Protection Act also makes it illegal to make false, misleading, or deceptive communications in commerce. By creating additional regulations and penalties that could be inconsistent with the state bar's rules and existing statute, the bill could create confusion and redundancy.

Constitutionality. The bill's restrictions could have a chilling effect on speech and raise concerns with respect to First Amendment speech rights.

OTHER OPPONENTS SAY:

SB 1189 would not go far enough to protect consumers because it would only impose restrictions on false advertisement by attorneys. Such advertisements by drug companies also should be prohibited.

SUBJECT: Establishing height requirements for certain outdoor advertising signs

COMMITTEE: Transportation — committee substitute recommended

VOTE: 10 ayes — Canales, Landgraf, Bernal, Hefner, Krause, Leman, Martinez, Ortega, Raney, E. Thompson

2 nays — Y. Davis, Thierry

1 absent — Goldman

SENATE VOTE: On final passage, March 25 — 31-0

WITNESSES: *On House companion bill, HB 3368:*
For — Anne Culver, Scenic Texas; Windy Johnson, Texas Conference of Urban Counties; *(Registered, but did not testify:* Alexis Tatum, Travis County Commissioners Court; Monty Wynn, Texas Municipal League)

Against — Sherri Kendall, Aid to Victims of Domestic Abuse; Tim Anderson, Clear Channel Outdoor; Derek Potter, Coastal Signs; Lee Vela, Outdoor Advertising Association of Texas; Russ Horton and Richard Rothfelder, Reagan Outdoor; Tom Hudson, Subway Sandwiches; Beth Alberts, Texas Center for the Missing; George Kelemen, Texas Retailers Association; and six individuals; (*Registered, but did not testify:* Craig Jenkins, Acme Partnership; Michelle Costa, Clear Channel Outdoor; Allen Potter, Coastal Signs; Jennifer Walker, Homespun Kitchen and Bar; Ronald Kibler, Lamar Advertising; Erik Arrendondo, Derek Belzung, Mary Clarke, Miles Cunningham, Curtis Ford, Brent Harper, Rosie Miller, Thomas Vaught, Media Choice LLC; Curtis Cogburn, Outfront Media; Billy Reagan, Reagan Advertising; Andy Kahan, Texas EquuSearch, Parents of Murdered Children, Crime Stoppers of Houston; Will Adams, Texas Trial Lawyers Association; and 15 individuals)

On — James Bass, Texas Department of Transportation; *(Registered but did not testify:* Barbara Trigueros)

BACKGROUND: Transportation Code sec. 391.038 regulates the height of outdoor

commercial signs that were erected prior to March 1, 2017. Such signs are not allowed to exceed 85 feet, excluding a cutout that extends above the border of the sign.

TAC ch. 21, subch. I, sec. 21.189 states that if the Legislature does not establish a maximum overall height of commercial signs before September 3, 2019, effective on that date a commercial sign may not be erected that exceeds an overall height of 85 feet.

DIGEST:

CSSB 357 would limit the height of a commercial sign to 60 feet, excluding a cutout that extended above the border of the sign, measured:

- from the grade level of the centerline of the main-traveled way closest to the sign at a point perpendicular to the sign, not including a frontage road of a controlled access highway; or
- from the base of the sign if the main-traveled way was below grade.

This limitation would not apply to a sign regulated by a municipality certified for local control under an agreement with the Texas Department of Transportation (TxDOT) as provided by department rule.

Signs that existed on March 1, 2017, that were erected prior to that date would continue to be limited to 85 feet. A person could rebuild such a sign without obtaining a new or amended permit from TxDOT, provided that the sign was rebuilt at the same location and at a height that did not exceed the original height.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSSB 357 would address costly and time-consuming legal issues surrounding height requirements established by the Texas Department of Transportation (TxDOT) for commercial billboards.

Current TxDOT regulations restrict the height of billboards to 42.5 feet, but many billboards have been constructed past that limit. A large number of infractions has resulted in litigation and significant cost to TxDOT. CSSB 357 would help end this by grandfathering all billboards

constructed prior to March 1, 2017, and by providing standards that reflect both the needs of those who rely on billboards for income and advertising and the need to keep Texas' highways scenic.

If the Legislature fails to establish a limit by September 3, 2019, TxDOT will raise the height limit to 85 feet. CSSB 357 would establish requirements that reflect the height of the majority of existing billboards while preventing the creation of billboards that were excessively tall.

OPPONENTS SAY:

CSSB 357 would impose restrictions on commercial billboards that should not be determined by the state. The operating company should be allowed to determine the height of a sign to ensure that the sign is visible.

SUBJECT: Allowing attorney general prosecutions of human trafficking crimes

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

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

3 nays — J. González, Moody, Pacheco

SENATE VOTE: On final passage, April 17 — 28-3 (Hancock, Nichols, Watson), on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 3979:*
For — Jodie Webb, Colors Of Hope; Amber Wersonske, POETIC; Steven Phenix, The Refuge for DMST (Domestic Minor Sex Trafficking), AKA The Refuge Ranch; Christie Messinger Matthews; Bonnie Thomas; (*Registered, but did not testify*: Jim Baxa; Trayce Bradford; Elva Mendoza)

Against — Jennifer Tharp, Comal County Criminal District Attorney; Amy Derrick, Dallas County District Attorney; Jaime Esparza, District Attorney, 34th District; Brett Ligon, Montgomery County District Attorney; Vincent Giardino, Tarrant County Criminal District Attorney's Office; Margaret Moore, Travis County District Attorney's Office; (*Registered, but did not testify*: Kent Birdsong, Oldham County Attorney's Office; Pete Gallego, Bexar County Criminal District Attorney's Office, Christian Henricksen, Bexar County District Attorney's Office; John Hubert, Kleberg and Kenedy Counties District Attorney's Office; Philip Kazen; Bexar County District Attorney's Office; Randall Sims, 47th District Attorney's Office; M. Paige Williams, Dallas County Criminal District Attorney John Creuzot; Patrick Wilson, Ellis County District Attorney's Office; Idona Griffith)

On — Kirsta Melton, Office of the Attorney General; David Slayton, Office of Court Administration; (*Registered, but did not testify*: Johna M. Stallings, Harris County District Attorney)

DIGEST: CSSB 1257 would give the attorney general jurisdiction to prosecute

certain human trafficking and related offenses and would require state agencies investigating human trafficking offenses to forward information about those investigations to local prosecutors and the attorney general.

The bill would give the attorney general authority to prosecute human trafficking offenses if the offense or any element of it occurred in more than one Texas county or occurred in a Texas county as well as in another state or country. The attorney general also could prosecute any other offense that occurred in Texas and arose out of the same criminal episode as a human trafficking offense.

The bill would give the attorney general the ability to prosecute human trafficking and related offenses that occurred in a single jurisdiction if the local prosecutor first refused prosecution. Within 30 days of the date a local county or district attorney became aware of a potential human trafficking offense, the prosecutor would have to notify the attorney general in writing of the offense. The notice would have to describe the conduct and describe or identify each person suspected of the conduct.

If a local county or district attorney determined that the office would not pursue a criminal investigation or prosecution in the case, the prosecutor would have to notify the attorney general within 30 days of the determination. The attorney general then could begin a criminal investigation and could prosecute any human trafficking offense and any other offense that arose out of the same criminal episode.

The provisions relating to jurisdiction would expire September 1, 2031.

State agencies that investigated human trafficking would have to forward copies of each offense report prepared in the investigation and all other case information to the appropriate local county or district attorney and the attorney general.

If a defendant committed a human trafficking offense that was part of a criminal episode, all the offenses arising out of that criminal episode could be prosecuted in any county that had venue over one of the offenses.

The bill would take effect September 1, 2019, and would apply only to

investigations and prosecutions of offenses committed on or after that date.

SUPPORTERS SAY:

CSSB 1257 would strengthen Texas' efforts to combat human trafficking by ensuring all state and local resources were brought to bear in these cases. Human trafficking is prevalent in the state, and statistics show a large number of trafficking victims. The Office of the Attorney General has a Human Trafficking and Transnational Organized Crime section, as well as experience in a wide variety of legal matters and enforcement powers and jurisdiction over certain matters, and the bill would take advantage of this expertise and these resources to combat this horrific crime.

The jurisdictional authority granted to the attorney general would help ensure that all cases were fully investigated and prosecuted and help bring statewide, uniform enforcement of laws. The bill would give the attorney general concurrent jurisdiction in multi-jurisdictional cases because cases that cross county lines can be especially complicated and could require resources and expertise not found in every county. The attorney general could be the most efficient and effective way to handle such cases. CSSB 1257 would not foster a race to the courthouse or other conflicts because the goal of the bill and the attorney general would be to encourage cooperation and the handling of all cases appropriately. This approach could ease victims' trauma by having prosecution in one county rather than multiple locations.

CSSB 1257 would not erode local prosecutors' authority in single-jurisdiction cases. The attorney general could prosecute these cases only after a local prosecutor declined to go forward. In such cases, the attorney general would be able to step in, ensuring all cases were thoroughly considered for prosecution. Like local prosecutors, the attorney general is accountable to voters and has experience working with law enforcement authorities and groups offering community services. Cases taken by the attorney general would proceed as independent cases going through a grand jury and would not involve local prosecutors potentially being called as witnesses for the defense. This does not occur now in similar situations, and there is no reason it would occur under CSSB 1257.

The authority given to the attorney general to prosecute related offenses is necessary to ensure that the attorney general has the flexibility to handle cases with the most appropriate charges, just as local prosecutors do.

CSSB 1257 would impose an expiration date of 2031 on the jurisdictional provisions in CSSB 1257 so the process could be evaluated by the Legislature.

OPPONENTS SAY:

CSSB 1257 is unnecessary and could create conflicts in the prosecution of human trafficking and related cases. The current system effectively uses both local and state resources to combat human trafficking and to bring justice for survivors.

Local prosecutors are committed to combating human trafficking and are handling cases appropriately now. Human trafficking cases brought by police and other law enforcement authorities to prosecutors are going forward in several ways, including as prosecutions for human trafficking offenses, other serious crimes, or in the federal system. Statistics showing the number of human trafficking convictions fail to take into account these options, which might include charges such as sexual assault, kidnapping, or money laundering that were easier to prove than trafficking or carried penalties that were as severe or more severe.

Local elected prosecutors are the appropriate gatekeepers for decisions about criminal prosecutions. Local prosecutors are part of the judicial branch, accountable to voters, and charged under the Constitution with handling criminal prosecutions. The attorney general is part of the executive branch, and under the current system, the attorney general is involved in trafficking cases when appropriate. Local prosecutors have authority to ask for assistance from the attorney general, and that model fosters collaboration without violating separation of powers provisions. Local prosecutors are in the best position to understand a case and to decide when such assistance is required. Local prosecutors also work closely with local law enforcement agencies and are present in the community that can provide services to survivors.

The jurisdiction granted to the attorney general if a local prosecutor declined a prosecution would be too broad. CSSB 1257 would allow the

attorney general to prosecute not only trafficking offenses but also any offense arising out of the same criminal episode. This could involve a wide range of offenses such as drug, weapon, and fraud offenses and could lead to further expansion of the attorney general's prosecutorial authority.

Authority given to the attorney general in multijurisdictional cases would be too far-reaching and could result in conflicts with local prosecutors, including those with multicounty jurisdiction. The authority given to the attorney general would not require consent of local prosecutors, and a race to the courthouse could occur. Other conflicts could occur if the attorney general went forward with a prosecution, and the defense could want the local prosecutor potentially as a witness to determine why the prosecution did not occur at the local level.

OTHER OPPONENTS SAY:

Efforts to combat human trafficking could be bolstered by increasing resources for police, sheriffs, and others to investigate crimes. In some instances, this may be where efforts are lacking, not in prosecutions.

SUBJECT: Preventing mosquito diseases along the Mexican border; authorizing a fee

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 8 ayes — Springer, Anderson, Beckley, Buckley, Burns, Fierro, Meza, Raymond

0 nays

1 absent — Zwiener

SENATE VOTE: On final passage, April 24 — 31-0

WITNESSES: No public hearing

BACKGROUND: Interested parties have suggested there is an increasing need to address the public health threat of mosquito-born diseases in the state's border region, where these diseases pose a greater threat due to a lack of licensed mosquito control applicators and other resources.

DIGEST: SB 1312 would require the Texas Department of Agriculture (TDA) by rule to provide for the issuance of noncommercial applicator licenses that would authorize a person to purchase and use restricted-use and state-limited-use pesticides for the limited purpose of mosquito control in a county located along the Texas-Mexico border.

The department would have to minimize any fees or other requirements to obtain a license to the extent practicable and would be required to issue a license to applicants that met the requirements provided by department rule.

TDA would coordinate with appropriate federal and state agencies, nonprofit organizations, hospitals, institutions of higher education, and private entities to identify and solicit funding to implement and administer this requirement. The department could solicit and accept gifts, grants, and donations to implement and administer the bill's provisions.

The bill also would require the Department of State Health Services (DSHS) to address vector-borne and zoonotic diseases in border counties by consulting with TDA and other appropriate agencies to study:

- border counties' ongoing and potential needs related to these diseases;
- the availability of and capacity for the mitigation and control of these diseases, including increased staffing, equipment, education, and training; and
- strategies to improve or develop continuing education and public outreach initiatives for the prevention of such diseases.

DSHS also would be required to develop rapid local and regional response and support plans for ongoing vector-borne and zoonotic disease control activities and disasters. The department would have to perform any administrative actions necessary to address the findings from the study performed in consultation with TDA and implement any appropriate strategies developed under the bill.

DSHS would be required to coordinate with appropriate federal and state agencies, nonprofit organizations, public and private hospitals, institutions of higher education, and private entities to implement and administer the bill's provisions, and could accept gifts, grants, and donations for these purposes.

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: Extending payment deadline for legal work provided by outside counsel

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

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

0 nays

SENATE VOTE: On final passage, April 25 — 30-0

WITNESSES: *On House companion bill, HB 1834:*
For — None

Against — None

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

BACKGROUND: Under Government Code sec. 402.0212, a contract for legal services provided between outside counsel and a state agency in the executive department, other than an agency established by the Texas Constitution must be approved by the attorney general. Sec. 402.0212(b) requires the attorney general to review an invoice submitted to a state agency under a contract for legal services to determine whether the invoice is eligible for payment. Sec. 2251.021(a)(3) establishes that a payment by a governmental entity under a contract is overdue on the 31st day after the entity receives an invoice for the goods or service.

Interested parties say that the 30-day deadline for state agencies to pay invoices may not leave enough time for the attorney general's office to complete its required review of invoices for legal services provided by outside counsel.

DIGEST: SB 1370 would establish that a payment under a contract for legal services provided by outside counsel would be overdue on the 46th day after the date a state agency received an invoice for the services.

The bill would require that a state agency's office of general counsel submit an invoice for legal services provided by outside counsel no later than the 25th day after the date the agency received the invoice. The attorney general's review of the invoice would be limited to determining whether the legal services were performed within the term of the contract and were within the scope of the legal services authorized by the contract and were therefore eligible for payment.

A state agency's office of general counsel would have to include with an invoice submitted for review a written certification that the billed legal services were performed within the term of the contract, were within the scope of the legal services authorized by the contract, and were reasonably necessary to fulfill the purpose of the contract. To certify an invoice, a state agency would have to, at a minimum, determine that the following items were supported by proper documentation and submitted to the agency under the contract requirements:

- the amount and types of expenses billed under the invoice;
- the rates for legal services under the invoice; and
- the number of hours billed for legal services under the invoice.

If a state agency rejected or disputed the invoice as not certifiable, the agency would be required to, not later than the 21st day after receiving the invoice, notify the attorney or law firm and request a corrected invoice. The 25-day period for the attorney general review of the invoice would begin on the date the agency received a corrected invoice that was certified under the requirements of the bill.

If the attorney general rejected or disputed an invoice and certification submitted by a state agency, the attorney general would notify the agency that the invoice was not eligible for payment. A state agency could submit a corrected invoice and certification, and the bill's requirements would apply to the corrected invoice and certification.

The bill would take effect September 1, 2019.

SUBJECT: Revising use of the electronic funds transfer system by the comptroller

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 9 ayes — Phelan, Deshotel, Guerra, Harless, Holland, Hunter, Raymond, Smithee, Springer

2 nays — P. King, Parker

2 absent — Hernandez, E. Rodriguez

SENATE VOTE: On final passage, April 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 3907:*
For — (*Registered, but did not testify:* Charlie Bonner; Richard Clark; Sissi Yado)

Against — Gregory Young

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

BACKGROUND: Government Code sec. 403.016 requires the comptroller to operate an electronic funds transfer (EFT) system to pay an employee's net state salary and travel expense reimbursements unless:

- the employee does not hold a classified position and the employee's gross salary is less than that of a position classified to group 8, step 1 of the state position classification plan; or
- the employee holds a classified position below group 8.

The comptroller is required to use the EFT system to make payments of more than $100 to annuitants by the Employees Retirement System or the Teacher Retirement System, recurring payments to governmental entities, and payments to certain vendors.

Generally, the comptroller may use the EFT system to deposit payments

only to one or more accounts of a payee at one or more financial institutions, including credit unions. As an exception to this, the comptroller also may use the EFT system to deposit a portion of an employee's gross pay to an employee's share or deposit account at a credit union or into an account of an eligible state employee organization for membership fees.

A person or a state agency on whose behalf payment is made can request the EFT system not be used to make payments in certain circumstances.

DIGEST:

SB 557 would revise the use of the electronic funds transfer (EFT) system to pay an employee's net state salary and travel expenses and remove the exceptions to this requirement.

The bill would require the comptroller to use the EFT system to make payments of more than $100 to annuitants by the Texas Emergency Services Retirement System.

The comptroller could use the EFT system to deposit the amount of an employee's payroll deduction made as authorized by law.

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: Removing the requirement to sign health plan disclosures on renewal

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Lucio, G. Bonnen, Julie Johnson, Lambert, Paul, C. Turner, Vo

0 nays

2 absent — Oliverson, S. Davis

SENATE VOTE: On final passage, April 17 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 1903:*
For — Jennifer Cawley, Texas Association of Life and Health Insurers; (*Registered, but did not testify:* Jamie Dudensing, Texas Association of Health Plans; Shannon Meroney, Texas Association of Health Underwriters)

Against — None

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

BACKGROUND: Insurance Code sec. 1507.006(b) requires initial applicants for a standard health benefit plan and each policyholder on renewal of coverage to sign a disclosure statement provided by the health carrier and to return it to the carrier. Under a group policy or contract, the applicant is the employer.

Sec. 1507.056(b) requires initial applicants for a standard health benefit plan and each contract holder on renewal to sign a disclosure statement provided by the health maintenance organization and to return it to the organization. Under a group evidence of coverage, the applicant is the employer.

A disclosure statement under these sections of the Insurance Code has to:

- acknowledge that the standard health benefit plan being purchased

does not provide some or all state-mandated health benefits;

- list those benefits not included in the plan; and
- provide a notice that purchase of the plan may limit an individual policy or certificate holder's future coverage options in the event the holder's health changes and needed benefits are not available under the standard health benefit plan.

Concerned parties have noted that requiring health carriers and health maintenance organizations to collect signatures on disclosure statements from every applicant during renewal is burdensome and unnecessary.

DIGEST:

SB 1852 would remove the requirement for each policyholder and contract holder on renewal of coverage to sign the applicable disclosure statement provided by a health carrier or health maintenance organization.

The bill would take effect September 1, 2019, and would apply only to a policy or evidence of coverage delivered, issued for delivery, or renewed on or after the bill's effective date.

SUBJECT: Requiring the registration of brokers by the Public Utility Commission

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Phelan, Deshotel, Guerra, Harless, Holland, Hunter, P. King, Parker, Raymond, Smithee, Springer

0 nays

2 absent — Hernandez, E. Rodriguez

SENATE VOTE: On final passage, April 11 — 31-0, on Local and Uncontested Calendar

WITNESSES: *On House companion bill, HB 3645:*
For — Stephen Davis, Alliance for Retail Markets; Scott Hutchinson, Association of Electric Companies of Texas; Shannon McGriff, The Energy Professionals Association; (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office; Cyrus Reed, Lone Star Chapter Sierra Club; Michele Gregg, Texas Competitive Power Advocates; Brent Chaney, Vistra Energy; Jessica Oney, NRG Energy; Brett Kerr, Calpine)

Against — None

On — Catherine Webking, Texas Energy Association for Marketers; (*Registered, but did not testify*: Connie Corona, Public Utility Commission)

BACKGROUND: Concerns have been raised that as the retail electric market has grown, new entities that provide brokerage services to customers are not required to register with the Public Utility Commission, which leaves the state little recourse when seeking to punish those that act in bad faith.

DIGEST: CSSB 1497 would prohibit a person from providing electric brokerage services, including services offered online, unless the person was registered with the Public Utility Commission (PUC).

The bill would define "brokerage services" as providing advice or

procurement services to, or acting on behalf of, a retail electric customer regarding the selection of a retail electric provider, or a product or service offered by a retail electric provider.

The commission would be required to process a person's application for registration as a broker by the 60th day after the person filed the application. A person who registered with PUC under the bill's provisions would be required to comply with consumer protection provisions, disclosure requirements, and marketing guidelines established by PUC and by statute.

A retail electric provider could not knowingly provide bids or offers to an unregistered broker. A retail electric provider could not register as a broker, and a broker could not sell or take title to electric energy.

PUC would be required to adopt rules as necessary to implement the bill's provisions.

The bill would take effect September 1, 2019.

SUBJECT: Agreement with nonprofit foundation to maintain the Battleship Texas

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 9 ayes — Cyrier, Martinez, Bucy, Gervin-Hawkins, Holland, Jarvis Johnson, Kacal, Morrison, Toth

0 nays

SENATE VOTE: On final passage, April 11— 31-0

WITNESSES: For —Tony Gregory, Battleship Texas Foundation; Walter West, Republican Party of Texas; Aldo Benavides, Valkor; Susan Giacona; (*Registered, but did not testify*: Bruce Bramlett, Battleship Texas Foundation; Quint Balkcom, Game Warden Peace Officers Association; John Shepperd, Texas Foundation for Conservation, Texas Coalition for Conservation; Janie Dishongh; Arthur Simon; Ruth York)

Against — None

On — Brent Leisure, Texas Parks and Wildlife; (*Registered, but did not testify*: Jessica Davisson, Texas Parks and Wildlife; Gerald Stoneham)

BACKGROUND: Parks and Wildlife Code sec. 22.261 places the Battleship "Texas" under the jurisdiction of the Texas Park and Wildlife Department.

The Battleship "Texas" is the only remaining battleship to have participated in World War I and World War II and is considered an important historical asset to Texas and its people. Concerns have been raised that the battleship's current condition has become a challenge for the state and the Texas Parks and Wildlife Department to properly address.

DIGEST: SB 1511 would require the Texas Parks and Wildlife Department (TPWD) enter into a memorandum of understanding with an appropriate nonprofit foundation for the operation and maintenance of the Battleship "Texas." The memorandum of understanding would be for a term of 99 years and

would have to include provisions that:

- governed the preservation, management, and operation for the Battleship "Texas" consistent with the Standards for Historic Vessel Preservation Projects with Guidelines for Applying the Standards published by the U.S. Secretary of the Interior;
- required the nonprofit to consult with the state historic preservation officer on matters related to the preservation or repair of the battleship; and
- protected the public's interest in maintaining and preserving a priceless historical asset in a manner that ensured the public had access to the battleship and an opportunity to provide comment on its preservation.

TPWD would be required to enter into the memorandum of understanding no later than the later of September 1, 2019, or 90 days after the bill's effective date.

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.