HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, March 31, 2021
87th Legislature, Number 26
The House convenes at 10 a.m.

Two bills are on the Major State Calendar and 13 bills are on the General State Calendar for second reading consideration today. The table of contents appears on the following page.

The following House committees were scheduled to meet today: Appropriations; Corrections; International Relations and Economic Development; Judiciary and Civil Jurisprudence; Pensions, Investments and Financial Services; Public Health; Urban Affairs; and Licensing and Administrative Procedures.

Alma Allen
Chairman
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SUBJECT: Excluding certain benefits paid due to a state disaster from the UI tax rate

COMMITTEE: International Relations and Economic Development — committee substitute recommended

VOTE: 8 ayes — Button, C. Morales, C. Bell, Canales, Hunter, Larson, Metcalf, Ordaz Perez

1 nay — Beckley

WITNESSES: For — (*Registered, but did not testify*: Tray Bates and Julia Parenteau, Texas Realtors; Dale Craymer, Texas Taxpayers and Research Association; Dana Harris, The Greater Austin Chamber of Commerce; John McCord, NFIB; Kelsey Streufert, Texas Restaurant Association; Thomas Parkinson)

Against — None

On — Bryan Daniel, Texas Workforce Commission

BACKGROUND: The unemployment compensation fund consists of contributions made under the Texas Unemployment Compensation Act, including from the unemployment insurance tax. The unemployment insurance tax is partially determined by the general tax rate, which is calculated according to the replenishment ratio.

Labor Code sec. 204.045 defines the replenishment ratio used to determine an employer's unemployment compensation contribution tax rate as the sum of benefits paid in the preceding year that are effectively charged to an employer and one-half of the amount of benefits paid during that period that are not effectively charged to an employer, divided by the total amount of effectively charged benefits paid in that time period.

Under sec. 204.046, a benefit is not effectively charged if it is not charged to an employer's account, is charged to an employer's account after the employer has reached maximum liability because of the maximum tax rate, or is charged to an employer's account but considered not collectible.

Sec. 204.061 specifies that the floor of the compensation fund is equal to the greater of $400 million or one percent of the total taxable wages for the four calendar quarters ending the preceding June 30 and that the ceiling of the compensation fund is equal to two percent of total taxable wages for the four calendar quarters ending the preceding June 30.

DIGEST:

CSHB 7 would exclude from the calculation of the replenishment ratio benefits paid and not effectively charged to an employer's account as a result of an order or proclamation by the governor declaring at least 50 percent of the state's counties to be in a state of disaster or emergency.

The bill would apply only to an employer's unemployment compensation contribution tax liability that accrued 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 October 1, 2021.

SUPPORTERS SAY:

CSHB 7 would allow employers negatively impacted by the COVID-19 pandemic to financially recover and hire back employees by preventing a large increase in the unemployment insurance tax. The bill would not result in insolvency of the Unemployment Compensation Trust Fund because CSHB 7 merely would give the Texas Workforce Commission (TWC) the flexibility to spread out the replenishment of this fund from the unemployment insurance tax over several tax years instead of one.

Layoffs due to the COVID-19 pandemic resulted in more than $7 billion of non-effective charges to the state's Unemployment Compensation Trust Fund. TWC is required to maintain the trust fund at a balance equal to between one and two percent of taxable wages. Because statute contains set formulas for calculating the general tax rate on employers that incorporates this large sum of non-effective charges, Texas businesses of all sizes will see their tax burdens double or even triple for the 2021 tax year in order to replenish the trust fund at the required rate. CSHB 7 would prevent employers from having to absorb this obligation in one tax year by exempting non-effective charges made during a disaster affecting more than 50 percent of the state's counties from the calculation of the

replenishment ratio. This would allow employers to stay afloat and use precious resources to hire back individuals laid off during the COVID-19 pandemic rather than experience a significant tax hike.

The bill would not make the Unemployment Compensation Trust Fund insolvent because it would not shift the burden of replenishing the fund from employers to the state but merely extend the time frame in which employers replenished the fund. It would not create a tax break or exemption. It simply would smooth out the payment of the unemployment insurance tax by employers and enable them to hire new staff instead of meeting a substantially larger tax burden. The state should keep its promise to all businesses that there would be no chargeback to any Texas employers for claims filed due to COVID-19 and apply the disaster exemption to the replenishment ratio formula uniformly.

The bill is narrowly targeted to protect businesses and by extension their current or prospective employees from experiencing a rapid and significant tax hike at a time when the economy is still recovering from the effects of the pandemic. Debate about raising the floor or ceiling requirements for the trust fund balance would be a different discussion not relevant to the bill.

CRITICS SAY:

CSHB 7 could jeopardize the solvency of the Unemployment Compensation Trust Fund with a $5.4 billion shortfall that could take years to shore up. The state could ensure a resilient unemployment fund while providing relief to the most vulnerable employers by targeting the replenishment rate change specifically at small businesses and expanding the floor and ceiling requirements for the trust fund balance.

Reducing the tax rate on all employers, including those able to bear an increased tax burden, would prolong the replenishment of the trust fund. In order to protect the solvency of the trust fund while providing relief to the most vulnerable employers, the bill should be specifically targeted at small businesses, as determined by revenue. Rather than creating an across-the-board exception for the replenishment ratio formula, the bill should increase the floor and ceiling requirements for the trust fund balance. This would ensure that the fund was sufficiently financed for the

next recession or economic crisis, while reducing the likelihood of increasing business taxes in the future.

NOTES:

According to the Legislative Budget Board, the bill would not have a significant fiscal implication to the state, but the Unemployment Trust Fund Account, held outside of the state treasury, would incur an estimated deficit of about $5.4 billion for tax years 2021 and 2022.

SUBJECT: Allowing home care and hospice agencies to administer certain vaccines

COMMITTEE: Public Health — committee substitute recommended

VOTE: 8 ayes — Klick, Guerra, Allison, Campos, Jetton, Oliverson, Price, Smith

0 nays

3 absent — Coleman, Collier, Zwiener

WITNESSES: For — Rachel Hammon, Texas Association for Home Care & Hospice; Dave Davis, Texas Home Health; (*Registered, but did not testify*: Amanda Fredriksen, AARP; Mark Vane, Alera Caring; Dan Finch, Texas Medical Association; Jason Sabo, The Immunization Partnership; Thomas Parkinson)

Against — None

On — (*Registered, but did not testify*: Nycia Deal and David Kostroun, Health and Human Services Commission)

BACKGROUND: Health and Safety Code sec. 142.0062 allows a home and community support services agency or its registered or licensed vocational nurses to buy, store, or transport for the purpose of administering to the agency's employees, home health or hospice patients, or patient family members under physician standing orders the following:

- hepatitis B vaccine;
- influenza vaccine;
- tuberculin purified protein derivative for tuberculosis testing; and
- pneumococcal polysaccharide vaccine.

DIGEST: CSHB 797 would expand the list of drugs that a home and community support services agency or its registered or licensed vocational nurses could buy, store, or transport for the purpose of administering the drug to certain individuals. It would add to the list any other vaccine approved by

the U.S. Food and Drug Administration to treat or mitigate the spread of a communicable disease.

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, 2021.

SUPPORTERS SAY:

CSHB 797 would increase health care access for Texans, particularly medically fragile and elderly individuals, by allowing a home and community support services agency (HCSSA) to administer vaccines approved by the U.S. Food and Drug Administration (FDA). Many elderly adults lack internet access to schedule a vaccine appointment online. Transporting to a vaccine site elderly and/or medically fragile individuals, who often have limited mobility, is arduous and could increase their risk of exposure to an infectious disease. Updating the statute would help ensure vulnerable Texans could receive the COVID-19 vaccine in the comfort and safety of their homes.

Currently, home care and hospice nurses in Texas are unable to administer COVID-19 vaccines to their patients because of statutory limitations. Nurses are clinically trained and licensed to administer vaccines. By allowing home health and hospice agency nurses under a physician standing order to administer any FDA-approved vaccine, the bill would ensure parity among health care providers.

Authorizing HCSSAs to administer any vaccine approved by the FDA also would help home health and hospice agencies and their nurses respond more efficiently to future public health emergencies involving the spread of a communicable disease.

CRITICS SAY:

No concerns identified.

SUBJECT: Exempting certain CARES Act loans and grants from franchise taxes

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 10 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Rodriguez, Shine

0 nays

1 absent — Sanford

WITNESSES: For — Annie Spilman, NFIB; Martin Gutierrez, San Antonio Hispanic Chamber of Commerce; (*Registered, but did not testify*: Scott Stewart, ACEC Texas; TJ Patterson, City of Fort Worth; James LeBas, Independent Bankers Association of Texas, Texas Apartment Association, and Texas Chemical Council; Cathy DeWitt, Jobs for Texas and Texas Association of Staffing; Mireya Zapata, Lumbermen's Association of Texas; Scott Norman, Texas Association of Builders; Glenn Hamer, Texas Association of Business; Wynn Baker, Texas Bankers Association; Jennifer Fagan, Texas Construction Association; Matt Burgin, Texas Food & Fuel Association; Cameron Duncan, Texas Hospital Association; Nilesh Patel, Texas Hotel & Lodging Association; Ryan Skrobarczyk, Texas Nursery & Landscape Association; Lance Lively, Texas Package Stores Association; Daniel Gonzalez and Julia Parenteau, Texas Realtors; Kelsey Streufert, Texas Restaurant Association; Jack Roberts, Texas Society of Certified Public Accountants; Ron Hinkle, Texas Travel Alliance)

Against — None

On — (*Registered, but did not testify*: Karey Barton and Tom Currah, Comptroller of Public Accounts)

BACKGROUND: Tax Code ch. 171 imposes a franchise tax on the taxable margin of certain entities that do business or were formed in the state. There are several ways the taxable margin may be calculated, including by determining:

- 70 percent of an entity's total revenue from its entire business;

- an entity's total revenue minus cost of goods sold;
- an entity's total revenue minus compensation; or
- an entity's total revenue minus $1 million.

The total revenue of a taxable entity is determined from certain revenues reported for federal income tax purposes, minus statutory exclusions.

DIGEST:

CSHB 1195 would require a taxable entity, for the purpose of computing franchise taxes, to exclude from its total revenue qualifying loan or grant proceeds:

- received under the federal Coronavirus Aid, Relief, and Economic Security Act, as amended by the Paycheck Protection Program Flexibility Act and Consolidated Appropriations Act, 2021; and
- not included in the taxable entity's gross income for purposes of federal income taxation.

A taxable entity also could include as a cost of goods sold or as compensation any expense paid using qualifying loan or grant proceeds to the extent otherwise allowable by state 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, 2021. The bill would apply only to a report originally due on or after January 1, 2021.

SUPPORTERS SAY:

CSHB 1195 would bring much-needed assurance and certainty to Texas businesses by clarifying that federal loans and grants under the Coronavirus Aid, Relief, and Economic Security (CARES) Act, including Paycheck Protection Program (PPP) loans, were exempt from the state franchise tax. PPP loans and CARES Act funds were an essential part of coronavirus pandemic response and relief for employers that enabled them to keep their doors open and employees on the payroll. Businesses who received relief funds should not face an unexpected franchise tax bill on those funds while they continue to struggle to stay afloat.

The federal government recently clarified that forgiven PPP loans were exempt from being included as income for tax purposes, so this bill would align state and federal policies. The bill could be amended to include other kinds of federal funds received by Texas businesses for pandemic relief.

CRITICS SAY:

CSHB 1195 should be expanded to include other federal coronavirus relief funds, such as shuttered venue grants, to ensure that the state followed all federal guidance on exempting coronavirus pandemic relief funds from taxation.

NOTES:

According to the fiscal note, the bill would have a direct impact of revenue loss to the Property Tax Relief Fund of $211.5 million through fiscal 2022-23. The loss would have to be made up with an equal amount of general revenue to fund the Foundation School Program.

The author plans to offer a floor amendment that would expand "qualifying loan or grant proceeds" to include money received by a taxable entity from the Restaurant Revitalization Fund established by the American Rescue Plan Act of 2021.

SUBJECT: Requiring human trafficking awareness training for certain employees

COMMITTEE: Business and Industry — committee substitute recommended

VOTE: 8 ayes — C. Turner, Hefner, Crockett, Lambert, Ordaz Perez, Patterson, Shine, S. Thompson

1 nay — Cain

WITNESSES: For — James Caruthers, Children at Risk; Minal Patel Davis, City of Houston, Mayor's Office of Human Trafficking & Domestic Violence; Justin Bragiel, Texas Hotel & Lodging Association; (*Registered, but did not testify*: Mark Williams and Tommy Williams, American Hotel & Lodging Association; Daniel Collins, County of El Paso; Traci Berry, Goodwill Central Texas; Greg Hansch and Ana O'Quin, National Alliance on Mental Illness (NAMI) Texas; Rene Lara, Texas AFL-CIO; Kristen Lenau, Texas Association Against Sexual Assault; Lori Henning, Texas Association of Goodwills; Suzi Kennon, Texas PTA; Tricia Davis, Texas Royalty Council; Jennifer Allmon, The Texas Catholic Conference of Bishops)

Against — None

On — Cara Pierce, Office of the Attorney General

DIGEST: CSHB 390 would require operators of commercial lodging establishments to require employees directly employed by the establishment to complete annual training on human trafficking awareness and prevention.

The bill would define "commercial lodging establishment" as a hotel, motel, inn, or similar business entity that offered more than 10 rooms to the public for temporary lodging for a fee. "Operator" would mean a person who owned, operated, managed, or controlled a business entity.

Training. Under CSHB 390, the operator of a commercial lodging establishment would have to require each of its direct employees to complete an annual human trafficking awareness and prevention training

program. The attorney general would have to establish by rule the requirements for operators to comply with this training.

The training, which could be offered in person or online, would have to include:

- an overview of human trafficking, including a description of how human trafficking is defined, human trafficking victims' experience, and how and why human trafficking occurs in the hospitality industry;
- information on the difference between labor and sex trafficking as it relates to identifying human trafficking in the hospitality industry;
- guidance on how to identify individuals who are most at risk for human trafficking;
- guidance on an employee's role in reporting and responding to human trafficking; and
- the contact information of appropriate entities for reporting human trafficking as specified in the bill.

Training programs would have to be at least 20 minutes long, be approved by the attorney general, and provide a certificate for an employee who completed the training. Online training programs would have to include a pacing mechanism that required employees to complete all coursework and certify that they had done so before issuing a certificate. A list of preapproved training programs that satisfied these requirements would be published on the attorney general's website.

New employees would have to complete the training by the 90th day after the employee was hired.

Operator requirements. The bill would prohibit the operator of a commercial lodging establishment from disciplining, retaliating against, or otherwise discriminating against an employee who in good faith reported a suspected act of human trafficking to any appropriate authority.

The operator of a commercial lodging establishment would have to display a sign easily visible to all employees that included:

- a statement that employees were required to receive annual human trafficking training and could not be discriminated against for making a good faith report of a suspected act of human trafficking;
- information on how to recognize and report human trafficking; and
- an attorney general-designated phone number for reporting a suspected act of human trafficking or violation of CSHB 390, among other provisions as specified in the bill.

The attorney general by rule would have to create and make available a template for the required sign.

An operator also would have to maintain all documentation and certificates of training completion for all current and former employees of the commercial lodging establishment.

Notice of violation; penalty. The bill would require the attorney general to provide written notice to the operator of a commercial lodging establishment if the attorney general had reason to believe an operator violated the bill's provisions. The notice would have to describe the violation and state that the establishment could be liable for a civil penalty if the operator did not cure the violation within 30 days.

If the operator failed to cure a violation, the establishment would be liable for a maximum civil penalty of $500 for each violation. A court would have to consider factors specified in the bill when determining the amount of a civil penalty to impose.

Attorney general action. The attorney general could bring an action in the name of the state to recover an imposed civil penalty or for injunctive relief to require compliance with the bill. An action could be brought in a district court in Travis County or a county in which any part of the violation or threatened violation occurred. The attorney general also could recover reasonable expenses incurred in obtaining injunctive relief or a civil penalty, including court costs, reasonable attorney's fees, and investigatory costs.

By December 1, 2021, the attorney general would have to adopt rules necessary to implement the bill's provisions. This provision would take effect September 1, 2021.

Except as otherwise specified, the bill would take effect January 1, 2022.

SUPPORTERS SAY:

CSHB 390 would require employees in the commercial lodging industry to complete human trafficking prevention training, which would increase awareness of and accountability for this serious issue in the industry. The training would help employees identify and safely report suspected human trafficking activity.

Concerns have been raised that hotels and motels are prime spots for traffickers to house, transport, and sell victims. Potential human trafficking victims frequently encounter the commercial lodging industry, whether because they are forced to engage in commercial sex at a hotel or motel or because they seek safe refuge after fleeing their traffickers, and many victims live temporarily on-site at such establishments. However, human trafficking frequently goes unnoticed or unreported in these venues because commercial lodging employees do not undergo any training to recognize sex or labor trafficking.

Requiring employees to complete annual training would educate them on common signs of human trafficking activity and could help them to identify and rescue victims. The bill would ensure employees could safely report suspected human trafficking by prohibiting retaliation by an operator against an employee who made a report in good faith. The bill also could help reduce hotel and motel operators' civil liability by potentially decreasing human trafficking within their establishments.

CRITICS SAY:

CSHB 390, while well intentioned, would create another state mandate and subject private businesses to civil penalties. Private businesses could face greater administrative and financial burdens in order to comply with the bill.

SUBJECT: Extending FALA liability limitations to cover ranchers and employees

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Leach, Davis, Dutton, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith

0 nays

WITNESSES: For — Jay Evans, Texas and Southwestern Cattle Raisers Association; Mickey Edwards, Texas Farm Bureau; (*Registered, but did not testify*: Jay Thompson, AFACT; Robert Howard, South Texans' Property Rights Association; Lee Parsley, Texans for Lawsuit Reform; Arthur Uhl, Texas and Southwestern Cattle Raisers Association; George Christian, Texas Civil Justice League)

Against — None

On — (*Registered, but did not testify*: Pat Fry)

BACKGROUND: Civil Practice and Remedies Code ch. 87, the Texas Farm Animal Liability Act (FALA), was created in 2011 when the Legislature extended existing liability limitations relating to horses and equine activities to all farm animals. The chapter limits the liability of operators of "farm animal activities," which includes events like rodeos, livestock shows, or other activities. In June 2020 the Texas Supreme Court ruled that FALA did not apply to ranchers and their employees.

DIGEST: CSHB 365 would expand the definitions of "farm animal activity," "engages in a farm animal activity," and "farm animal professional" to include certain activities relating to the care, management, or transportation of farm animals routinely performed on ranches and other livestock facilities. The definition of "farm animal activity sponsor" would be expanded to include a person or group who owns the facilities for farm animal activities. A "participant" in a farm animal activity would include a person who engages in the activity who is an independent contractor or employee.

Farm owners or lessees would be included among those for whom limitations on liability for property damage or damages from personal injury or death under certain circumstances applied. Farm owners or lessees also would be added to those required to post certain warning notices regarding limited liability. A farm owner or lessee also would be added to those to whom certain potential exceptions to the limitation on liability applied. Property damage, injury, or death as a result of conditions that are an inherent risk of a farm animal or the raising or handling of livestock on a farm would be added to the circumstances under which a person could be exempt from liability.

The bill would not affect the applicability of provisions relating to workers' compensation insurance coverage or an employer's ability to refuse to subscribe to the workers' compensation system.

The bill would take effect September 1, 2021, and would apply only to an act that occurred on or after that date.

SUPPORTERS SAY:

CSHB 365 would provide necessary legal protections to a crucial industry by explicitly granting liability limitations that many ranchers assumed they already had.

Ranchers and others in the livestock business form a critical link in the state's food supply chain. Despite its critical nature, many ranchers operate on slim margins and a lawsuit has the ability to cause serious harm to operations. Ensuring the continued functioning of this crucial industry creates a need for added liability protections.

Large animals are inherently dangerous and unpredictable. This is known by anyone who works in the industry. Without liability limitations, the risk of legal action might make ranching unaffordable for some owners. Expanding the scope of the Texas Farm Animal Liability Act (FALA) to cover ranchers and their employees and contractors engaging in routine farm and livestock activities is an effective method of preventing this unfair liability.

From FALA's creation in 2011 until June 2020, many assumed that liability limitations extended to ranchers and their employees. This changed when the Texas Supreme Court ruled that ranchers were not covered under the act. The bill would explicitly extend liability limitations to ranchers and allow them to operate as they have been for much of the past decade.

CRITICS SAY:

No concerns identified

SUBJECT: Modifying application of the rule against perpetuities for trust interests

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Leach, Davis, Dutton, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith

0 nays

WITNESSES: For — Jerry Young, Sage Trust Company, LTA; Steve Dow, Texas Bankers Association; (*Registered, but did not testify*: Mark Vane, Husch Blackwell Strategies; Stephen Scurlock, Independent Bankers Association of Texas; Brian Yarbrough, JPMorgan Chase Holdings, LLC; Celeste Embrey, Texas Bankers Association; Alex Meade, Texas Regional Bank)

Against — Stephen Saunders; (*Registered, but did not testify*: Guy Herman, Statutory Probate Judges of Texas)

BACKGROUND: Property Code sec. 112.036 establishes the rule against perpetuities, which requires that certain future interests, including certain trust interests, vest not later than 21 years after the death of some person who was alive when the interest was created. Under current law, the rule against perpetuities does not apply to charitable trusts.

DIGEST: HB 654 would modify the rule against perpetuities to require that an interest in a trust, other than a charitable trust, would have to vest, if at all, not later than 300 years after the effective date of a trust if:

- the trust's effective date was on or after September 1, 2021, or;
- the trust's effective date was before September 1, 2021, and the trust instrument specifically provided that an interest in the trust would vest under the law governing perpetuities as applicable on the date the interest vested.

The effective date of a trust would be the date that the trust became irrevocable.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 654 would increase the state's competitiveness in estate planning and trust planning by modifying and clarifying the rule against perpetuities (RAP) to protect the corpus of a trust for a longer period of time. Currently, 23 other states have modified their RAP to offer perpetual trusts or to extend the permissible duration of a trust. The restrictive nature of the rule in Texas limits Texans' choices for trust and estate planning, resulting in the movement of trust assets to other states with more relaxed RAP statutes. The movement of these trust assets and associated trust management businesses has negative economic impacts for Texas, as the money associated with these trusts that are started in other states leaves Texas for generations.

The bill would help to ensure that Texas was competitive with other states by offering a maximum permissible duration of 300 years for a trust, which is similar to permissible durations offered by other states. The modifications proposed by the bill would not eliminate the RAP nor allow for perpetual trusts in Texas, which removes potential concerns about indefinite restriction of use and availability of important assets. It has been shown that a state's abolition of the RAP can substantially increase average reported trust assets and trust account sizes, and the modifications to the RAP presented by the bill could support similar trust asset growth in Texas. Additional fees and resources associated with trust management would contribute to significant growth in the Texas economy by producing new jobs to support additional and growing trust accounts.

The bill also would clarify the permissible duration for a Texas trust by eliminating the confusing statutory language and establishing a fixed number of years for a trust to exist. The current statutory language is outdated and difficult to understand, which can often lead to increased litigation.

Concerns that HB 654 would have a negative impact on charitable giving are misplaced. Federal estate taxes already incentivize charitable giving, and nothing in the bill would impact these tax policies. Practitioners in the trust and estates field also see ongoing evidence that a person inclined

toward charitable giving will continue to prioritize giving, regardless of the estate planning instruments available.

CRITICS SAY:

HB 654 would change a long-established and fundamental principle of Texas property law by effectively abolishing the rule against perpetuities (RAP), which could have negative impacts on the Texas economy and on large-scale charitable giving.

The current RAP is intended to promote alienability of property and prevent dynastic treatment of assets that would restrict their productive use and availability. Trusts under the bill's proposed modifications to the rule could tie up billions of dollars for generations and keep them out of the normal stream of commerce, as trustees are in the business of investing for wealth preservation and conservation, as opposed to typical investment for profit.

The current RAP encourages charitable giving by excluding charitable trusts from its requirements. Modifying the rule for non-charitable trusts would allow for essentially permanent trusts, which could deplete the pool of assets available for charitable giving. Additionally, if HB 654 became law, once assets went into trusts, even if the trusts provided specifically for charitable distributions, trustees might not make those distributions for fear of being sued by their current beneficiaries and future generations of beneficiaries.

Under HB 654, disputes over proposed charitable distributions and difficulties associated with interpreting trusts drafted hundreds of years ago would generate increased litigation, which could overburden courts.

SUBJECT: Landlord notice requirements for a leased dwelling located in a floodplain

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 8 ayes — C. Turner, Hefner, Cain, Lambert, Ordaz Perez, Patterson, Shine, S. Thompson

0 nays

1 absent — Crockett

WITNESSES: For — David Mintz, Texas Apartment Association; Christina Rosales, Texas Housers; (*Registered, but did not testify*: Tammy Embrey, City of Corpus Christi; TJ Patterson, City of Fort Worth; Lillian Painter, Dallas County Commissioners Court; Thamara Narvaez, Harris County Commissioners Court; Cyrus Reed, Sierra Club Lone Star Chapter; Amanda List, Texas Appleseed; Jennifer Allmon, The Texas Catholic Conference of Bishops; Georgia Keysor; Tom Nobis)

Against — None

DIGEST: HB 531 would require a landlord to provide certain written notice to a tenant detailing whether the leased dwelling was located in a 100-year floodplain and other information about flood hazards and insurance.

The bill would define a "100-year floodplain" to mean any area of land designated as a flood hazard area with a one percent or greater chance of flooding each year as determined by the Federal Emergency Management Agency under federal law. "Flooding" would be defined as a general or temporary condition of partial or complete inundation of a dwelling caused by:

- the overflow of inland or tidal waters;
- the rapid or unusual accumulation of runoff or surface water from an established body of water such as a river, stream, or drainage ditch; or

- a ponding of water at or near a place where heavy or excessive rain fell.

A landlord would not be required to disclose on the notice that the landlord was aware that a dwelling was located in a 100-year floodplain if the elevation of the dwelling were above the flood levels in accordance with federal regulations.

If a landlord knew that flooding had damaged any portion of a dwelling at least once in the five years preceding the effective date of a lease, the landlord would be required to provide a written notice to the tenant.

The required notices would have to be included in a separate document given to the tenant before execution of the lease.

If a landlord violated these requirements and the tenant suffered a substantial loss or damage to personal property from flooding, a tenant would be authorized to terminate the lease by giving written notice. The notice would have to be given within 30 days of the date the damage occurred and the termination would be effective when the tenant surrendered possession of the dwelling.

If a lease was terminated under these provisions, the landlord would be required within 30 days to refund to the tenant all rent or other amounts paid in advance for any period after the effective date of the termination. A tenant's liability for delinquent, unpaid rent or other sums would not be affected.

The bill would take effect January 1, 2022, and would apply only to a lease agreement entered into or renewed on or after the effective date of the bill.

SUPPORTERS SAY:

HB 531 would help Texans to be informed about the flood risks at a prospective dwelling by requiring that landlords provide written notice describing the flood risk before a tenant signed a lease. The bill also would create lease termination procedures for tenants who suffered damages when a landlord failed to notify and would provide additional information to tenants about applicable insurance policies.

The risks of living in an area prone to flooding became obvious in the aftermath of Hurricane Harvey. Notification requirements for home sellers were quickly put into law, and this bill would extend those requirements to landlords. The bill would align flooding notification requirements for landlords with those for home sellers.

The bill also would address the unique situation of a tenant whose dwelling suffered flood damage when the tenant did not receive proper notification from a landlord. This process would not place onerous burdens on a tenant that might exist when pursuing other legal remedies. The tenant would have to suffer substantial loss or damage in order to terminate a lease. This would prevent a tenant from terminating a lease based on meritless claims, while avoiding such requirements for the tenant as providing receipts or other information that might not be readily available or within the capabilities of the average renter. The bill's precise language, and that of the notifications it would require, would establish that damage cited for termination purposes had to be a result of flooding and would prevent burst pipes or another form of water damage from serving as a basis for lease termination.

Many renters are concentrated in areas that are low-lying or contain older housing units that are more susceptible to flooding. This bill would not fix systemic issues of inadequate infrastructure, but it would ensure that renters had the information they needed to make informed decisions. This is in line with other consumer protections, including those for home buyers. As the law currently stands, a landlord could receive a floodplain notice when buying a property and then rent it out without providing the same notice to the tenant. That is inherently unfair.

While the bill would not require that a tenant in a flood-prone area obtain flood insurance, the required notification from landlords clearly states its importance for renters. This would complement other ongoing efforts to encourage flood insurance for renters and could help to mitigate serious consequences for renters caused by flooding.

Although resources such as federal flood maps are available to renters, expecting them to be aware of, access, and correctly interpret this

information is not realistic. Many renters trust landlords to perform due diligence before renting out a property.

The bill would simply establish a requirement that landlords provide notice to tenants in certain circumstances. Even in instances of a violation of the bill, a terminated lease is the worst penalty a landlord could face.

CRITICS SAY:

HB 531 has provisions that could have unintended consequences for lease termination. Its reference to "ponding of water" in the definition of "flooding" could be misconstrued. Ponding can occur for many reasons and the bill could leave open the possibility for water damage not caused by flooding to be used as the basis to terminate a lease. Although the bill would require a tenant to suffer substantial damage in order to terminate a lease, it would not define "substantial." This could leave the phrase open to interpretation for relatively minor damage to form the basis for a lease termination.

OTHER CRITICS SAY:

Free resources that provide all necessary flood information, including federal flood maps searchable by address, are available to prospective tenants when they are deciding whether or not to lease a property and make requiring landlords to give floodplain and recent flooding notices unnecessary.

SUBJECT: Revising grounds and procedures for terminating parental rights

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 8 ayes — Neave, Swanson, Cook, Frank, Leach, Talarico, Vasut, Wu

1 nay — Ramos

WITNESSES: For —Judy Powell, Parent Guidance Center; Julia Hatcher, Texas Association of Family Defense Attorneys; Jeremy Newman, Texas Home School Coalition; Andrew Brown, Texas Public Policy Foundation; Taran Champagne, Tina Freeman, Lyndsey Grant, Maggie Luna, Jeffrey Morgan, Cecilia Wood, Jessica Yeager; (*Registered, but did not testify*; M Paige Williams, for Dallas Criminal District Attorney John Creuzot; Jaclyn Finkel, Texas NORML; Meagan Corser, David OConnor)

Against — (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; David OConnor)

On — Tiffany Roper, Department of Family and Protective Services; Andrew Homer, Texas CASA; (*Registered, but did not testify*: Thomas Parkinson; Michael Schneider)

DIGEST: CSHB 567 would revise provisions governing the termination of a parent-child relationship, the conditions under which the Department of Family and Protective Services (DFPS) could take possession of a child, and the placement of a child after certain suits for possession. The bill also would establish a statutory definition of the term "neglect" that included actions or failures to act that resulted in harm or created an immediate danger of harm to a child.

Termination. CSHB 567 would establish that allowing a child to engage in independent activities that were appropriate and typical for the child's level of maturity, physical condition, developmental abilities, or culture would not constitute clear and convincing evidence sufficient for a court to order the termination of the parent-child relationship. DFPS would be prohibited from taking possession of a child based on evidence that a

parent allowed a child to engage in such activities or that a parent tested positive for marijuana, unless the department had evidence that the parent's use of marijuana had caused significant impairment to the child's physical or mental health or emotional development.

Under the bill, a petition or motion filed by DFPS for termination of the parent-child relationship would be subject to Civil Practice and Remedies Code provisions related to sanctions for frivolous pleadings and motions and to a related rule of civil procedure.

Neglect. CSHB 567 would define "neglect" to mean an act or failure to act by a person responsible for a child's care, custody, or welfare that evidenced the person's blatant disregard for the consequences of the act or failure to act that resulted in harm to the child or that created an immediate danger to the child's physical health and safety. The bill also would replace language referencing "substantial risk" with "immediate danger."

CSHB 567 would specify that the definition of neglect would not include allowing a child to engage in independent activities that were appropriate and typical for the child's level of maturity, physical condition, developmental abilities, or culture.

Placement of child after certain hearings. The bill would revise Family Code provisions concerning the placement of a child after a full adversary hearing held in a suit affecting the parent-child relationship and filed by a governmental entity that requested permission to take possession of a child without prior notice and hearing or in a suit filed by a governmental entity after taking possession of a child in an emergency without a court order.

In such suits, if the court did not order the return of the child to the parent or custodian from whom the child was removed and found that another parent or custodian entitled to possession of the child did not cause the immediate danger to the health or safety of the child or was not the perpetrator of the alleged neglect or abuse, the bill would require the court to order the possession of the child by that person. However, the court

would not have to order the possession of the child by that person if the court found, specific to each person entitled to possession, that:

- the person could not be located after the exercise of due diligence by DFPS;
- the person was unable or unwilling to take possession of the child; or
- reasonable efforts had been made to enable the person's possession of the child, but possession by that person presented a continuing danger to the child.

If the court did not order possession of the child by a parent or other custodian, the court would be required to place the child with a relative unless it found that the placement was not in the child's best interest. On receipt of a written request for possession of the child from a parent or other custodian entitled to possession who was not located before the adversary hearing, DFPS would have to notify the court and request a hearing to determine whether the custodian was entitled to possession.

At the end of each permanency hearing in a suit affecting the parent-child relationship in which DFPS had been appointed or designated as the temporary or permanent managing conservator of a child, the court would have to order the department to return the child to the child's parent or parents unless it found, with respect to each parent, that there was a continuing danger to the physical health or safety of the child and returning the child to the child's parent or parents was contrary to the child's welfare. The bill would not prohibit the court from issuing a temporary order for the monitored return of the child to the child's parent or parents.

Timely resolution. On the timely commencement of a trial on the merits related to a final order for a child under DFPS care, the court would be required to render a final order by the 90th day after the date the trial commenced. This 90 day period would not account for any recess during the trial. If the court found that extraordinary circumstances necessitated extending the 90-day period, the court could grant one extension for no more than 30 days. The court would be required to issue a written order specifying the grounds on which the extension was granted and requiring

the final order to be rendered by the 30th day after the date the extension was granted. A party could file a mandamus proceeding if the court failed to render a final order within the required time.

Court-ordered services. CSHB 567 would authorize DFPS to file a suit requesting a court to render a temporary order requiring a child's parent, managing conservator, guardian, or other member of the child's household to participate in services the department referred or provided. These could include services for reducing a continuing danger to the physical health or safety of the child caused by the parent or custodian or for reducing a substantial risk of abuse or neglect caused by the parent or custodian. The suit could be filed in a court with jurisdiction to hear the suit in the county in which the child is located and would be governed by applicable sections of the Texas Rules of Civil Procedure, except as otherwise provided.

A petition filed under the bill would have to be supported by a sworn affidavit by a person that was based on personal knowledge and stated fact sufficient to support a finding that the child had been a victim of abuse or neglect or was at substantial risk of abuse or neglect. The affidavit also would have to support a finding that there was a continuing danger to the child caused by the parent or other responsible person unless that person participated in services requested by DFPS.

The court would be required to hold a hearing on the petition by the 14th day after it was filed unless the court found good cause for issuing an extension. The extension could not exceed 14 days. The court also would be authorized to issue a temporary restraining order.

CSHB 567 would require the court to appoint an attorney ad litem to represent the interests of the child immediately after the suit was filed and before the hearing. During this period the court also would have to appoint an attorney ad litem to represent the interests of the parent for whom participation in services was being requested. The court would have to inform each parent of their right to an attorney and, for a parent who was indigent and appeared in opposition to the motion, of the parent's right to a court-appointed attorney.

If a parent claimed indigence, the court would have to require the parent to complete and file an affidavit of indigence. The court also could consider additional evidence to determine whether the parent was indigent. If the court then determined that a parent was not indigent, the court would have to discharge the parent's attorney ad litem after the hearing and order the parent to pay the cost of the attorney's representation. The court could, for good cause, postpone any subsequent proceedings for not more than seven days after the date of the attorney ad litem's discharge to allow the parent to hire an attorney or to provide time for the parent's attorney to prepare for the hearing.

Under CSHB 567, an order to participate in services could only be issued after the notice and hearing requirements were met. At the conclusion of the hearing, the court would be required to deny DFPS's petition unless it found sufficient evidence that abuse or neglect had occurred or that there was a substantial risk of abuse, neglect, or continuing danger to the child's health or safety caused by the parent or other custodian and that services were necessary to ensure the child's health and safety.

If the court granted the petition and issued an order it would be required to:

- state its findings in the order;
- make appropriate temporary orders to ensure the child's safety; and
- order the parent or other responsible person to participate in specific services narrowly tailored to address the court's finding.

The court could not require a person who the court found did not cause the continuing danger or substantial risk of abuse or neglect to the child, or who was not the perpetrator of the alleged abuse or neglect, to participate in services.

The court would have to hold a hearing within 90 days after issuing an order to review the status of each person required to participate in services, the child, and the services provided or referred. The court then would have to set hearings every 90 days to review the continued need for the order.

Orders would expire on the 180th day after being issued unless the court extended the order. Orders could be extended for no more than an additional 180 days only if requested by the person required to complete services and if the court found that:

- the extension was necessary to allow the person required to participate in services enough time to complete those services;
- the department made a good faith effort to timely provide the services;
- the person made a good faith effort to complete the services; and
- the completion of the services was necessary to ensure the physical health and safety of the child.

At any time, a person affected by an order could request its termination. The court would be required to terminate the order on finding it was no longer needed.

Other provisions. CSHB 567 would repeal several provisions of the Family Code related to advisory hearings and non-emergency removals of children.

The bill would take effect September 1, 2021, and would apply only to a petition, motion or suit filed by DFPS on or after the effective date.

SUPPORTERS SAY:

CSHB 567 would reduce the harm caused to children when they are unnecessarily separated from their parents by reforming portions of the Family Code that govern when and under what conditions a child may be removed from their families or guardians. The bill would help to balance the responsibility of the Department of Family and Protective Service (DFPS) to remove children who are in danger with the equally important task of leaving families intact wherever possible by establishing a statutory definition of "neglect" and limiting the length of Child Protective Services cases, among other changes.

Research has shown that children suffer trauma when they are removed from their homes, even if only for a few months. In the majority of cases handled by DFPS, children are removed for neglect. However, the state's current description of neglect is too broad and can lead to children being

removed from their homes even when they are not in danger or being mistreated. By establishing a definition of neglect that would include only actions that placed a child in immediate danger, CSHB 567 would help prevent unnecessary removals and allow DFPS to focus on only the most serious cases. The bill's definition of neglect would not prevent the removal of a child from a dangerous situation, but would help keep children who were not in danger with their families and out of state custody.

In addition, the bill would provide protections for homeschoolers, parents who choose not to have children vaccinated for religious and or other reasons of conscience, those accused of certain nonviolent misdemeanor offenses, and economically disadvantaged parents who face unfair and increased risk of having their children removed relative to more affluent families. A study has demonstrated a statistically significant relationship between removals for an allegation of neglect and poverty, with children in rural and working-class areas of the state much more likely to be removed from their homes.

CSHB 567 also would make Texas law consistent with the requirements of the federal Family First Prevention Services Act, which seeks to reduce the number of children in foster care by providing services to preserve families at risk of separation before such a step becomes necessary. The bill would establish procedures for issuing orders requiring families to participate in services to prevent neglect or abuse, prioritizing support over removal.

In cases where it was necessary to remove a child from their parent or guardian, CSHB 567 would require courts to place the child with their non-offending parent or family when possible. This would restore the fair adjudication rights of non-offending parents, who often become a casualty of DFPS cases when they could provide a safe placement for a child. The bill also would require that children be returned to their families after a permanency hearing except when there is continuing danger, helping to ensure that children were returned home as quickly as safely possible.

CRITICS SAY:

CSHB 567, though well intentioned, could result in unintended consequences for children in Texas. While the bill contains many positive

steps toward reducing unnecessary and traumatic removals of children from their families, several of the bill's provisions could result in some children being left in unsafe situations.

By establishing a statutory definition of neglect that would include "blatant disregard" as an element of the definition, which could involve an inquiry into a parent's mental state, as well as only actions resulting in a child's immediate danger or actual harm, CSHB 567 could lead to children being left in risky situations because they could not be determined to fit the definition. Further study of the impact this change in definition could have on child protection investigations and processes throughout the state should be undertaken and considered before changes are made.

This section has been updated to provide more context for the arguments.

SUBJECT: Facilitating the awarding of college credit to veterans

COMMITTEE: Defense and Veterans' Affairs — favorable, without amendment

VOTE: 9 ayes — Raymond, Buckley, Biedermann, Cyrier, Gervin-Hawkins, Lambert, Lopez, Morales, Tinderholt

0 nays

WITNESSES: For — Salvador Castillo, Cameron County Veterans Department; Mitch Fuller, Department of Texas Veterans of Foreign Wars (VFW), aka Texas VFW; Steven Price, The Texas Democratic Veterans Caucus/The VOICES Foundation; Steven Davidson; (*Registered, but did not testify*: R Clint Smith, Abilene Chamber of Commerce; Dana Harris, Austin Chamber of Commerce; Guadalupe Cuellar, City of El Paso; Daniel Collins, County of El Paso; Daniel Womack, Dow, Inc.; Traci Berry, Goodwill Central Texas; Logan Spence, Lone Star College; John Hryhorchuk, Texas 2036; J.D. Hale, Texas Association of Builders; Lori Henning, Texas Association of Goodwills; Mike Meroney, Texas Association of Manufacturers; Jim Brennan, Texas Coalition of Veterans Organizations; Molly Weiner, United Ways of Texas); Thomas Parkinson

Against — None

On — (*Registered, but did not testify*: Stacey Silverman, Texas Higher Education Coordinating Board; Courtney Arbour, Texas Workforce Commission)

DIGEST: HB 33 would require the Texas Workforce Commission (TWC) to evaluate courses and programs of study offered by colleges and career schools leading to industry certification or workforce credentials and identify those for which skills gained through military experience and training frequently align. These courses and programs would have to be listed on the appropriate website along with any military experience that could align with them.

To receive approval from TWC, a college or career school that offered such courses and programs would have to grant the appropriate credit to a student for skills gained through military service unless the college or school was able to demonstrate that student's military experience did not appropriately align with the course or program.

HB 33 also would require TWC to identify, develop, and support methods to facilitate the awarding of credit based on military experience toward such courses and programs under the College Credit for Heroes Program.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 33 would provide help ensure that veterans who had developed skills relevant to the civilian workforce during their military service received the appropriate credit for those skills in the process of earning degrees or certificates from accredited colleges and career schools. Veterans often struggle to find civilian jobs commensurate with the skills they already possess, needlessly adding to the many other stressful challenges they face in transitioning into civilian life.

HB 33 would help ease this burden by streamlining the educational process for the approximately 70 percent of veterans who pursue post-secondary education and would help prevent them from wasting time and money on redundant studies and training. Specifically, the bill would create a comprehensive and accessible list of courses and programs at accredited schools for which veterans could receive credit based on their military experience. This list would provide clarity to veterans about their educational options following military service and could even help with military recruiting since prospective recruits could more easily evaluate long-term career paths.

CRITICS SAY:

No concerns identified

NOTES:

The author plans to offer a floor amendment that the list compiled by the Texas Workforce Commission (TWC) of courses and programs for which veterans may receive credit based on military experience would be published on the commission website.

SUBJECT: Facilitating occupational licensing for some military spouses and veterans

COMMITTEE: Defense and Veterans' Affairs — committee substitute recommended

VOTE: 9 ayes — Raymond, Buckley, Biedermann, Cyrier, Gervin-Hawkins, Lambert, Lopez, Morales, Tinderholt

0 nays

WITNESSES: For — Steven Price, The Texas Democratic Veterans Caucus/The VOICES Foundation; (*Registered, but did not testify*: R Clint Smith, Abilene Chamber of Commerce; Dana Harris, Austin Chamber of Commerce; Guadalupe Cuellar, City of El Paso; Daniel Collins, County of El Paso; Mitch Fuller, Department of Texas Vererans of Foreign Wars (VFW) aka Texas VFW; Annie Spilman, NFIB; Jim Brennan, Texas Coalition of Veterans Organizations; General Juan Ayala, Texas Mayors of Military Communities (TMMC); Dan Finch, Texas Medical Association; Thomas Parkinson)

Against — None

BACKGROUND: Occupations Code sec. 55.0041 allows military spouses to engage in a business or occupation for which a license is required without obtaining the applicable license if the spouse is currently licensed in good standing by another jurisdiction that has licensing requirements that are substantially equivalent to the license requirements in Texas.

DIGEST: CSHB 139 would require that any state agency that issues a license with a residency requirement adopt rules that allow a permanent change of station (PCS) order to serve as proof of residency for spouses of active military service members. The agency also would be required to ensure that, in the licensing process, military spouses and veterans received appropriate credit for experience, including clinical and professional experience, in a licensed profession.

Military spouses who hold a license from outside the state would be able to use a PCS order as the proof of residency required to practice the

relevant business or occupation without acquiring a new license as allowed under current law.

The bill also would establish that the State Board for Educator Certification's rules for expediting the processing of an educator certificate application for military spouses be extended to veterans, and include rules allowing a PCS order to establish residency for a military spouse, as well as rules for providing a military identification card. These rules would be in accordance with Occupations Code provisions relating to the licensing of military service members, military veterans, and military spouses. The board would be required to post on its website a notice describing the specific provisions that apply to military service members, military veterans, and military spouses.

The bill also would allow the commissioner of education to establish exceptions to examination requirements for military spouses and veterans seeking to obtain an educator certificate.

The bill would update the Occupations Code's definition of "armed forces of the United States" to include the space force.

CSHB 139 would repeal the provision that the adoption of rules by the State Board for Educator Certification in order to expedite the certificate application process for military spouses was required only if the Legislature appropriated funds specifically for that purpose.

The bill would take effect September 1, 2021, and would apply only to applications filed on or after that date.

SUPPORTERS SAY:

CSHB 139 would help ensure that military spouses and veterans were not burdened by redundant and time-consuming licensing procedures related to occupations for which they already possess licensing and experience.

Frequent relocation is a major challenge for military families, and uncertainty over whether a service member's spouse will be able to find new employment in a field for which that person is already qualified adds unnecessary stress. Any delay in acquiring a license after having moved to a new state can inflict significant financial loss on military families.

CSHB 139 aims to avoid these unnecessary negative impacts by simplifying the process of establishing state residency for military spouses.

Many state agencies already require the submission of PCS orders in addition to some other form of proof of residency. By requiring that licensing state agencies accept a permanent change of station order as proof of residency for military spouses, CSHB 139 would increase efficiency and benefit not only military families but also the relevant businesses and professions in the state and would enhance the attractiveness of the state for future military bases and missions.

By including veterans along with military spouses among those who may be granted an expedited educator certificate application process or exemption from some examination requirements, this bill would help ease the transition to civilian life for military members who are educators and their families.

CRITICS SAY:

No concerns identified.

SUBJECT: Requiring timely notification of modifications to child support orders

COMMITTEE: Juvenile Justice and Family Issues — favorable, without amendment

VOTE: 7 ayes — Neave, Swanson, Cook, Frank, Ramos, Talarico, Vasut

0 nays

2 absent — Leach, Wu

WITNESSES: For — None

Against — None

On — Liz Kromrei, Department of Family and Protective Services; Joel Rogers, Office of the Attorney General-Child Support Division

BACKGROUND: Under Family Code sec. 154.001, governing court-ordered child support, the court may order either or both parents to make periodic payments for the support of a child in a proceeding in which the Department of Family and Protective Services (DFPS) is named temporary managing conservator. In a proceeding in which DFPS is named permanent managing conservator of a child whose parents' rights have not been terminated, the court must order each parent that is financially able to make periodic payments for the support of the child.

DIGEST: HB 1227 would require a court that modifies an existing order for financial support of a child by requiring that payments be made to DFPS to notify to the Office of the Attorney General (OAG) no later than the 10th day after the order was rendered.

The bill would take effect September 1, 2021, and would apply only to a proceeding that was pending in a trial court on or filed on or after the effective date.

SUPPORTERS SAY: HB 1227 would help ensure that child support payments were sent to the proper recipient in a timely manner by requiring courts to notify the

Office of the Attorney General's Child Support Division within 10 days of a modification to an order for financial support to require that payments be made to DFPS.

Often, when a child is taken into custody of the Department of Family and Protective Services (DFPS), the child may be receiving support from a non-custodial parent because of an existing court order, but current law does not provide a deadline by which the Office of the Attorney General must be notified of a change in that court order. If the child were placed with a family member, those payments would be given to the kinship placement, but in some circumstances children have been removed from kinship placements due to lack of funds caused by delays in the processing of modified orders.

By requiring courts to notify the Office of the Attorney General directly and within 10 days of a modification to a financial support order in these cases, HB 1227 could help prevent situations in which children were shuttled from placement to placement due to lack of financial support.

CRITICS SAY:

No concerns identified

SUBJECT: Excluding academic transcripts from sales and use taxes

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 10 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Sanford, Shine

0 nays

1 absent — Rodriguez

WITNESSES: For — (*Registered, but did not testify*: Dale Craymer, Texas Taxpayers and Research Association)

Against — (*Registered, but did not testify*: Susana Carranza; Idona Griffith; Robert Norris)

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

BACKGROUND: Tax Code ch. 151 defines an "information service" as furnishing general or specialized news or other current information or as electronic data retrieval or research. Sec. 151.0101 specifies that information services are taxable services under the Limited Sales, Excise, and Use Tax Act.

DIGEST: HB 2625 would specify that information services subject to sales and use taxes did not include the furnishing of an academic transcript.

The bill would take effect October 1, 2021, and would not affect tax liability accruing before that date.

SUPPORTERS SAY: HB 2625 would clarify that furnishing academic transcripts was not a taxable information service and so all transcripts should be excluded from sales and use taxes. While these taxes are not imposed on public university transcripts, the furnishing of a transcript by a private university could be considered a taxable information service as defined under current law. By specifying that academic transcripts are exempted from this

definition, the bill would treat students from all universities equally and ensure that no student had to pay an extra fee to obtain a transcript.

CRITICS SAY:

No concerns identified.

SUBJECT: Allowing secure electronic means for requests to seal juvenile records

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

VOTE: 7 ayes — Neave, Swanson, Cook, Frank, Ramos, Talarico, Vasut

0 nays

1 absent — Leach

1 present not voting — Wu

WITNESSES: For — (*Registered, but did not testify*: M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Amanda List, Texas Appleseed; Alycia Castillo, Texas Criminal Justice Coalition; Suzi Kennon, Texas PTA; Thomas Parkinson)

Against — None

On — David Slayton, Office of Court Administration

BACKGROUND: Family Code sec. 58.256 authorizes individuals to file applications with a juvenile court requesting that their records be sealed.

Family Code sec. 58.258(c) allows court clerks to send copies of sealing orders to entities by any reasonable method, including certified mail, regular mail, or e-mail.

DIGEST: CSHB 1401 would allow applications for the sealing of an individual's juvenile records to be sent to the court by any reasonable method authorized under Rule 21 of the Texas Rules of Civil Procedure, including secure electronic means.

The bill also would authorize court clerks to send copies of sealing orders to entities by secure electronic means and would eliminate specific authority to send copies by regular mail or e-mail.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 1401 would increase the ease and efficiency of applying to have an individual's juvenile records sealed by allowing these applications to be sent to a court by secure electronic means. Currently, these applications might be sent by fax or regular mail, which can be inefficient and could be a cost to the applicant if postage is required.

By allowing sealing requests to be made by secure electronic means, the bill would ensure that modern methods of communication could be used but would not mandate them. The bill would include the flexibility for requests to be made by any reasonable method authorized under Rule 21 of the Texas Rules of Civil Procedure, which details how electronic documents may be filed. This would allow methods for requests to remain current and would be in line with the electronic filing of documents, which is currently mandatory for attorneys in many courts.

The bill also would replace current language about the use of e-mail to send sealing orders with the broader term "secure electronic means" so that the statute was flexible enough to allow other methods of communication. For both sealing requests and orders, CSHB 1401 would require that the method of electronic communication be secure because there are confidentiality requirements associated with juvenile records.

CRITICS SAY:

No concerns identified.

SUBJECT: Allowing alcohol to be sold in areas annexed by the City of Elkhart

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 9 ayes — S. Thompson, Darby, Ellzey, Fierro, Geren, Guillen, Hernandez, Huberty, Pacheco

0 nays

2 absent — Kuempel, Goldman

WITNESSES: For — (*Registered, but did not testify*: Todd Kercheval, Wine and Spirits Wholesalers of Texas; Lance Lively, Texas Package Stores Association; Thomas Parkinson)

Against — None

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

BACKGROUND: Alcoholic Beverage Code sec. 251.72 specifies that an authorized voting unit that has exercised or may exercise the right of local option retains its status on the prohibition or legalization of alcoholic beverage sales until a local option election is held to change that status.

DIGEST: HB 1729 would automatically extend the wet or dry status of a municipality that contains U.S. Highway 287 and State Highway 294 and is located in a county with a population of not less than 57,000 and not more than 59,000 on September 1, 2021, (City of Elkhart) to an area annexed by the municipality before, on, or after the effective date of the bill.

The bill would take effect September 1, 2021.

SUPPORTERS SAY: HB 1729 would treat areas annexed into Elkhart the same as the rest of city by allowing businesses in these areas to sell certain alcoholic

beverages, while bypassing a costly local option election. This policy change has the support of the city council and mayor of Elkhart, and would help small businesses recover from the economic impact of the COVID-19 pandemic while raising local sales tax revenue.

HB 1729 would not bypass the residents of Elkhart because the bill was requested by city leaders and businesses. The city does not have an upcoming local election in 2022 and does not have the funds to conduct a special election due to the economic impact of COVID-19.

CRITICS SAY:

HB 1729 would provide a waiver to businesses to sell alcohol in an area designated dry by the will of the voters. The decision to determine whether an area is wet or dry should be made by voters at the local level, not by the Legislature.

SUBJECT: Extending free pre-K eligibility to certain children in foster care

COMMITTEE: Public Education — favorable, without amendment

VOTE: 13 ayes — Dutton, Lozano, Allen, Allison, K. Bell, Bernal, Buckley, M. González, Huberty, K. King, Meza, Talarico, VanDeaver

0 nays

WITNESSES: For — (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Jason Sabo, Children at Risk; Charles Gaines, Raise Your Hand Texas; Grover Campbell, Texas Association of School Boards; Dena Donaldson, Texas AFT; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Paige Williams, Texas Classroom Teachers Association; Mark Terry, Texas Elementary Principals and Supervisors Association; Eric Woomer, Texas Pediatric Society; Suzi Kennon, Texas PTA; Starlee Coleman, Texas Public Charter Schools Association; Carrie Griffith, Texas State Teachers Association; Brittney Taylor, TexProtects; Jennifer Allmon, The Texas Catholic Conference of Bishops; Molly Weiner, United Ways of Texas; Lisa Norman; Thomas Parkinson)

Against — None

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

BACKGROUND: Education Code sec. 29.153 requires a school district with at least 15 eligible children to offer free prekindergarten classes. Children who are at least age 3 are eligible for enrollment if they meet certain other criteria, including being educationally disadvantaged, unable to understand English, or homeless or having a parent who is an active-duty member of the military, a member of the military who was injured or killed on active duty, or a person eligible for the Star of Texas Award. A child who is or ever has been in the conservatorship of the Department of Family and Protective Services also is eligible.

DIGEST:

HB 725 would extend eligibility for free public school prekindergarten programs to a child at least 3 years old living in Texas who was or had been in foster care in another state or territory.

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, 2021.

SUPPORTERS SAY:

HB 725 would help Texas families with young children who had been in another state's foster care system access important prekindergarten education opportunities. The Legislature has recognized the importance of early intervention for children in the Texas foster care system by making them eligible for free prekindergarten. This same eligibility should be extended to children from another state who have been adopted by Texans or who are living with relatives in this state. Whether or not these children were located in Texas during their time in foster care should not be the determining factor in whether they now qualify for services designed to help the neediest young learners prepare for kindergarten.

The Legislative Budget Board in its fiscal note estimates the number of eligible students would not be large enough to have a significant fiscal impact to the Foundation School Program.

CRITICS SAY:

No concerns identified.