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P.O. Box 2910, Austin, Texas 78768-2910
(512) 463-0752 • https://hro.house.texas.gov

HOUSE RESEARCH ORGANIZATION

daily floor report

Friday, May 17, 2019
86th Legislature, Number 68
The House convenes at 9 a.m.
Part Two

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

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

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

Dwayne Bohac
Chairman
86(R) - 68

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Friday, May 17, 2019
86th Legislature, Number 68
Part 2

SUBJECT: Expanding the jurisdiction of justice courts and statutory county courts

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

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

2 nays — Y. Davis, Neave

2 absent — Farrar, Julie Johnson

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

WITNESSES: *On House companion bill, HB 3336:*
For — John Barton and Lynn Holt, Justices of the Peace and Constables Association of Texas; Lee Parsley, Texans for Lawsuit Reform; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; James Grace Jr., CNA Insurance; Lee Loftis, Independent Insurance Agents of Texas; Bobby Gutierrez, Carlos Lopez, and Jama Pantel, Justices of the Peace and Constables Association of Texas; George Christian, Texas Association of Defense Counsel, Texas Civil Justice League; John W. Fainter Jr., Texas Civil Justice League; Cary Roberts, U.S. Chamber Institute for Legal Reform)

Against — Will Adams, Texas Trial Lawyers Association; (*Registered, but did not testify*: Karen Collins; Susan Gezana; Ash Hall; Vanessa MacDougal; Robyn Ross; Arthur Simon)

On — Thea Whalen, Texas Justice Court Training Center

BACKGROUND: Government Code sec. 22.004(h) requires the Texas Supreme Court to adopt rules to promote the prompt, efficient, and cost-effective resolution of civil actions with amounts in controversy of $100,000 or less.

Sec. 25.0003(c) provides that, in addition to other jurisdiction provided by law, statutory county courts have concurrent jurisdiction with district courts in civil cases in which the amount in controversy exceeds $500 but

does not exceed $200,000.

Sec. 62.301 states that juries in county courts are composed of six persons. Sec. 25.0007(b) provides that statutory county courts practice under the law prescribed for county courts, except with regard to matters in which statutory county courts have concurrent jurisdiction with district courts. However, statutory county courts are not governed by the laws and rules pertaining to districts courts with respect to the number of jurors in matters in which statutory county courts have concurrent jurisdiction with district courts.

Sec. 27.031 provides that justice courts have jurisdiction of civil matters with amounts in controversy of $10,000 or less.

DIGEST:

SB 2342 would increase the maximum amount in controversy for matters under the jurisdiction of justice courts and the standard maximum amount in controversy for matters under statutory county court jurisdiction, require 12-person juries for certain matters before statutory county courts, and increase the amount in controversy for matters to qualify for expedited proceedings under the Texas Supreme Court's rules.

Amounts in controversy. The bill would increase the maximum amount in controversy for civil cases in which a county court had concurrent jurisdiction with a district court from $200,000 to $250,000. The maximum amount in controversy for matters over which a justice court had original jurisdiction would be increased from $10,000 to $20,000.

Juries in statutory county courts. SB 2342 would specify that civil cases pending before statutory county courts with matters in controversy exceeding $250,000 would have a jury composed of 12 members, unless all parties agreed to a jury composed of a lesser number of jurors.

In matters of concurrent jurisdiction with district courts, statutory county courts would be governed by the laws and rules pertaining to district courts in the county in which the statutory county court was located with respect to the drawing of jury panels and the selection of jurors.

Supreme Court rules. The bill would increase from $100,000 to

$250,000 the amount in controversy for cases that qualified for expedited proceedings under the Supreme Court's rules. The Supreme Court would have to adopt rules on these matters by January 1, 2020. These rules could not conflict with any other statutory law.

Other provisions. SB 2342 would remove references to the previous standard maximum amount in controversy for matters before certain statutory county courts and would eliminate the maximum amount in controversy of $50,000 for statutory county courts in Angelina County.

The bill would eliminate the requirements for certain statutory county courts that the judge of the court consent to a 12-member jury and amend provisions governing jury size in certain counties as specified in the bill. SB 2342 also would specify that in statutory county courts in Travis County, failure to object before a six-member jury was seated and sworn would constitute a waiver of a 12-member jury.

The bill would take effect September 1, 2019, and would apply to a cause of action filed on or after that date.

SUPPORTERS SAY:

SB 2342 would improve access to the civil justice system by increasing the amount-in-controversy caps for justice courts and statutory county courts and requiring the Texas Supreme Court to expand existing rules for expedited civil cases to cover those with amounts in controversy of $250,000 or less.

Litigation often is very expensive and time consuming, effectively closing the door to the court system for many Texans. Justice courts, with their informal proceedings, are designed to resolve cases quickly and cost-efficiently. Increasing the jurisdictional limits for justice courts on matters with no more than $10,000 in dispute to matters with no more than $20,000 would make these speedy, efficient courts available for more Texans. Likewise, raising the standard jurisdictional limit for statutory county courts from $200,000 to $250,000 would allow more Texans to take advantage of these courts, which are designed for medium-sized cases and typically empanel six-person juries.

Requiring statutory county courts with jurisdiction over cases with

amounts in controversy exceeding $250,000 to empanel 12-person juries for such cases would promote fairness and uniformity, reducing forum shopping with district courts. Most of the courts that would be affected by this requirement already are equipped for 12-person juries, so this requirement should result in no additional cost.

OPPONENTS SAY:

SB 2342 would put a strain on the jury system and increase costs for counties. Requiring more cases to have 12-person juries would exacerbate the juror shortage that the state is currently experiencing. Pooling additional jurors for these cases also would be costly for counties.

Requiring the Texas Supreme Court to expand rules for expedited civil actions to cover cases with amounts in controversy of $250,000 or less also could limit discovery and trial time for more complex cases. As the amounts in controversy of cases increase, so do their complexity and need for significant discovery. Requiring these cases to adhere to expedited rules could lead to inefficient outcomes.

NOTES:

The bill sponsor plans to offer a floor amendment that would require the Texas Supreme Court to adopt rules to promote the prompt, efficient, and cost-effective resolution of only those civil actions filed in county courts at law in which the amount in controversy exceeded $100,000 but did not exceed $250,000. The amendment would require that such rules balance the need for lowering discovery costs against the complexity of and discovery needs in those actions.

SUBJECT: Giving comptroller access to criminal records of wrongfully imprisoned

COMMITTEE: Appropriations — committee substitute recommended

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

0 nays

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

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

WITNESSES: *On House companion bill, HB 1803:*
For — None

Against — Ed Heimlich, Honor Quest

On — (*Registered, but did not testify*: Chris Conradt and Leonard Higgins, Comptroller of Public Accounts)

BACKGROUND: Civil Practice and Remedies Code sec. 103.001 entitles a person to compensation from the state if the person was wrongfully imprisoned for a crime in Texas and received a pardon or relief under a writ of habeas corpus on the basis of innocence. Such persons are entitled to compensation of $80,000 for each year served in prison and a monthly annuity also based on the years in prison. Sec. 103.154 requires payments to terminate if the person is convicted of a felony after becoming eligible for the compensation.

Government Code sec. 411.109(a) gives the comptroller access to criminal history record information maintained by the Department of Public Safety for enforcement and administration of certain tax laws.

DIGEST:

CSSB 1151 would give the comptroller access to criminal history record information maintained by the Department of Public Safety (DPS) if necessary to enforce or administer Civil Practice and Remedies Code ch. 103, which deals with compensation to persons wrongfully imprisoned.

The authority would include criminal history record information that related to a person who was receiving, was scheduled to receive, or was applying to receive compensation under those 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.

SUPPORTERS SAY:

CSSB 1151 would improve the efficiency of the process governing compensation to those wrongfully imprisoned by giving the comptroller more timely information about felony convictions.

Currently, the comptroller checks with the Texas Department of Criminal Justice (TDCJ) monthly to determine if any of the approximately 90 exonerees who are receiving compensation payments had been admitted to prison because they were convicted of a felony. This process is cumbersome and can result in a delay in the comptroller finding out about felony convictions since there is time lag after conviction and before entering TDCJ. If a delay occurs, a payment could be made to an exoneree in error. In this situation, the individual would be prohibited from receiving any other state funds and a demand letter asking for the return of funds would be mailed to the inmate in TDCJ.

CSSB 1151 would address this by giving the comptroller access to criminal history information at an earlier point in the process. This would enable the comptroller to track cases, identify convictions, and terminate payments if required. This would save the state money and ensure current law was followed.

The comptroller currently has access to criminal history information for other purposes and would use the access provided by the bill in the same responsible manner that has not resulted in any problems. Those accessing the information under the bill would be trained through DPS and subject

to auditing and restrictions. This would ensure the security of information and would prevent misinterpretation of criminal record information.

OPPONENTS SAY:

Interpreting criminal records can be complicated, and allowing direct access to the information could result in mistakes in determining if an exoneree had been convicted of a felony. Such a mistake could result in a payment to an exoneree being stopped in error. The current practice of using admittance to TDCJ as an indicator is a better approach for determining felonies.

SUBJECT: Administering Medicaid managed care for individuals with disabilities

COMMITTEE: Insurance — committee substitute recommended

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

0 nays

2 absent — G. Bonnen, S. Davis

SENATE VOTE: On final passage, April 17 — 30-1 (Schwertner)

WITNESSES: For — Terri Carriker, Rebecca Galinsky, Natalie Gregory, and Hannah Mehta, Protect Texas Fragile Kids; Linda Litzinger, Texas Parent to Parent; (*Registered, but did not testify*: Jesse Ozuna, Doctor's Hospital at Renaissance; Christine Yanas, Methodist Healthcare Ministries of South Texas; Samuel Galinsky, Protect Texas Fragile Kids; Laurie Vanhoose, Texas Association of Health Plans; Clayton Travis, Texas Pediatric Society; Rebecca Harkleroad)

Against — None

On — Stephanie Muth, Health and Human Services Commission; (*Registered, but did not testify*: Doug Danzeiser, Texas Department of Insurance)

BACKGROUND: Government Code ch. 533 governs Medicaid managed care programs and requires contracts between the Health and Human Services Commission (HHSC) and Medicaid managed care organizations to contain certain provisions.

Government Code sec. 531.02444(a)(2) requires the executive commissioner of HHSC to implement a Medicaid buy-in program for children with disabilities whose family incomes do not exceed 300 percent of the applicable federal poverty level.

DIGEST: CSSB 1207 would amend prior authorization procedures in Medicaid

managed care, require the Health and Human Services Commission (HHSC) to contract with an external medical reviewer for evaluating denials of health care services, and expand the Medicaid Buy-In for Children program. The bill also would establish a 24/7 help line for families whose children were in the Medically Dependent Children Waiver Program.

Notice. The bill would require HHSC to ensure that a notice sent by HHSC or a Medicaid managed care organization (MCO) to a Medicaid recipient or provider regarding the denial of coverage or prior authorization for a service included a clear explanation for the denial of coverage. For coverage or prior authorization requests that were unable to be approved for insufficient documentation reasons, HHSC or an MCO would have to issue a notice to the health provider that included:

- a description of the documentation necessary to make a final determination on the request;
- the applicable timeline, based on the requested service, for the provider to submit the documentation and a description of the reconsideration process; and
- information regarding how a provider could contact an MCO.

Prior authorization. The HHSC executive commissioner by rule would require each Medicaid MCO to:

- maintain on its website the applicable timelines for prior authorization requirements and an accurate, up-to-date catalogue of coverage criteria and prior authorization requirements; and
- adopt and maintain a process for a provider or Medicaid recipient to contact the MCO to clarify prior authorization requirements or to assist the provider in submitting a prior authorization request.

Contract provisions. The bill would require a Medicaid MCO that contracted with HHSC to establish processes for reviewing and reconsidering certain adverse determinations on prior authorization requests. These required processes would apply only to a contract entered into or renewed on or after the bill's effective date. The bill would specify

that an adverse determination on a prior authorization request would be considered a denial of services in an evaluation of the MCO only if the determination was not amended to approve the request.

HHSC would have to seek to amend contracts with Medicaid MCOs that had been entered into before the bill's effective date to include the bill's required contract provisions.

Annual review. A Medicaid MCO would have to implement a process to conduct an annual review of the MCO's prior authorization requirements, other than those for prescription drugs under the vendor drug program. To conduct the review, the MCO would have to:

- solicit, receive, and consider input from Medicaid providers in the MCO's network;
- ensure that each prior authorization requirement was based on accurate and peer-reviewed clinical criteria that distinguished, as appropriate, between categories, including age, of recipients for whom prior authorization requests were submitted.

Under the bill, a Medicaid MCO could not impose a prior authorization requirement, other than a requirement for the vendor drug program, unless the MCO had reviewed the requirement during the most recent annual review.

External medical review. The bill would require HHSC to contract with an independent external medical reviewer, as defined in the bill, to conduct external medical reviews of:

- the resolution of a Medicaid recipient appeal related to a reduction in or denial of services because of medical necessity in the Medicaid managed care program; or
- an HHSC denial of eligibility for a Medicaid program in which eligibility was based on a Medicaid recipient's medical and functional needs.

The external medical reviewer would be overseen by a medical director who was a licensed physician in Texas and would employ or consult with

experienced staff in providing private duty nursing services and long-term services and support.

The bill would specify a timeline in which external medical reviews would occur. The bill would prohibit a Medicaid MCO from having a financial relationship with or ownership interest in HHSC's contracted external medical reviewer.

Waiver program interest lists. The bill would allow a legally authorized representative of a child who was notified by HHSC that the child was no longer eligible for the Medically Dependent Children Waiver Program (MDCP) to request that HHSC:

- return the child to the MDCP interest list unless the child was ineligible due to the child's age; or
- place the child on the interest list for another Section 1915(c) waiver program.

The bill would require HHSC upon the representative's request to place a child who became ineligible on certain lists as specified in the bill. These provisions would apply only to a child who was enrolled in the MDCP but became ineligible for services because the child no longer met the level of nursing facility care criteria for medical necessity or the program's age requirement.

The bill would apply to a child who became ineligible on or after December 1, 2019.

Medically dependent children waiver program. Under the bill, HHSC would have to ensure a Medicaid MCO care coordinator under the STAR Kids managed care program provided the results of the annual medical necessity determination reassessment to the parent or legally authorized representative of a recipient under the MDCP. The bill would apply to a reassessment of the child's eligibility for the MDCP made on or after December 1, 2019.

HHSC would have to provide a parent or representative who disagreed with the reassessment results an opportunity to dispute the reassessment

with the MCO through a peer-to-peer review with the treating physician of choice.

The bill would require HHSC, through the state's external quality review organization, to:

- conduct annual surveys of Medicaid recipients under the MDCP or their representatives;
- conduct annual focus groups with recipients and their representatives on identified issues; and
- at least annually calculate Medicaid MCOs' performance on performance measures using certain data sources.

Medicaid Buy-In for Children program. The bill would require the HHSC executive commissioner by rule to increase the family income used to determine children's eligibility for the Medicaid Buy-In for Children (MBIC) program to the maximum family income amount for which federal matching funds were available.

Upon request of a child's legally authorized representative, HHSC would have to directly conduct an assessment to determine the child's eligibility for the MBIC and could not contract with a Medicaid MCO or other entity to conduct the assessment. This provision would apply to a request made on or after the bill's effective date.

STAR Kids. The bill would require HHSC to operate a 24/7 Medicaid escalation help line to assist Medicaid recipients receiving benefits under the MDCP and their parents, guardians, and legally authorized representatives navigate and resolve issues regarding the STAR Kids managed care program.

A Medicaid MCO participating in STAR Kids would have to designate an individual as a single point of contact for the help line and authorize that individual to resolve escalated issues.

Advisory committee. The bill would require the STAR Kids Managed Care Advisory Committee to advise HHSC on the operation of STAR Kids. These provisions would expire and the advisory committee would

be abolished September 1, 2023.

The bill would require HHSC, in consultation with the advisory committee, to improve the care needs assessment tool and initial assessment and reassessment processes. By March 1, 2020, HHSC would have to post on its website a plan to improve the assessment tool and assessment processes.

Coordination of benefits. The bill would require HHSC, in coordination with Medicaid MCOs, to adopt a clear policy for MCOs to ensure coordination and timely delivery of Medicaid wrap-around benefits for recipients with both primary health benefit plan coverage and Medicaid coverage. "Medicaid wrap-around benefit" would mean a Medicaid-covered service, including a pharmacy or medical benefit, that was provided to a recipient with both Medicaid and primary health benefit plan coverage when the recipient had exceeded the primary plan coverage limit or when the service was not covered by the primary plan issuer.

In developing the policy, HHSC would have to consider requiring MCOs to allow a recipient using a prescription drug previously covered by the recipient's primary health plan issuer to continue receiving the drug without requiring additional prior authorization. HHSC also would have to maintain a list of services not traditionally covered by primary health plan coverage that an MCO could approve without having to coordinate with the primary issuer and that could be resolved through third-party liability resolution processes.

HHSC would have to maintain policies allowing a health provider who was primarily providing services to a recipient through primary health plan coverage to receive Medicaid reimbursement for ordered services regardless of whether the provider was an enrolled Medicaid provider.

The bill would require HHSC to develop a process allowing a recipient with complex medical needs who had established a relationship with a specialty provider to continue receiving care from that provider.

Report. By the 30th day after the last day of each state fiscal quarter, HHSC would submit to the governor, lieutenant governor, House speaker,

the Legislative Budget Board, and each standing legislative committee with primary jurisdiction over Medicaid, a report containing the most recent state fiscal quarter data. The data would include:

- enrollment in the Medicaid Buy-In for Children program;
- requests regarding interest list placements;
- use of the Medicaid escalation help line;
- use, requests to opt out, and outcomes of the external medical review procedure; and
- categorized complaints regarding the MDCP.

The bill would require HHSC to submit the first report by September 30, 2020, for the state fiscal quarter ending August 31, 2020.

Other provisions. As soon as practicable after the bill's effective date, the HHSC executive commissioner would adopt rules to implement the bill's provisions. HHSC would have to implement the bill's provisions only if the Legislature appropriated money for that purpose. The bill would authorize HHSC to seek a federal waiver if it determined it was necessary to delay implementation of the bill's provisions.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

CSSB 1207 would safeguard and improve access to health care services for vulnerable populations under Medicaid managed care programs. Since the rollout of the STAR Kids managed care program in 2016, many families have experienced delays in or denials of services due to managed care organizations' (MCO) stringent prior authorization requirements and have been unable to successfully appeal those decisions. Requiring an independent, clinical expert to review an MCO's denial of service or eligibility based on medical necessity would ensure a fairer process. By establishing a specific 24/7 help line, the bill would help families whose children are in the Medically Dependent Children Waiver Program (MDCP) get their issues resolved quickly and appropriately.

The bill would improve transparency of prior authorization requirements by requiring Medicaid MCOs to post timelines and accurate information

regarding those requirements. By providing Medicaid MCOs with more comprehensive information, the bill would improve coordination of benefits for clients who had both private and Medicaid coverage. The bill would ensure continuity of care with a trusted provider by allowing a Medicaid recipient with complex medical needs who had established a relationship with a specialist to continue receiving care from that provider.

The bill is an appropriate use of taxpayer dollars because it would provide relief to families whose children with disabilities are on long wait lists to be served in the MDCP, which allows children to receive life-sustaining services within their home communities.

OPPONENTS SAY:

CSSB 1207 would increase costs to taxpayers by expanding eligibility for the Medicaid Buy-In for Children program.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated negative impact of $9 million to general revenue related funds through fiscal 2020-21.

SUBJECT: Transferring extracurricular safety training to UIL, repealing mandates

COMMITTEE: Public Education — favorable, without amendment

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

1 nay — Allison

SENATE VOTE: On final passage, April 17 — 30-0-1 (Lucio present, not voting)

WITNESSES: *On House companion bill, HB 3638:*
For — Ellen Williams, Texas Association of School Administrators, Texas Association of School Boards; (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Will Francis, National Association of Social Workers-Texas Chapter; Seth Rau, San Antonio ISD; Barry Haenisch, Texas Association of Community Schools; Molly Weiner, Texas Aspires Foundation; Casey McCreary, Texas Association of School Administrators; Grover Campbell, Texas Association of School Boards; Timothy Mattison, Texas Charter Schools Association; Joel Romo, The Cooper Institute; Dee Carney, Texas School Alliance; Lisa Dawn-Fisher, Texas State Teachers Association; Emily Sass, Texas Public Policy Foundation)

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

On — (*Registered, but did not testify*: Priscilla Aquino Garza, Educate Texas; Ryan Franklin, Eric Marin, Monica Martinez, and Melody Parrish, Texas Education Agency)

BACKGROUND: Interested parties have noted that various statutory provisions in the Education Code are no longer operational or reference unfunded programs and requirements that are no longer applicable.

DIGEST: SB 1376 would repeal certain Education Code requirements and revise other provisions in the Education Code and Health and Safety Code related to public schools.

Extracurricular safety. SB 1376 would transfer from the commissioner of education to the University Interscholastic League (UIL) the requirement to develop and adopt an extracurricular activity safety training program. The bill also would transfer from a school district to the UIL the requirement to provide certain training to students participating in extracurricular athletic activities. The safety training program and the training relating to an extracurricular athletic activity would have to be conducted by the UIL or by the American Red Cross, the American Heart Association, or a similar organization.

The bill would repeal a requirement that the Texas Education Agency (TEA) and the Department of State Health Services develop information about health risks associated with steroid use and distribute the information to school districts.

Recycling. The bill would revise Health and Safety Code provisions requiring certain governmental entities, including school districts, to establish a program for the separation and collection of all recyclable materials and to give preference in purchasing to products made of recycled materials if the products met applicable specifications as to quantity and quality.

The Texas Commission on Environmental Quality (TCEQ) would be required to exempt the following entities from these requirements:

- a school district with a student enrollment of fewer than 10,000 students;
- a municipality with a population of less than 5,000, if TCEQ found that compliance would work a hardship on the municipality; and
- certain governmental entities that petitioned TCEQ for an exemption and TCEQ found that compliance would work a hardship on the entity.

Teacher quality. SB 1376 would change the name of the master reading teacher grant program to the master teacher grant program and extend the applicability of the program to include master teachers in mathematics, technology, and science. The bill would remove a specification of the

amount of each program grant and repeal provisions relating to the separate grant programs.

In establishing criteria to identify high-need campuses for purposes of awarding master teacher grants, the commissioner of education would have to include performance on the state-required reading, math, or science exams, as applicable.

Other provisions. The bill would remove from the State Board of Education duties related to the granting of an open-enrollment charter or approval of a charter revision. It also would repeal other Education Code provisions, including those:

- requiring a copy of a contract between a school district and a bank selected as the district depository and a copy of the depository's bond to be filed with the TEA;
- authorizing joint operation arrangements for districts' special education programs;
- referring to the High School Completion and Success Initiative Council; and
- requiring districts to purchase energy-efficient light bulbs in an instructional facility.

The bill would remove requirements for the State Board for Educator Certification to approve an operating budget and make an appropriations request and to execute certain interagency contracts. The bill also would repeal Health and Safety Code provisions relating to the interagency obesity council.

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.

SUBJECT: Expanding disclosure requirements for certain government contracts

COMMITTEE: State Affairs — committee substitute recommended

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

0 nays

4 absent — Hernandez, Deshotel, Parker, E. Rodriguez

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

WITNESSES: *On House companion bill, HB 2189:*
On — John Bridges, Austin-American Statesman, FOI Foundation, TPA; Rob Johnson, Clients of the firm Foley Gardere; James Hemphill, Freedom of Information Foundation of Texas; Jaie Avila, Texas Association of Broadcasters; Bill Patterson, Texas Press Association; (*Registered, but did not testify*: Matt Simpson, American Civil Liberties Union of Texas; Adam Cahn, Cahnman's Musings; Dick Lavine, Center for Public Policy Priorities; Dave Jones, Clean Elections Texas; Anthony Gutierrez, Common Cause Texas; Iain Vasey, Corpus Christi Regional EDC; Priscilla Camacho, Dallas Regional Chamber; Kelley Shannon, Freedom of Information Foundation of Texas; Amber Pearce, Pfizer; Michael Coleman, Public Citizen; Michael Schneider, Texas Association of Broadcasters; Lauren Fairbanks, Texas Association of Manufacturers; Tom Kowalski, Texas Healthcare and Bioscience Institute; Bay Scoggin, TexPIRG; Donnis Baggett, Texas Press Association; Tyler Schroeder, The Boeing Company; Mance Zachary, Vistra Energy; Stephanie Ingersoll)

Against — Tracy Schieffer, Association of General Contractors of Texas - Highway Heavy Branch; (*Registered, but did not testify*: Steven Albright, Association of General Contractors of Texas - Highway Heavy Branch; Tara Snowden, Zachry Corporation)

On — Gary Huddleston, Irving-Las Colinas Chamber of Commerce; Zenobia Joseph; (*Registered, but did not testify*: Dana Harris, Austin

Chamber of Commerce; Holli Davies, North Texas Commission; Justin Gordon, Office of the Attorney General; Richard Meyer, Texas Association of Nonprofit Organizations; Troy Alexander, Texas Medical Association; Perry Fowler, Texas Water Infrastructure Network)

BACKGROUND:

Government Code ch. 552, the Public Information Act, requires governmental bodies to disclose information to the public upon request, unless that information is excepted from disclosure.

Sec. 552.104 creates an exception from disclosure for information that, if released, would give advantage to a competitor or bidder.

Sec. 552.110 creates an exception from disclosure for privileged or confidential trade secrets and for commercial or financial information whose disclosure would cause substantial competitive harm to the person from whom the information was obtained.

DIGEST:

CSSB 943 would expand public disclosure requirements related to government contracts under the Public Information Act and impose recordkeeping requirements on certain entities in possession of such information. The bill would revise exceptions from disclosure based on competitive advantage and trade secrets, create a new exception from disclosure for proprietary information, and expand the definition of a governmental body.

Contracting information. Unless otherwise excepted under the Public Information Act, the bill would require public disclosure of the following types of contracting information maintained by a governmental body or sent between a governmental body and contractor:

- information in vouchers or contracts relating to the receipt or expenditure of public funds by governmental bodies;
- solicitation or bid documents relating to a contract with a governmental body;
- communications between a governmental body and a vendor or contractor during the solicitation, evaluation, or negotiation of a contract;
- documents showing the criteria by which a governmental body

evaluated responses to a solicitation; and
- communications and other information related to the performance of a final contract with a governmental body or work performed on behalf of the governmental body.

Excluding information that was properly redacted under current law, the following types of contracting information could not be excepted from disclosure as trade secrets, commercial or financial information that would cause competitive harm, or proprietary information:

- contracts with a state agency required to be posted on the agency's website;
- contracts required to be included in the Legislative Budget Board's major contract database;
- contract or offer terms describing price, items or services subject to the contract, delivery and service deadlines, remedies for breach of contract, identity of parties or subcontractors, affiliate overall or total pricing for the contactor, execution and effective dates, and duration dates; and
- information indicating whether a contractor performed its duties under a contract.

Contracting information held by certain entities. The bill would require nongovernmental entities that executed a contract with a governmental body that had a stated expenditure of at least $1 million in public funds or that resulted in the expenditure of at least $1 million in public funds in a fiscal year to be subject to certain recordkeeping and disclosure requirements.

Written requests for contracting information. If a governmental body received a written public information request for contracting information related to a contract that was in the contracting entity's custody and not maintained by the governmental body, the governmental body would be required to request that the entity provide the information to the governmental body. This request would have to be made in writing within three business days after the governmental body received the request for information.

Attorney general's opinion. CSSB 943 would provide specific deadlines for requesting an attorney general's opinion to determine whether contracting information fell within an exception to disclosure and for providing notice to the requestor of such information.

Failure to comply with these deadlines would lead to the presumption that the requested information was subject to disclosure unless the governmental body:

- had made a good faith effort to obtain the contracting information from the contracting entity;
- was unable to meet a deadline prescribed by the bill because the entity had failed to provide the information within 13 business days after the date the governmental body received the request for information; and
- had complied with the applicable deadlines within eight business days after receiving the information from the contracting entity.

Contractual requirements. Under the bill, certain contracts between a governmental body and another entity would have to require the contracting entity to preserve all contracting information related to the contract as provided by the governmental body's applicable record retention requirements for the duration of the contract.

The entity would have to promptly provide to the governmental body any related contracting information in the entity's custody or possession on request by the governmental body. Upon the contract's completion, the entity either would be required either to provide at no cost to the governmental body all contracting information in the entity's custody or preserve such information as provided by the governmental body's recordkeeping requirements.

A bid for a contract or a contract described above also would be required to state that the contract could be subject to the above requirements and that the contractor agreed that the contract could be terminated for an intentional or knowing failure to comply with the bill's requirements.

A governmental body could not accept a bid for contract or award a contract to an entity that the governmental body determined to have failed intentionally or knowingly to comply with the bill's requirements in a previous bid or contract unless the governmental body determined that the entity had taken adequate steps to ensure future compliance.

Notice and termination. A governmental body would be required to provide written notice to a contracting entity that failed to comply with any of the above requirements. The notice would have to state the requirement that had been violated and advise the entity that the contract could be terminated without further obligation if the entity did not cure the violation within 10 business days after the notice was provided.

The contract could be terminated after the governmental body had provided notice to the entity if:

- the contracting entity did not cure the violation within the prescribed period;
- the governmental body determined that the contracting entity had failed intentionally or knowingly to comply with one of the above requirements; and
- the governmental body determined that the entity had not taken adequate steps to ensure future compliance with the bill's requirements.

Adequate steps to ensure future compliance would be considered to have been taken if the entity produced requested contracting information requested within 10 business days after the governmental body made the request and the entity established a records management system to enable it to comply with the above requirements.

A governmental body could not terminate a contract for any of the reasons above if the contract related to the purchase or underwriting of a public security, was or could be used as collateral on a loan, or the contract's proceeds were used to pay debt service of a public security or loan.

Writ of mandamus. Requestors could file suit for a writ of mandamus compelling a governmental body to comply with the bill's requirements.

Competitive advantage exception. CSSB 943 would except information from disclosure if a governmental entity demonstrated that release of the information would harm its interests by providing an advantage to a competitor or bidder in a particular ongoing competitive situation or in a particular competitive situation that was set to reoccur or if there was a specific and demonstrable intent to enter into the competitive situation again in the future.

Trade secrets exception. The bill would except from disclosure certain information that was shown by specific factual evidence to be a trade secret. A trade secret would be defined as all forms and types of information if the owner of the information had taken reasonable measures to keep it secret and if the information derived independent economic value from not being generally known to or readily accessible by another person who could obtain economic value from its use or disclosure.

Proprietary information exception. CSSB 943 would except from disclosure certain information submitted to a governmental body by a vendor, contractor, or potential vendor or contractor in response to a request for a bid, proposal, or qualification if the vendor or contractor demonstrated that disclosure of the information would give an advantage to a competitor by revealing an individual approach to work, organizational structure, staffing, internal operations, processes, or pricing information. This exception could be asserted only by a contractor, vendor, or potential vendor or contractor for the purpose of protecting its interests.

Economic development entities. The bill would allow certain economic development entities whose purpose was to develop and promote the economic growth of state agencies or political subdivisions with which the entities had contracted to assert that information relating to economic development negotiations in the entities' custody or control was excepted from disclosure.

Definition of governmental body. CSSB 943 would expand the definition of a governmental body to include:

- a confinement facility operated under contract with the Texas Department of Criminal Justice;
- a civil commitment housing facility owned, leased, or operated by a vendor under contract with the state under provisions relating to the civil commitment of sexually violent predators; and
- an entity that received public funds in the current or preceding fiscal year to manage daily operations or restoration of the Alamo or an entity that oversees such an entity.

The bill also would specify that certain economic development entities whose mission or purpose was to develop and promote the economic growth of a state agency or political subdivision and that met certain requirements as listed in the bill would not be considered governmental bodies.

The bill would take effect January 1, 2020, and would apply only to a request for public information received on or after that date and to contracts described by the bill that were executed on or after that date.

SUPPORTERS SAY:

SB 943 would improve the transparency and accountability of state and local governments by removing court-created loopholes from the Public Information Act and would strike a balance between promoting competition and providing taxpayers with information about how their money is being spent.

Recent Texas Supreme Court decisions have given contractors significant leeway to claim that information related to their government contracts should be kept secret, essentially overruling decades of attorney general interpretations promoting transparency. In some cases, even the contracts themselves and the amount of taxpayer money at issue were held to be exempt from public disclosure. As a result, the public's ability to keep informed about government spending and contracting has been greatly reduced.

SB 943 would help restore transparency to government and protect taxpayer dollars from waste, fraud, and abuse while recognizing that some information is proprietary and needs to be protected from disclosure. The

bill would return certain exceptions under the Public Information Act back to their longstanding interpretation while providing a new exception to disclosure for truly proprietary information.

The bill would improve accountability by requiring certain contractors to maintain information associated with their government contracts and to provide that information in response to public information requests. Maintaining these records simply would be part of the cost of doing business with state or local governments.

OPPONENTS SAY:

CSSB 943 would impose recordkeeping requirements on entities that contracted with governmental bodies that could prove burdensome for smaller contractors.

SUBJECT: Expanding qualifications for the Texas Tuition Equalization Program

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 8 ayes — C. Turner, Stucky, Button, Frullo, Howard, Schaefer, Smithee, Walle

0 nays

3 absent — E. Johnson, Pacheco, Wilson

SENATE VOTE: On final passage, April 17 — 30-1 (Schwertner)

WITNESSES: For — Ray Martinez, Independent Colleges and Universities of Texas; Kizuwanda Grant, Paul Quinn College

Against — None

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

BACKGROUND: Education Code sec. 61.221 allows the Texas Higher Education Coordinating Board (THECB) to provide tuition equalization grants to Texas residents enrolled in any approved private Texas college or university.

Sec. 61.222 establishes eligibility requirements for the approval of private or independent institutions of higher education for this purpose, including that they must hold the same program standards and accreditation as public institutions of higher education.

The coordinating board may temporarily approve a private or independent institution that previously held, but no longer holds, the same accreditation as public institutions to participate in the tuition equalization grants program if the institution meets certain criteria. Temporary approval may be granted for a two-year period and can be renewed twice.

Interested parties have called for eligibility requirements for tuition equalization grants to be expanded to include federally recognized work colleges that have lost the required regional accreditation status but have retained state-recognized national accreditation status.

DIGEST:

SB 1680 would require the Texas Higher Education Coordinating Board to approve for the purposes of tuition equalization grants private or independent institution of higher education that previously qualified for the program but no longer held the same accreditation as public institutions of higher education if the institution was:

- accredited by an accreditor recognized by the coordinating board;
- a work college, as defined by federal law; and
- participating in the federal Pell Grant Program.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

SUBJECT: Authorizing a fee for participation in the Managed Lands Deer Program

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

VOTE: 8 ayes — Cyrier, Martinez, Bucy, Gervin-Hawkins, Holland, Jarvis Johnson, Kacal, Toth

0 nays

1 absent — Morrison

SENATE VOTE: On final passage, April 9 — 31-0

WITNESSES: *On House companion bill, HB 3396:*
For — Evelyn Merz, Lone Star Chapter Sierra Club; David Yeates, Texas Wildlife Association; (*Registered, but did not testify*: John Shepperd, Texas Foundation for Conservation and Texas Coalition for Conservation; David Sinclair, Game Warden Peace Officers Association)

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

On — (*Registered, but did not testify:* Eric Marin, Texas Education Agency; Clayton Wolf, Texas Parks and Wildlife Department)

BACKGROUND: 31 TAC sec. 65.29 establishes the voluntary Managed Lands Deer Program to expand certain hunting options of deer for purposes of wildlife management. Landowners may enroll a tract of land into the program, and the Texas Parks and Wildlife Department determines the number and type of deer that may be hunted there based on the unique characteristics of the tract of land and the deer population and issues corresponding tags for each deer to a designated participant. The tags are valid only on the land or aggregated land for which they are issued, and the tags do not apply to personal or annual bag limits.

Parks and Wildlife Code sec. 11.033 establishes the game, fish, and water safety account. Authorized uses of the account include the propagation and protection of wildlife and expansion of hunting opportunities.

Concerns have been raised over the financial viability of the Managed Lands Deer Program, and some have suggested authorizing a fee to cover the cost of the program.

DIGEST:

SB 733 would authorize the Texas Parks and Wildlife Commission to impose a fee for participation in the Managed Lands Deer Program. The fee would be deposited in the game, fish, and water safety account.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

NOTES:

According to the Legislative Budget Board, SB 733 would result in a gain of about $1.3 million annually the game, fish, and water safety account beginning in fiscal 2020.

SUBJECT: Revising identification requirements for breeder deer

COMMITTEE: Culture, Recreation and Tourism — committee substitute recommended

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

0 nays

SENATE VOTE: On final passage, April 10 — 25-5 (Creighton, Hall, Hinojosa, Menéndez, Whitmire)

WITNESSES: For — Quint Balkcom, Game Warden Peace Officer's Association; Don Steinbach, Texas Chapter Wildlife Chapter; John Shepperd, Texas Foundation for Conservation, Texas Coalition for Conservation; Tom Vandivier, Texas Wildlife Association; David Yeates, Texas Wildlife Association; Roy Leslie; (*Registered, but did not testify*: Travis Hawver, Backcountry Hunters and Anglers; Cyrus Reed, Lone Star Chapter Sierra Club; Walter West, Republican Party of Texas; Peyton Schumann, Texas and Southwestern Cattle Raisers Association; Janice Bezanson, Texas Conservation Alliance; Marko Barrett, Texas Wildlife Association; Janie Dishongh)

Against — Tim Condict and Richard Mann, Deer Breeders Corporation; Charly Seale, Exotic Wildlife Association; Mark Hubbard and Patrick Tarlton, Texas Deer Association; and 10 individuals; (*Registered, but did not testify*: Ben Mooring, 4m Ranch; Mickey Cash and Tyus Paul, 4M Whitetails; Robert Myers, Blackjack Whitetails; Debbie Chisholm, Bonita Whitetails; Richard Wolf, Ryan Baty, Bryce Beatty, Brown Trophy Whitetail Ranch; Fred Trudeau, Cola Blanca Genetics; George Courtney, Deer Breeder Corp; Brian Wilson, Deer Breeders; Verona Wilson, High Roller Whitetails; Bryant Kern, Keeper Ranch; Jesse Boger, Limitless Genetics; Charleen Long, Long Whitetails; Derrick Lester, RDL Whitetails; Jessica Wiggins, Wilks Whitetail; Cordell Whittle and Rebecca Whittle, Wilson Wildlife; and 83 individuals)

On — Susan Rollo, Texas Animal Health Commission; Stormy King and

Clayton Wolf, Texas Parks and Wildlife Department; (*Registered, but did not testify*: Gerald Stoneham)

BACKGROUND:

Parks and Wildlife Code sec. 43.3561 requires that breeder deer receive a durable identification tag attached to the ear containing an alphanumeric number of not more than four characters assigned to the breeder facility by the Texas Parks and Wildlife Department by March 31 of the year following the deer's birth. A breeder deer must have the unique identification number tattooed on its ear before it can be removed from the breeder facility.

DIGEST:

SB 810 would require a breeder deer to be identified by an electronic identification device in addition to an identification tag and ear tattoo.

The Texas Parks and Wildlife Department would be required to create and maintain a database containing electronic identification device numbers entered by deer breeders. In making a determination to destroy a deer due to public health concerns, the department would have to consider an electronic identification device as evidence of positive identification for a breeder deer that could not be identified by either an identification tag or ear tattoo.

An electronic identification device applied to a breeder deer would have to meet certain requirements specified in the bill. The bill also would specify additional requirements for both ear tattoos and identification tags, including that identification tags be commercially manufactured and have five alphanumeric characters.

The bill would take effect September 1, 2019, and would apply only to breeder deer born on or after January 1, 2020.

SUPPORTERS SAY:

SB 810 would ensure breeder deer always had at least two ways to be identified by adding a requirement for each deer to have a unique electronic identification number. This would allow breeders to utilize their own identification systems and the Texas Parks and Wildlife Department (TPWD) to identify the deer electronically.

When a deer's tag is lost or destroyed or becomes illegible, TPWD must

euthanize the animal and test it for disease. This bill will reduce the number of deer considered to be a disease risk because of a lack of identification.

The bill also would update the current ear tag identification system by requiring commercial tags with uniform standards and changing identification numbers to have five alphanumeric characters instead of up to four. Adopting these standards would mitigate issues where unclear or improperly applied tags cannot be used to identify the deer.

OPPONENTS SAY:

SB 810 would create unnecessary burdens on the breeder deer industry by forcing breeders to buy commercially manufactured ear tags. Tattoos also should no longer be required, as adding an extra character would make tattoos even more time-consuming to implement and the bill's requirement for electronic identification tags would make the tattoos unnecessary.

SUBJECT: Requiring certain pharmacy benefits for STAR Kids program enrollees

COMMITTEE: Public Health — favorable, without amendment

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

0 nays

1 absent — Coleman

SENATE VOTE: On final passage, May 2 — 30-1 (Schwertner)

WITNESSES: *On House companion bill, HB 3685:*
For — Hannah Mehta, Protect TX Fragile Kids; (*Registered, but did not testify:* Jamaal Smith, City of Houston Mayor's Office; Chase Bearden, Coalition of Texans with Disabilities; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Lee Johnson, Texas Council of Community Centers; Bradford Shields, Texas Federation of Drug Stores; Michelle Romero, Texas Medical Association; Mackenna Wehmeyer and Michael Wright, Texas Pharmacy Business Council)

Against — None

BACKGROUND: Government Code sec. 533.00253 establishes the STAR Kids Medicaid Managed Care Program, which is tailored to provide Medicaid benefits to people with disabilities who are 20 years old and younger.

Concerned parties have noted that medically vulnerable children enrolled in the STAR Kids Medicaid Managed Care Program often are denied access to drugs in the central drug formulary or made to go through burdensome extra steps to receive needed medications.

DIGEST: SB 1096 would require the Health and Human Services Commission (HHSC) to conduct a utilization review on children enrolled in the STAR Kids managed care program and would impose certain requirements and restrictions on the outpatient pharmacy benefits plans required of health

management organizations and pharmacy benefit managers.

Utilization review. The bill would require HHSC to conduct a utilization review on a sample of cases for children enrolled in the STAR Kids managed care program to ensure that all imposed clinical prior authorizations were based on publicly available clinical criteria and were not being used to negatively impact a recipient's access to care.

Outpatient pharmacy benefits plan. Under an outpatient pharmacy benefit plan developed, implemented, or maintained by a managed care organization (MCO), the MCO or a pharmacy benefit manager could not require a prior authorization for or impose any other barriers to a drug prescribed to a child enrolled in the STAR Kids managed care program for a particular disease or treatment that was on the vendor drug program formulary. It also would prohibit requiring additional prior authorization for a drug included in the preferred drug list adopted by HHSC. These provisions would not apply in regard to a clinical prior authorization or a prior authorization imposed by HHSC to minimize the opportunity for waste, fraud, or abuse.

The MCO or pharmacy benefit manager would have to provide for continued access to a drug prescribed to a child enrolled in the STAR Kids managed care program, regardless of whether the drug was on the vendor drug program formulary or, if applicable on or after August 31, 2023, the MCO's formulary.

The organization or manager could not use a protocol that required a child enrolled in the STAR Kids managed care program to use a prescription drug or sequence of prescription drugs other than as recommended by the child's physician before the MCO provided coverage for the recommended drug.

The organization or manager would have to pay liquidated damages to HHSC for each failure to comply with these provisions in an amount that was a reasonable forecast of the damages caused by the noncompliance.

Waivers and authorization. If a state agency determined that a waiver or authorization from a federal agency was necessary to implement a

provision of the bill, the agency would have to request the appropriate waiver or authorization and could delay implementation until the waiver or authorization was granted.

Appropriation. HHSC would have to implement a provision of the bill only if the Legislature appropriated money specifically for that purpose. If the Legislature did not appropriate such funds, HHSC could choose to implement a provision of the bill using other appropriations available for that purpose.

The bill would take effect September 1, 2019, and would apply only to a contract entered into or renewed on or after the bill's effective date.

NOTES:

According to the Legislative Budget Board, although the fiscal implications of the bill could not be determined at this time, the bill would have an anticipated cost.

SUBJECT: Expanding allowed uses of justice court technology funds

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 — 28-2 (Hall, Zaffirini)

WITNESSES: *On House companion bill, HB 1805*:
For — John Barton, Justices of the Peace and Constables Association of Texas; (*Registered, but did not testify*: Cary Roberts, County and District Clerks' Association of Texas; Jim Allison, County Judges and Commissioners Association of Texas; Nicholas Chu, Bobby Gutierrez, and Lynn Holt, Justices of the Peace and Constables Association; Kelsey Bernstein, Texas Association of Counties; John Dahill and Windy Johnson, Texas Conference of Urban Counties; Guy Herman, Travis County Probate Court and Presiding Statutory Probate Judge of Texas; Sasha Moreno; Katina Whitfield)

Against — None

On — Bronson Tucker, Texas Justice Court Training Center

BACKGROUND: Code of Criminal Procedure art. 102.0173 requires the commissioners court of a county to create a justice court technology fund. Defendants convicted of misdemeanor offenses in justice court must pay a $4 justice court technology fee as a cost of court for deposit in the fund.

A justice court technology fund may be used only for certain purposes, including to finance the cost of purchasing and maintaining information technology equipment and the cost of education and training for justice court judges and clerks. Certain counties also may use such funds to assist county departments with technological enhancements if the enhancement directly relates to the operation or efficiency of the justice court.

DIGEST:

SB 1840 would rename justice court technology funds to justice court assistance and technology funds and would expand the authorized uses of such funds.

The bill would allow the use of such funds to finance the cost of providing court personnel, including salaries and benefits. Funds also could be used to finance the cost of continuing education and training for justice court personnel, rather than only for justice court clerks. The bill also would eliminate the specification that any provided education or training would have to be related to technological enhancements for justice courts.

SB 1840 would allow a justice court in any county, regardless of population or location and with the approval of the county's commissioners court, to use a justice court assistance and technology fund to assist a constable's office or other county department with the purchase and maintenance of technological enhancements, if the enhancement were related to the operation or efficiency of a justice court.

The bill would take effect September 1, 2019.

SUPPORTERS SAY:

SB 1840 would give judges another funding source to use in hiring additional staff, which would provide smaller counties with greater flexibility in handling their limited financial resources. Courts need additional staff, in addition to up-to-date technology, to alleviate increasing workloads.

The bill would be unlikely to lead to county commissioners courts relying on the fund as the primary funding for court personnel. If such problems arose, they could be addressed in future legislation.

OPPONENTS SAY:

SB 1840 lacks an adequate safeguard to prevent county commissioners from relying on justice court assistance and technology funds as a permanent funding source for court personnel, which could result in insufficient investment in technology. Court personnel should be paid out of the county budget and the technology fund should be preserved for its purpose of committing courts to invest in new technology.

SUBJECT: Improving maternal and newborn health for women with opioid disorders

COMMITTEE: Public Health — favorable, without amendment

VOTE: 7 ayes — S. Thompson, Wray, Allison, Coleman, Frank, Price, Zedler

0 nays

4 absent — Guerra, Lucio, Ortega, Sheffield

SENATE VOTE: On final passage, April 10 — 30-0

WITNESSES: For — (*Registered, but did not testify*: Duane Galligher, Association of Substance Abuse Programs of Texas; Anne Dunkelberg, Center for Public Policy Priorities; Maggie Stern, Childrens Defense Fund; Tim Schauer, Community Health Choice; Priscilla Camacho, Dallas Regional Chamber; Mary Cullinane, League of Women Voters of Texas; Lindsay Lanagan, Legacy Community Health; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Greg Hansch and Alissa Sughrue, National Alliance on Mental Illness Texas; Eric Kunish, National Alliance on Mental Illness Austin; Will Francis, National Association of Social Workers - Texas Chapter; AJ Louderback, Sheriffs Association of Texas; Maureen Milligan, Teaching Hospitals of Texas; Jason Baxter, Texas Association of Health Plans; Kathryn Freeman, Texas Baptist Christian Life Commission; Lee Johnson, Texas Council of Community Centers; Douglas Smith, Texas Criminal Justice Coaliton; Carrie Kroll, Texas Hospital Association; Kaitlyn Doerge, Texas Pediatric Society; Beth Cortez-Neavel, TexProtects - Texas Association for the Protection of Children; Piper Nelson, The SAFE Alliance; Jennifer Allmon, The Texas Catholic Conference of Bishops; Nataly Sauceda, United Ways of Texas; Michelle Wittenburg, Upbring; Joy Davis)

Against — None

On — (*Registered, but did not testify*: Manda Hall, Department of State Health Services; Lisa Ramirez, HHSC)

BACKGROUND: Health and Safety Code ch. 34 establishes the maternal mortality and morbidity task force to study and review certain issues related to pregnancy-related death and severe maternal morbidity and make recommendations for improving maternal health in the state.

It has been reported that drug overdoses are a leading cause of maternal deaths in Texas, and concerned parties have suggested that developing and implementing initiatives to improve maternal and newborn health for women with opioid use disorder could reduce the incidence of such deaths.

DIGEST: SB 436 would require the Department of State Health Services (DSHS), in collaboration with the maternal mortality and morbidity task force, to develop and implement initiatives to:

- improve screening procedures to better identify and care for women with opioid use disorder;
- improve continuity of care for women with opioid use disorder by ensuring that health care providers referred the women to appropriate treatment and verified that the women received the treatment;
- optimize health care provided to pregnant women with opioid use disorder;
- optimize health care provided to newborns with neonatal abstinence syndrome by encouraging maternal engagement;
- increase access to medication-assisted treatment for women with opioid use disorder during pregnancy and the postpartum period; and
- prevent opioid use disorder by reducing the number of opioid drugs prescribed before, during, and following a delivery.

Before implementing these initiatives, DSHS could conduct a limited pilot program in one or more geographic areas of Texas to implement the initiatives at certain licensed hospitals with expertise in caring for newborns with neonatal abstinence syndrome or related conditions. The pilot program would have to conclude by March 1, 2020. This provision would expire September 1, 2021.

DSHS, in collaboration with the task force, would be required to promote and facilitate health care providers' use of maternal health informational materials, including tools and procedures related to best practices in maternal health to improve obstetrical care for women with opioid use disorder.

The department also would have to prepare and submit a written report that evaluated the success of the initiatives developed and implemented by the bill and the pilot program, if applicable. This report would have to be submitted to the presiding officers of the standing committees of each house of the Legislature with primary jurisdiction over public health by December 1, 2020.

This bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2019.

NOTES:

According to the Legislative Budget Board, SB 436 would result in an estimated negative impact of about $2.8 million in general revenue related funds through fiscal 2020-2021, with a similar impact in subsequent biennia.

SUBJECT: Changing requirements for veterinarians prescribing controlled substances

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 11 — 31-0

WITNESSES: No public hearing

BACKGROUND: Health and Safety Code sec. 481.0766(a) requires a wholesale distributor of controlled substances to report certain information regarding the distribution of controlled substances to the U.S. Drug Enforcement Administration's Automation of Reports and Consolidated Orders System and to the Texas State Board of Pharmacy.

Occupations Code sec. 801.307 establishes the continuing education requirements for veterinarians.

DIGEST: SB 1947 would require the Texas State Board of Pharmacy to make available information it received from a wholesale distributor on the distribution of controlled substances to the State Board of Veterinary Medical Examiners for the purpose of routine inspections and investigations.

The bill also would require the State Board of Veterinary Medical Examiners to require veterinarians to, every two years, complete two hours of continuing education related to opioid abuse and controlled substances diversion, inventory, and security. These requirements would apply only to the renewal of a license to practice veterinary medicine on or after September 1, 2020.

The bill would take effect September 1, 2019

SUBJECT: Monitoring compliance with dyslexia screening, reading diagnosis programs

COMMITTEE: Public Education — favorable, without amendment

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

0 nays

2 absent — Dutton, Sanford

SENATE VOTE: On final passage, April 29 — 31-0

WITNESSES: *On House companion bill, HB 1199:*
For — Courtney Hoffman, Academic Language Therapy Association-Texas; Vickie RabbWiggins; (*Registered, but did not testify:* Jacquie Benestante, Autism Society of Texas; Kyle Piccola, The Arc of Texas; Chris Masey, Coalition of Texans with Disabilities; Steven Aleman, Disability Rights Texas; Lisa Flores, Easterseals Central Texas; Shannon Meroney and Serenity Owens, Impact Dyslexia; Kyle Ward, Texas PTA; Linda Litzinger, Texas Parent to Parent, Martha Leal, Texas School Counselor Association; Christine Broughal, Texans for Special Education Reform; and seven individuals.)

Against — None

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

BACKGROUND: Education Code sec. 7.028 limits the Texas Education Agency's (TEA) monitoring of compliance with requirements applicable to certain processes or programs provided by a school district, campus, program, or school granted charters, including the program for screening and treatment of dyslexia and related disorders. TEA can monitor only for specified purposes, including to ensure compliance with federal law and regulations and public school system accountability.

Concerned parties have suggested procedures be developed to ensure that public school districts are complying with reading diagnosis requirements and treatment for dyslexia and related disorders.

DIGEST:

SB 2075 would require the Texas Education Agency (TEA) to use rules to develop procedures to audit and monitor school districts to ensure compliance with requirements for screening for dyslexia and related disorders and reading diagnosis programs. The procedures would have to include identifying problems that districts experience in complying with program requirements and developing reasonable and appropriate strategies to address noncompliance.

The bill also would require school districts to notify the parent or guardian of a student diagnosed with or at risk of dyslexia or a related disorder of the program maintained by the Texas State Library and Archives Commission allowing students with reading disabilities to borrow audiobooks free of charge.

TEA would be required to implement the provisions of the bill only if the Legislature appropriated money specifically for that purpose. If the Legislature did not appropriate money specifically for that purpose, TEA could, but would not be required to, implement the bill using other appropriations available for that purpose.

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.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about $914,000 to general revenue related funds through fiscal 2020-21.