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# HOUSE RESEARCH ORGANIZATION

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## daily floor report

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Wednesday, April 28, 2021  
87th Legislature, Number 44  
The House convenes at 10 a.m.  
Part Two

Forty-five bills are on the General State Calendar for second reading consideration today. The bills analyzed or digested in Part Two of today's *Daily Floor Report* are listed on the following page.

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



Alma Allen  
Chairman  
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## HOUSE RESEARCH ORGANIZATION

### Daily Floor Report

Wednesday, April 28, 2021

87th Legislature, Number 44

### Part 2

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- SUBJECT:** Modifying civil actions by a civilly committed individual
- COMMITTEE:** Judiciary and Civil Jurisprudence — favorable, without amendment
- VOTE:** 8 ayes — Leach, Davis, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith
- 0 nays
- 1 absent — Dutton
- WITNESSES:** For — Felix Klein; Tim Walker; (*Registered, but did not testify:* Allison Greer Francis, CHCS; Jama Pantel, Justices of the Peace and Constables Association of Texas; Thomas Parkinson)
- Against — None
- On — Jessica Marsh, Texas Civil Commitment Office
- BACKGROUND:** Health and Safety Code ch. 841 governs the civil commitment of sexually violent predators. Health and Safety Code sec. 841.003 defines "sexually violent predator" as an individual who is a repeat sexually violent offender and suffers from a behavioral abnormality that makes the person likely to engage in a predatory act of sexual violence.
- Concerns have been raised about the significant costs to courts for frivolous or unwarranted litigation brought by indigent individuals exempt from court costs.
- DIGEST:** HB 3360 would set out procedures governing an action, including an appeal or original proceeding, brought by a civilly committed individual in a court specified under the bill in which an affidavit or unsworn declaration of inability to pay costs was filed by the civilly committed individual.

**Definitions.** A "civilly committed individual" would be defined as a sexually violent predator who has been committed to a facility operated by or under contract with the Texas Civil Commitment Office (CCO).

"Trust account" would be defined as a civilly committed individual's trust account administered by CCO or by a facility under contract with CCO.

**Dismissal.** A court could dismiss a claim brought by a civilly committed individual, either before or after service of process, if the court found that:

- the allegation of poverty in the affidavit or unsworn declaration was false;
- the claim was frivolous or malicious; or
- the individual filed an affidavit or unsworn declaration that the individual knew was false.

In determining whether a claim was frivolous or malicious, a court could consider whether a claim's chances of ultimate success were slight, whether the claim had no arguable basis in law or fact, whether it was clear that the individual could not prove the facts in support of the claim, or whether the claim was substantially similar to a previous claim filed by the individual as specified by the bill. Before or after service of process, the court could hold a hearing for such a determination on motion of the court, a party, or the clerk of the court. Upon such a motion, the court would have to suspend discovery relating to the pending claim.

Upon dismissal, a court could notify CCO of the dismissal, and as specified by the bill, could advise CCO that a mental health evaluation of the individual could be appropriate.

The court could dismiss the entire claim or a portion of the claim, designating the issues and defendants on which the claim could proceed if only a portion was dismissed. The dismissal would not be subject to interlocutory appeal by the civilly committed individual.

**Affidavit related to previous filings.** A civilly committed individual who filed an affidavit or unsworn declaration of inability to pay costs would have to file a separate affidavit or declaration:

- identifying the court that ordered the individual's commitment;
- indicating whether any cause of action or allegation in the petition had previously been filed in any other court and specifying certain information about such actions;
- stating the result of any previous action, including whether the action or a related claim were dismissed as frivolous or malicious under applicable law, and the date of the order affirming dismissal if applicable;
- certifying that all applicable grievance processes had been exhausted; and
- certifying that no court had found the individual to be a vexatious litigant under applicable law.

**Grievance decision.** An individual who filed a claim subject to a grievance system established by the CCO or contracted facility would be required to file an affidavit or unsworn declaration with certain information about the grievance and a copy of the written decision from the grievance system. The court would be required to stay a proceeding on a claim if the claim was filed before the grievance procedure was complete. If the individual failed to file a claim with the court before the 31st day after the grievance decision, the court would be required to dismiss the claim.

**Hearing and evidence.** A court could hold a hearing under the bill at a facility operated by or under contract with CCO, or with video communications technology permitting the court and the individual to see and hear each other. The video recording of the hearing would be sufficient to serve as a permanent record of the hearing.

A court could request that a person with an admissible document or testimony submit copies of such. A written statement would have to be made under oath or as an unsworn declaration, and a copy of a document submitted would have to be accompanied by a certification executed under oath as specified by the bill. A person submitting a written statement or document would not be required to appear at the hearing.

A court would have to require that a civilly committed individual be provided with a copy of each written statement or document at least 14 days before the hearing was to begin.

**Court fees and costs.** A civilly committed individual would be required to file a certified copy of their trust account statement with the court, reflecting the balance of the account at the time the claim was filed and activity in the account during the six months preceding the filing date.

A court could order the individual to pay court costs and fees, and if ordered, the individual would have to pay an amount equal to the lesser of 20 percent of the preceding six months deposits to the trust account or the total amount of the costs and fees, and in each subsequent month, an amount equal to the lesser of 10 percent of that month's deposits to the trust account, or the total amount of remaining unpaid costs. Payments would continue until the total amount was paid or until the individual was released from confinement. An individual could authorize payment in addition to the required payments.

The clerk of the court would have to mail a copy of the order and a certified bill of costs to CCO or the contracted facility, and on receipt of such an order, the office or facility would be required to withdraw the needed money from the individual's trust account, hold the money in a separate account, and forward the money to the court clerk on the earlier of the date the total amount to be forwarded equaled the total amount of court fees, or the date the individual was released.

If the court found that the individual had previously filed an action as specified by the bill where the action was dismissed as frivolous or malicious, the ordered costs of the court would be required to include certain additional expenses that were incurred. On receipt of an order indicating that the court made such a finding, the clerk of the court could not accept for filing another claim by the individual until all fees and costs were paid, unless the claim was for certain relief from a substantial threat of irreparable injury or serious physical harm to the individual.

An individual could not avoid the required fees and costs by nonsuiting a party or voluntarily dismissing the action, and a court could dismiss a claim should the individual fail to pay the required fees and costs.

**Other provisions.** To implement the provisions of the bill, a court could develop and use a questionnaire that the civilly committed individual would file.

The Texas Supreme Court would be required, by rule, to adopt a system under which a court could refer a suit under the bill's provisions to a magistrate for review and recommendation. The system could be funded by money appropriated to the Supreme Court or from money received by the Supreme Court through interagency contracts. Any other rule adopted by the Supreme Court could not modify the bill's provisions.

The bill's provisions would not apply to an action brought under the Family Code.

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

- SUBJECT:** Removing holster specification for openly carried handguns in Penal Code
- COMMITTEE:** Homeland Security and Public Safety — favorable, without amendment
- VOTE:** 9 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt
- WITNESSES:** For — Rachel Malone, Gun Owners of America; Rick Briscoe, Open Carry Texas; Andi Turner, Texas State Rifle Association; Kenneth Gibson; Bradley Hodges; Cody Ryan; Gary Zimmerman; (*Registered, but did not testify*: David Sinclair, Game Warden Peace Officers Association; Tara Mica, National Rifle Association; Ruth York, Tea Party Patriots of Eastland County and Texas Family Defense Committee; and 14 individuals)
- Against — (*Registered, but did not testify*: Elva Mendoza, Moms Demand Action for Gun Sense in America; Jon Brandt, Christina Puentes, and Gyl Switzer, Texas Gun Sense; and 15 individuals)
- On — (*Registered, but did not testify*: Thomas Parkinson)
- BACKGROUND:** Several offenses in the Penal Code relating to an openly carried handgun by a licensed handgun owner specify the manner of open carry as requiring a handgun to be in a shoulder or belt holster.
- DIGEST:** HB 2112 would revise offenses in the Penal Code relating to an openly carried handgun by a licensed handgun owner and remove the specification that the holster be a shoulder or belt holster.
- The bill would take effect September 1, 2021, and would apply only to an offense committed on or after that date.
- SUPPORTERS SAY:** HB 2112 would allow law-abiding gun owners to make choices about the best way to protect themselves by simplifying a requirement for openly carried handguns that causes confusion and undermines self-defense.

Currently, a licensed handgun owner who openly carries is limited to carrying either in a shoulder or a belt holster. Neither type of holster is defined by statute nor are there commonly accepted definitions, which causes confusion. For example, it is unclear whether a licensed gun owner could openly carry in a holster that was worn in the correct location but was not capable of attaching at the shoulder area or to a belt.

Requiring shoulder or belt holsters for open carry undermines self-defense by disparately impacting persons with disabilities and making motor vehicle accessibility difficult. Persons confined to wheelchairs have difficulties wearing shoulder or belt holsters, and other types of holsters would allow them better access to self-defense. Current law would not allow specific vehicle holsters, which allow a safer transport of a handgun and easier access if the driver was in a dangerous situation.

All types of holsters serve the same purpose for gun safety: they contain the handgun, eliminate the capability of being fired by making the trigger inaccessible, and require the wearer to remove the handgun before it can be used. Therefore, broadening the types of lawful holsters would not diminish gun safety. Texans should be allowed to make their own choices about the best way to carry their handgun and protect themselves.

**CRITICS  
SAY:**

HB 2112 could result in more guns being openly carried, which would not make Texans safer. The current open carry requirement that the handgun be in a shoulder or belt holster ensures that handguns are secured responsibly, and broadening the requirement by not specifying the type of holster could decrease public safety.

- SUBJECT:** Authorizing a domestic relations office to modify certain court orders
- COMMITTEE:** Juvenile Justice and Family Issues — committee substitute recommended
- VOTE:** 9 ayes — Neave, Swanson, Cook, Frank, Leach, Ramos, Talarico, Vasut, Wu  
0 nays
- WITNESSES:** For — Jane McMahon, Texas Association of Domestic Relations Offices and Harris County DRO; William Morris, Texas Family Law Foundation; (*Registered, but did not testify:* Melissa Shannon, Bexar County Commissioners Court; Charles Reed, Dallas County Commissioners Court; Ender Reed, Harris County Commissioners Court; Amy Bresnen, Texas Family Law Foundation)  
  
Against — (*Registered, but did not testify:* Jeffrey Morgan)
- BACKGROUND:** Family Code sec. 203.001 defines "domestic relations office" (DRO) as a county office that serves families, county departments, and courts to ensure effective implementation of suits affecting the parent-child relationship. Sec. 203.002 allows a commissioner's court to establish a DRO. Sec. 203.004, which governs the powers and duties of a DRO, allows a DRO to file a suit to:
- enforce a court order for child support or for possession of and access to a child; and
  - modify or clarify an existing child support order.
- DIGEST:** CSHB 3962 would authorize a domestic relations office (DRO) in a suit affecting the parent-child relationship to modify or clarify a court order for possession of and access to a child.
- The bill would specify that a DRO was authorized to provide information to assist a party in understanding, complying with, or enforcing the party's duties and obligations under a suit relating to the parent-child relationship and to a suit affecting the parent-child relationship.

The bill would take effect September 1, 2021.

**SUPPORTERS  
SAY:**

CSHB 3962 would enable domestic relations offices (DROs) across the state to better serve Texas children and help families with custody and visitation cases as a one-stop economical resource. Under current law, a DRO may enforce a possession or access order to a child, but the statute does not provide a DRO specific authority to modify such an order.

However, it is often necessary to modify these orders. A parent, for example, may be unable to visit with the parent's child because the possession or access order is no longer enforceable due to unenforceable court order. When a parent loses access to a child due to an unenforceable order, they face a legal hurdle that can be expensive, time-consuming, and emotionally draining.

By granting a DRO the authority to modify possession or access orders and providing clarification on services available from DROs, the bill would assist parents in understanding their duties and obligation and enable DROs to better serve Texas families.

**CRITICS  
SAY:**

CSHB 3962 would grant DROs, as agents of the state, additional authority to interfere inappropriately with the parent-child relationship.

- SUBJECT:** Definition of court costs, designating court fees and costs uncollectable
- 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 — Emily Gerrick, Texas Fair Defense Project; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Eric Carcerano, Chambers County District Attorney's Office; Christine Wright, City of San Antonio; Cary Roberts, County and District Clerks' Association of Texas; Traci Berry, Goodwill Central Texas; Kathy Mitchell, Just Liberty; Jama Pantel, Justices of the Peace and Constables Association of Texas; Maggie Luna, Statewide Leadership Council; Lori Henning, TX Association of Goodwills; Rosann Mariappuram; Thomas Parkinson)
- Against — None
- BACKGROUND:** Under Code of Criminal Procedure art. 42.15, during or immediately after imposing a sentence in which a defendant entered a plea in open court, judges are required to inquire whether a criminal defendant has sufficient resources or income to immediately pay all or part of the fines and costs.
- Code of Criminal Procedure art. 103.0081 allows certain officials to ask a trial court to make a finding that a fee or item of cost imposed in the case was uncollectible if the defendant is deceased or serving a sentence of life in prison or life without parole or if the fee has been unpaid for at least 15 years. This allows the official to designate the fine as uncollectible in the fee record.
- It has been suggested that current law allowing court fees and costs to be designated as uncollectable should also include fines and that the definition of costs should include fees changed or imposed after a court judgment.

**DIGEST:** CSHB 2441 would revise the definition of what can be declared uncollectible if a criminal defendant is deceased, serving a sentence of life in prison or life without parole, or if the fee has been unpaid for at least 15 years. The bill would add fines and reimbursement fees to the list of items that a court could declare uncollectible.

The bill would revise the definition of "cost" in statutes relating to judgments in criminal cases to include reimbursement fees and to include fees imposed at any time by a court, judge, or justice, not just at the time the judgment was entered.

The bill also would require that when judges inquire whether a criminal defendant has income or resources to pay a fine and costs, the inquiry be made on the record.

The bill would take effect September 1, 2021, and would apply to fines, fees, and costs imposed before, on, or after that date.

- SUBJECT:** Funding, using money in the oil and gas regulation and cleanup fund
- COMMITTEE:** Appropriations — favorable, without amendment
- VOTE:** 22 ayes — Bonnen, M. González, Ashby, C. Bell, Capriglione, Dean, Dominguez, Gates, Holland, Howard, A. Johnson, Jarvis Johnson, Morrison, Raney, Rose, Stucky, E. Thompson, Toth, VanDeaver, Walle, Wilson, Wu
- 1 nay — Schaefer
- 4 absent — Julie Johnson, Minjarez, Sherman, Zwiener
- WITNESSES:** For — Cyrus Reed, Lone Star Chapter Sierra Club; (*Registered, but did not testify*: Ender Reed, Harris County Commissioners Court; Jason Modglin, Texas Alliance of Energy Producers; Ryan Paylor, Texas Independent Producers & Royalty Owners Association (TIPRO))
- Against — None
- On — (*Registered, but did not testify*: Corey Crawford and Jeremy Mazur, Railroad Commission)
- BACKGROUND:** Natural Resources Code sec. 81.067 establishes the oil and gas regulation and cleanup fund as an account in the general revenue fund of the state treasury that consists of fees and penalties collected from the oil and gas industry. Money in the fund may be used by the Railroad Commission for any purpose related to the regulation of oil and gas.
- Some have suggested that the structure of the fund should be addressed to ensure it is properly funded to allow the commission to perform oversight of the state's oil and gas industry.
- DIGEST:** HB 3973 would provide for all costs, penalties, and fees collected by the Railroad Commission in relation to oil and gas regulatory efforts to be deposited or paid into the oil and gas regulation and cleanup (OGRC) fund.

The OGRC fund would be exempt from provisions relating to the reallocation of interest accrued on certain dedicated revenue to the general revenue fund. The bill would specify that the OGRC fund was an interest-bearing fund, and interest earned on money in the fund would have to be deposited to the credit of the fund.

Money in the OGRC fund could not be used to pay employee benefits or benefit-related costs, and the fund would be exempt from any applicable employee benefits proportionality requirement.

The bill would expand the use of the OGRC fund to include regulation of geologic storage facilities and associated anthropogenic carbon dioxide injection wells, including inspection, monitoring, investigation, recording, plugging, remediation, and enforcement, and the administration of those activities.

On the bill's effective date, the anthropogenic carbon dioxide storage trust fund would be abolished. Any money remaining in, any claim against, and any amount required to be deposited to the fund would be transferred or deposited to the OGRC fund. Any transferred money that was deposited in the anthropogenic carbon dioxide storage trust fund as a gift, grant, or other form of assistance that was encumbered by specific terms could be spent only in accordance with those terms.

The bill would take effect September 1, 2021.

**NOTES:**

According to the Legislative Budget Board, the bill would have a negative impact of \$29.3 million to general revenue through fiscal 2023.

SUBJECT: Allowing compensatory education funds for social and emotional skills

COMMITTEE: Public Education — committee substitute recommended

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

0 nays

WITNESSES: For — Dena Petty, Mentors Care; (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Laura Guerra-Cardus, Children’s Defense Fund-Texas; Charles Luke, Coalition for Education Funding; Jodi Duron, Elgin ISD; Elisa Tamayo, Emergence Health Network; Bruce Gearing, Leander ISD; Bill Kelly, Mayor’s Office, City of Houston; Ana O’Quin, National Alliance on Mental Illness (NAMI) TX; Charles Gaines, Raise Your Hand Texas; Joel Giorgio, Social Emotional Learning Alliance for Texas; Grover Campbell, TASB; Josette Saxton, Texans Care for Children; Dena Donaldson, Texas AFT; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Amanda Brownson, Texas Association of School Business Officials; Paige Williams, Texas Classroom Teachers Association; Lee Johnson, Texas Council of Community Centers; Alycia Castillo, Texas Criminal Justice Coalition; Mark Terry, Texas Elementary Principals and Supervisors Association; Starlee Coleman, Texas Public Charter Schools Association; Dee Carney, Texas School Alliance; Christy Rome, Texas School Coalition; Ashley Ford, The Arc of Texas; Ashley Harris, United Ways of Texas; and nine individuals)

Against — (*Registered, but did not testify*: Mary Castle and Jonathan Covey, Texas Values Action)

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

**BACKGROUND:** Education Code sec. 48.104 establishes a compensatory education allotment for students who are educationally disadvantaged. School districts generally must use these funds for instructional purposes, but they also may be used to provide child-care services or assistance with child-care expenses for students at risk of dropping out of school or to pay costs associated with services provided through a life skills program.

**DIGEST:** CSHB 332 would authorize the use of compensatory education allotment funds under the Foundation School Program to provide programs that build skills related to managing emotions, establishing and maintaining positive relationships, and making responsible decisions.

The bill would specify that the use of allotment funds to provide child-care services or assistance with child-care expenses to a student at risk of dropping out of school would apply to such a student who is a parent.

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 332 would address the impact on student mental health from recent events, including the pandemic and winter storm disaster, by giving schools the funding flexibility to address the social and emotional needs of students. School districts and charter schools could use some of their compensatory education allotment funds to hire counselors, provide teacher training, and implement curriculum.

Health care providers, educators, and parents have reported an increase in depression, anxiety, and suicidal ideation in Texas children over the past year. CSHB 332 would provide schools with resources to help students develop and implement skills that help them learn, manage their emotions, and contribute positive behavior to the classroom.

While some say that the use of compensatory education funds should be confined to providing academic support, students also need support for their emotional needs in order to be ready to learn. Legislation enacted last session to improve school safety and student mental health recognized the importance of addressing the social and emotional needs of students.

CRITICS  
SAY:

CSHB 332 would allow the use of compensatory education funds that is inconsistent with the main purpose for those funds, which is to close the learning gap for educationally disadvantaged students. The bill also could result in the use of state funds on programs that are not in line with the purpose of public education.

- SUBJECT:** Qualifying condemned land as agricultural land for property tax purposes
- COMMITTEE:** Land and Resource Management — favorable, without amendment
- VOTE:** 9 ayes — Deshotel, Leman, Biedermann, Burrows, Craddick, Romero, Rosenthal, Spiller, Thierry
- 0 nays
- WITNESSES:** For — Charles Maley, South Texans Property Rights Association; (*Registered, but did not testify:* Judith McGeary, Farm and Ranch Freedom Alliance; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Joy Davis, Texas Farm Bureau; Jessica Karlsruher, Texas Real Estate Advocacy and Defense Coalition)
- Against — None
- BACKGROUND:** Tax Code ch. 23, subch. C allows land designated for agricultural use to be appraised at its value based on the land's capacity to produce agricultural products rather than its market value. Under sec. 23.46, if land that has been designated for agricultural use is sold or diverted to a nonagricultural use, the total amount of additional taxes for the three preceding years plus interest becomes due. Some have suggested that agricultural land taken through condemnation should not be subject to rollback taxes on the land.
- DIGEST:** HB 2043 would provide that a portion of land was not diverted to nonagricultural use because it was subject to a right-of-way that was less than 200 feet wide and that was taken by condemnation if the remainder of the land qualified for appraisal as agricultural land.
- If the additional taxes were due because the land was diverted to a nonagricultural use as a result of a condemnation, the additional taxes and interest would be the personal obligation of the condemning entity, not the property owner.

The bill would take effect September 1, 2021, and would apply only to an appraisal or change of land use that occurred on or after that date.

NOTES:

According to the bill's fiscal note, HB 2043 could reduce taxable property values, and related costs to the Foundation School Fund could be increased through the operation of school finance formulas. Because the number of acres that would qualify for reduced appraisal and the amount of reduction are unknown, the cost of the bill cannot be estimated.

- SUBJECT:** Requiring a colonia self-help center in Nueces County
- COMMITTEE:** Urban Affairs — favorable, without amendment
- VOTE:** 8 ayes — Cortez, Holland, Bernal, Campos, Gates, Jarvis Johnson, Minjarez, Slaton
- 0 nays
- 1 absent — Morales Shaw
- WITNESSES:** For — John Marez, Nueces County (*Registered, but did not testify*: Patricia Shipton, Nueces County; Barbara Canales, Nueces County Judge)
- Against — None
- On — (*Registered, but did not testify*: Homero Cabello, Texas Department of Housing and Community Affairs)
- BACKGROUND:** Government Code sec. 2306.582(a) requires the Texas Department of Housing and Community Affairs (TDHCA) to establish colonia self-help centers in El-Paso, Hidalgo, Starr, and Webb counties, and in Cameron County to serve Cameron and Willacy counties.
- Sec. 2306.584(a) requires the TDHCA board to appoint at least five residents of colonias to serve on the Colonia Resident Advisory Committee, to be selected from lists of candidates submitted by local nonprofits and the commissioners court of a county in which a self-help center is located.
- Some have suggested that certain residents in Nueces County would benefit from a colonia self-help center to provide low-income residents with resources to improve their living conditions.
- DIGEST:** HB 2893 would add Nueces County to the counties in which the TDHCA had to establish a colonia self-help center. The bill also would change the

minimum number of members to be appointed by the TDHCA board to the Colonia Resident Advisory Committee from five to six.

The bill would take effect September 1, 2021.

SUBJECT: Creating the Texas Commission on Virtual Education

COMMITTEE: Public Education — favorable, without amendment

VOTE: 12 ayes — Dutton, Lozano, Allison, K. Bell, Bernal, Buckley,  
M. González, Huberty, K. King, Meza, Talarico, VanDeaver

1 nay — Allen

WITNESSES: For — Ruth Torres; (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Dana Harris, Austin Chamber of Commerce; Kerri Brady, LEX Collaborative; Charles Gaines, Raise Your Hand Texas; Grover Campbell, TASB; Dena Donaldson, Texas AFT; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Paige Williams, Texas Classroom Teachers Association; Jennifer Bergland, Texas Computer Education Association; Suzi Kennon, Texas PTA; Christy Rome, Texas School Coalition; Carrie Griffith, Texas State Teachers Association)

Against — (*Registered, but did not testify*: Chloe Latham Sikes, Intercultural Development Research Association)

On — (*Registered, but did not testify*: Chris Bigenho, Lewisville ISD; George Kazanas, Midway ISD; Eric Marin, Megha Kansra, Leonardo Lopez, and Monica Martinez, Texas Education Agency; Dee Carney, Texas School Alliance)

DIGEST: HB 3643 would create the Texas Commission on Virtual Education to develop and make recommendations regarding the delivery of virtual education in the public school system and state funding for virtual education under the Foundation School Program.

The commission would consist of 13 members. The governor, lieutenant governor, and House speaker would each appoint four members, and a member of the State Board of Education would be appointed by the board chair. The members appointed by the governor must include at least one

current or retired classroom teacher with at least 10 years of experience, one member of the business community, and one member of the civic community. The appointments by the lieutenant governor and the House speaker must each consist of three members of the applicable legislative chamber and a public school administrator or school board trustee.

The governor, lieutenant governor, and House speaker would have to coordinate their appointments to ensure that the commission reflected, to the extent possible, the ethnic and geographic diversity of Texas. The governor would designate the commission presiding officer. Commission members would not be compensated but would be entitled to reimbursement for expenses incurred in performing their duties.

The Texas Education Agency would provide administrative support for the commission and funding for administrative and operational expenses would have to be provided by legislative appropriation.

HB 3643 would require the commission to develop recommendations to address issues related to the delivery of and funding for virtual education, including alternative instructional delivery methods and alternative methods of funding. The commission would establish one or more working groups composed of up to five members to study, discuss, and address specific policy issues and recommendations to refer to the commission for consideration.

The commission could hold public meetings and would be subject to state open meeting and public information laws.

The commission's report on recommendations for legislative action to improve the implementation of virtual education would be due by December 31, 2022, for delivery to the governor and the Legislature. The commission would be abolished on January 1, 2023.

The bill would apply beginning with the 2021-2022 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, 2021.

**SUPPORTERS SAY:** HB 3643 would establish a commission to evaluate the delivery and funding of virtual education in Texas and make recommendations to improve online learning for public education students. The demand for virtual education is increasing, as some families found that it has worked well for their children during the past year of pandemic-forced school closures.

The Texas Commission on Virtual Education would take a close look at best practices for delivering online courses to ensure that any recommended changes to laws governing virtual schools would likely result in academic success for students. The commission would be structured similarly to the Texas Commission on Public School Finance, which wrote the report that laid the groundwork for the landmark 2019 reforms to school funding. The commission would include educators, business leaders, and legislators who, with support from the Texas Education Agency, would work to remove barriers to high-quality virtual learning environments in our schools.

While some say that students already can access an online education through an existing network of virtual schools, some of those schools perform below expectations. The commission would carefully study the most effective methods of virtual learning before expanding any virtual offerings to public school students.

**CRITICS SAY:** HB 3643 could lead to a separate, costly, and potentially ineffective virtual education system when most students do better when they can learn in person. Students who want to access online courses already can do so through the existing statewide Texas Virtual Schools Network.

**NOTES:** According to the Legislative Budget Board, the bill would have a negative impact of about \$380,000 to general revenue through fiscal 2023.

- SUBJECT:** Allowing Railroad Commission to send certain notices by email
- COMMITTEE:** Energy Resources — committee substitute recommended
- VOTE:** 7 ayes — Goldman, Craddick, Ellzey, T. King, Leman, Longoria, Reynolds
- 0 nays
- 4 absent — Herrero, Anchia, Darby, Geren
- WITNESSES:** For — (*Registered, but did not testify*:; Jimmy Carlile, Fasken Oil and Ranch; Cyrus Reed, Lone Star Chapter Sierra Club; Ben Shepperd, Permian Basin Petroleum Association; Lon Burnam, Public Citizen; Jason Modglin, Texas Alliance of Energy Producers; Ryan Paylor, Texas Independent Producers and Royalty Owners Association (TIPRO); Suzanne Mitchell)
- Against — None
- On — (*Registered, but did not testify*: Jeremy Mazur, Railroad Commission)
- BACKGROUND:** Interested parties have suggested that the Railroad Commission of Texas should have the discretion to send certain notices as emails in order to eliminate postage, printing, and labor costs associated with delivering notices by physical mail.
- DIGEST:** CSHB 3039 would authorize the Railroad Commission of Texas (RRC) to send as an electronic record:
- a notice of a contract to plug a delinquent inactive oil or gas well;
  - a notice related to the possession and sale of certain equipment and hydrocarbons to cover plugging costs; or
  - a notice that an application for the release of certain surface mine bonds or deposits had been filed.

The bill also would authorize RRC to deliver a required notice of a cancellation of a certificate of compliance through personal service, registered or certified mail, or as an electronic record. RRC could send certain required notices relating to an application for a quarry safety certificate either through certified mail or as an electronic record.

The bill would take effect September 1, 2021.

- SUBJECT:** Establishing a statewide homelessness data system
- COMMITTEE:** Urban Affairs — committee substitute recommended
- VOTE:** 7 ayes — Cortez, Bernal, Campos, Gates, Jarvis Johnson, Minjarez, Morales Shaw
- 1 nay — Holland
- 1 absent — Slaton
- WITNESSES:** For — Tommy Calvert, Bexar County Precinct 4; Eric Samuels, Texas Homeless Network; (*Registered, but did not testify:* Marisa Finley, Baylor Scott & White Health; Alexa Aragonz, City of Arlington; Tammy Embrey, City of Corpus Christi; Guadalupe Cuellar, City of El Paso; Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; Christine Wright, City of San Antonio; Madeline Kennedy, Thrive Youth Center; Ashley Harris, United Ways of Texas; Thomas Parkinson)
- Against — None
- BACKGROUND:** Government Code sec. 2306.902 establishes the Texas Interagency Council for the Homeless as an advisory committee to the Texas Department of Housing and Community Affairs. The council may recommend policies to the board. The board is required to provide written justification for not accepting council recommendations and must consider council recommendations in preparing its low income housing plan.
- DIGEST:** CSHB 3034 would require the Texas Interagency Council for the Homeless to collaborate with a state agency designated by the council to establish a statewide homelessness data system.
- The statewide homelessness data system would enable state agencies and local government entities, including law enforcement agencies, court systems, school districts, and emergency service providers, to share information related to individuals experiencing homelessness and access

information about those individuals to connect or refer them to services, including affordable housing opportunities.

**Data system development.** In developing the data system, the council and the designated state agency would be required to:

- consult with representatives of state agencies, local government entities, and other relevant entities to determine the challenges they faced in addressing homelessness and how best to improve responses to those challenges;
- enter into data sharing agreements as necessary for the exchange of information related to individuals experiencing homelessness through the data system; and
- ensure that information stored in the data system that was confidential under state and federal law was not disclosed.

The data sharing system would collect data, to the extent permitted by the data sharing agreement, from other homelessness data systems maintained and operated by a state agency, local law enforcement agency, or other state entity and collect, aggregate, analyze, and share homelessness information submitted to the data system with entities that had access to the system.

**Report.** The Texas Interagency Council for the Homeless or an entity designated by the council would be required to prepare and submit to the legislature and the Texas Department of Housing and Community Affairs a written report that evaluated the effectiveness of the statewide homelessness data system in addressing homelessness in the state by September 1, 2023.

The bill would take effect September 1, 2021.

SUPPORTERS  
SAY:

CSHB 3034 would help people experiencing homelessness and their families by connecting affected individuals with services and helping track those individuals so that their families could locate them and hopefully reunite with them.

Many people become homeless due to adverse circumstances at their former place of residence that cause them to leave, including domestic violence, mental illness, or substance abuse. The creation of a homelessness data system would facilitate the tracking of these individuals, refer them to rehabilitative services, and connect them with affordable housing opportunities.

The committee substitute would eliminate certain privacy concerns by ensuring that personal identification information on people experiencing homelessness would remain confidential by removing public access to the data. The bill also would require that information that was confidential under state or federal law would not be disclosed.

CRITICS  
SAY:

CSHB 3034 would impose a financial burden on the state. The \$2.4 million fiscal note for the 2022-2023 biennium and additional state employees needed to maintain the system would be expensive and there would be no guarantee that the new statewide data system would have a significant impact on decreasing homelessness in Texas.

The collection of data on a person experiencing homelessness could violate their right to privacy. The bill does not specify what data points would be collected on people experiencing homelessness and how long individuals would remain in the data system after they found housing.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about \$2.4 million to general revenue related funds through fiscal 2023. The bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the bill's provisions.

**SUBJECT:** Setting procedures allowing a judge to determine incapacity of a guardian

**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 — Colleen Rice, County Court at Law Number Two, Montgomery  
County; Claudia Laird

Against — None

**BACKGROUND:** Estates Code sec. 1203.052 specifies the circumstances under which a court can remove a guardian, including if the guardian becomes incapacitated. Sec. 1203.052(a-1) allows a court to remove a guardian for a specified circumstance on the court's own motion or on the complaint of an interested person after the guardian has been notified to answer at a set time and place.

Concerns have been raised about the lack of a method set forth in statute allowing a judge to determine on the judge's own motion if a guardian is incapacitated.

**DIGEST:** CSHB 3394 would authorize a court, if there was probable cause to believe that a guardian was incapacitated, on the court's own motion or on complaint of an interested person to appoint an attorney ad litem to represent the ward's interests and a court investigator or guardian ad litem to investigate whether the guardian should be removed due to incapacity. If the court determined it was necessary, the court could appoint the necessary physicians to examine the guardian to determine whether the guardian was an incapacitated person.

The bill would take effect September 1, 2021, and would apply to a guardianship created before, on, or after that date.

- SUBJECT:** Requiring the wearing of a lifejacket during certain water sports
- COMMITTEE:** Culture, Recreation and Tourism — committee substitute recommended
- VOTE:** 6 ayes — K. King, Gervin-Hawkins, Frullo, Israel, Martinez, C. Morales  
3 nays — Burns, Clardy, Krause
- WITNESSES:** For — (*Registered, but did not testify:* David Sinclair, Game Warden Peace Officers Association; Eric Woomer, Texas Pediatric Society)  
  
Against — (*Registered, but did not testify:* Anna Alkire; Beth Maynard; Ruth York)  
  
On — (*Registered, but did not testify:* Cody Jones, Texas Parks and Wildlife)
- BACKGROUND:** Parks and Wildlife Code sec. 31.127(a) provides that a violation of any provision of Parks and Wildlife Code ch. 31 is a class C Parks and Wildlife Code misdemeanor (fine of between \$25 and \$500).
- DIGEST:** CSHB 2499 would prohibit a person from operating a motorboat unless each person towed behind the motorboat or engaged in water sports in or on the motorboat's wake was wearing a personal flotation device of the sort prescribed by the commandant of the U.S. Coast Guard. A violation of the provisions of this bill would be a class C Parks and Wildlife Code misdemeanor (fine of between \$25 and \$500).  
  
The bill would take effect September 1, 2021.
- SUPPORTERS SAY:** CSHB 2499 would save lives by requiring a person to wear a lifejacket while being towed behind a motorboat or engaging in other water sports in the wake of a motorboat. This would bring the requirements for these activities in line with lifejacket requirements for other water sports such as jet skiing. The majority of boating deaths occur in situations when a person is not wearing a lifejacket, and CSHB 2499 would address this by adding a lifejacket requirement for the activities listed in the bill.

An adequate enforcement method is necessary in order to achieve the lifesaving purpose of the bill. Without adequate enforcement mechanisms, the lifejacket requirement would be symbolic. A class C misdemeanor provides an effective enforcement method that is justified by the potential to save human life created by requiring the wearing of a lifejacket.

CRITICS  
SAY:

Wearing a lifejacket is a personal choice and the state should not regulate the wearing of lifejackets by adults. The bill also would create an unnecessary criminal offense for the state to enforce.

SUBJECT: Revising conditions for CCNs issued for certain municipal service areas

COMMITTEE: Natural Resources — favorable, without amendment

VOTE: 8 ayes — T. King, Harris, Bowers, Kacal, Lucio, Paul, Price, Wilson

0 nays

3 absent — Larson, Ramos, Walle

WITNESSES: For — Simon Sequeira, Quadvest

Against — (*Registered, but did not testify*: Amber Hausenfluck, City of McAllen)

On — (*Registered, but did not testify*: Tammy Benter, Public Utility Commission of Texas)

BACKGROUND: Water Code sec. 13.245 requires that a municipality with a population of 500,000 or more give its consent to the granting of a certificate of public convenience and necessity for a service area within the municipality's boundaries or extraterritorial jurisdiction before the Public Utility Commission of Texas is authorized to grant the certificate to a retail public utility. A municipality may require as a condition of the consent that all water and sewer facilities be designed and constructed in accordance with the municipality's standards for facilities.

DIGEST: HB 3476 would prohibit a municipality with a population of 500,000 or more from requiring, as a condition of consent to the granting of a certificate of public convenience and necessity (CCN) to a retail public utility, that all water and sewer facilities for a service area located in the municipality's extraterritorial jurisdiction be designed and constructed in accordance with the municipality's facility standards. If the service area was within the municipality's boundaries, the municipality could require as a condition of consent that a water or sewer facility be designed and constructed in accordance with its facility standards.

The Public Utility Commission of Texas (PUC) would be required to include as a condition of granting a CCN for a service area within the boundaries of a municipality with a population of 500,000 or more that all water and sewer facilities be designed and constructed in accordance with the municipality's facility standards. For a service area located in a municipality's extraterritorial jurisdiction, PUC would have to include as a condition of granting a CCN that all water and sewer facilities be designed and constructed in accordance with the Texas Commission on Environmental Quality's standards.

The bill would take effect September 1, 2021.

**SUPPORTERS  
SAY:**

HB 3476 would help address delays and costs associated with gaining the consent of certain municipalities for the granting of a certificate of public convenience and necessity (CCN) for retail public utilities in their extraterritorial jurisdiction by prohibiting municipalities from requiring that certain utility facilities meet their facility standards.

CCNs for service areas in the extraterritorial jurisdiction of municipalities with a population of more than 500,000 frequently are not handled in a timely manner, which can result in construction delays that affect service. In addition, requiring that a facility in a municipality's extraterritorial jurisdiction adhere to municipal standards can increase construction costs significantly, and these costs often are passed on to homeowners in the service area.

HB 3476 would address these concerns by prohibiting municipalities from requiring facilities in these areas meet the municipality's facility standards as a condition for the issuance of a CCN and would instead require such facilities to meet standards established by the Texas Commission on Environmental Quality. The commission's standards are sufficient to be used statewide, and a municipality should not be able to dictate construction terms outside of its boundaries when an effective statewide standard exists.

**CRITICS  
SAY:**

HB 3476 would limit municipalities' influence in how water and sewer facilities were designed and constructed in their extraterritorial jurisdictions. Local authorities in larger municipalities are best suited to

set certain standards for a water or sewer facility, including for service areas within the municipality's extraterritorial jurisdiction. A uniform statewide standard would not adequately address the different needs and concerns of municipalities across the state. The effects of a water or sewer facility are local, and local authorities should retain their full right to consent to facilities in their jurisdiction.

SUBJECT: Requiring certain notification of breaches of secure computerized data

COMMITTEE: Business and Industry — favorable, without amendment

VOTE: 7 ayes — C. Turner, Hefner, Cain, Crockett, Lambert, Ordaz Perez,  
Patterson

0 nays

2 absent — Shine, S. Thompson

WITNESSES: For — (*Registered, but did not testify*: Dana Harris, Austin Chamber of  
Commerce; Micah Rodriguez, Credit Union Coalition of Texas; Stephen  
Scurlock, Independent Bankers Association of Texas; Megan Herring,  
Texas Association of Business; Larry Gonzales, Texas Credit Union  
Association; Thomas Parkinson; Calvin Tillman; Al Zito)

Against — None

On — (*Registered, but did not testify*: Servando Esparza, TechNet; Troy  
Alexander, Texas Medical Association)

BACKGROUND: Business and Commerce Code sec. 521.053 requires persons who own,  
license, or maintain computerized data that includes certain sensitive  
personal information to notify the attorney general of a breach of system  
security within a specified time frame if the breach involves at least 250  
residents of the state. The notification must include certain information,  
including a description of the breach and the number of residents of the  
state affected by the breach.

Interested parties have expressed concern that the Office of the Attorney  
General is not receiving sufficient information about Texas residents who  
receive direct notification of a data breach. Concerns also have been  
expressed that the information compiled by the Office of the Attorney  
General is accessible only through a public information request.

DIGEST: HB 3746 would require a notification sent to the attorney general regarding a breach of system security under Business and Commerce Code sec. 521.053 to include the number of affected residents that had been sent a disclosure of the breach by mail or other direct method of communication at the time of notification.

The attorney general would have to post on the attorney general's website a comprehensive listing of all received notifications of security system breaches, and the listing would have to be updated within 30 days after notification of a new breach of system security was received. Sensitive personal information and other confidential information that had been reported to the attorney general under sec. 521.053 would be excluded from the listing.

The bill would take effect September 1, 2021.

SUBJECT: Requiring the establishment of an online mail-in ballot tracking system

COMMITTEE: Elections — committee substitute recommended

VOTE: 9 ayes — Cain, J. González, Beckley, Bucy, Clardy, Fierro, Jetton,  
Schofield, Swanson

0 nays

WITNESSES: For — Marcia Strickler, Founder, WilcoWeTheePeople; Chris Davis, Texas Association of Elections Administrators; James Slattery, Texas Civil Rights Project; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; David Weinberg, Brennan Center for Justice; Joanne Richards, Common Ground for Texans; Richard Evans, Emgage Action; Angela Smith, Fredericksburg Tea Party; Susana Carranza, League of Women Voters of Texas; Cyrus Reed, Lone Star Chapter Sierra Club; Joey Bennett, Secure Democracy; Patricia Shipton, Secure Elections Project; Phil Bunker, Teamsters JC58; Cary Roberts, Texas Association of Elections Administrators; Glen Maxey, Texas Democratic Party; Joshua Houston, Texas Impact; Lauren Banister, TexPIRG; Julie Wheeler, Travis County Commissioners Court; Richard Bohnert; Henry Bohnert; Michael Fossum; Idona Griffith; Georgia Keysor; Zoila Vega-marchena)

Against — Heather Hawthorne, County and District Clerks Association of Texas; David Carter; Bill Sargent (*Registered, but did not testify*: Russell Hayter; Frank Holman; Julie Kellogg; Ruth York)

On — Alan Vera, Harris County Republican Party Ballot Security Committee; Keith Ingram, Texas Secretary of State-Elections Division (*Registered, but did not testify*: Jonathan White, Office of the Attorney General; Brandon Moore)

BACKGROUND: It has been suggested that a statewide online mail-in ballot tracking system for voters would increase public confidence in elections by providing a more efficient and transparent process for voting by mail.

DIGEST: CSHB 1382 would require the secretary of state to provide to each early voting clerk an online tool that enabled a person who submitted an application for a ballot to vote by mail to track the location and status of the application and ballot on the websites of the secretary and, if applicable, the county. The online tool would have to require voters, before accessing such information, to provide their name, registration address, the last four digits of their Social Security number, and either a driver's license number or personal identification card number issued by the Department of Public Safety.

The online tool would be required to update the applicable website or websites as soon as practicable after each of the following events occurred:

- receipt by the early voting clerk of the person's application for a mail-in ballot;
- acceptance or rejection of the application;
- the ballot's placement in the mail by the early voting clerk;
- receipt by the clerk of the marked ballot; and
- acceptance or rejection of the ballot by the early voting ballot board.

Ballot status information would not be considered public information for the purposes of state law until after Election Day. The secretary of state would be required to adopt rules and prescribe procedures necessary to implement the provision and use of the online tool.

CSHB 1382 would require an early voting clerk for a primary or general election of state and county officers to submit to the secretary of state for posting on the secretary's website Election Day information from rosters of early ballot voters no later than 11 a.m. on the day after the election. The final rosters containing early voter information would have to be submitted no later than 20 days after the local canvass. Early voting information would have to be posted in a downloadable format on the secretary of state's website no later than 11 a.m. on the day after the receipt of the information.

The bill's provisions would apply beginning with an application for a mail-in ballot for an election held on or after January 1, 2022.

The bill would take effect September 1, 2021.

SUBJECT: Revising regulation of insurers' assets under Asset Protection Act

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Oliverson, Vo, J. González, Hull, Israel, Middleton, Paul,  
Romero, Sanford

0 nays

WITNESSES: For — (*Registered, but did not testify*: Jay Thompson, Afact; Deborah Polan, AIG; Joe Woods, American Property and Casualty Insurance Association; Megan Herring, Texas Association of Business; Jennifer Cawley, Texas Association of Life & Health Insurers; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; Barbara Salyers, Texas Mutual Insurance Company)

Against — None

On — Luke Bellsnyder, Texas Department of Insurance

BACKGROUND: Insurance Code ch. 422 governs the Asset Protection Act. Its purpose is to:

- require an insurer to maintain unencumbered assets in an amount equal to the insurer's reserve liabilities;
- provide preferential claims against assets in favor of an owner, beneficiary, assignee, certificate holder, or third-party beneficiary of an insurance policy; and
- prevent the pledge or encumbrance of assets in excess of certain amounts without a prior written order of the commissioner of insurance.

Sec. 422.033(1) defines "asset" as any property in which an insurer owns a legal or equitable interest.

Sec. 422.051 requires an insurer to at all times maintain unencumbered assets in an amount equal to the insurer's reserve liabilities. An insurer

may not pledge or otherwise encumber the insurer's assets in an amount that exceeds the amount of the insurer's capital and surplus, or more than 10 percent of the insurer's reserve assets.

Sec. 422.005 exempts certain contracts, insurers, and reinsurance agreements from the Asset Protection Act.

Concerns have been raised that the Asset Protection Act does not reflect current marketplace practices and puts insurers domesticated in Texas at a disadvantage in complex transactions when compared to insurers from other jurisdictions. Suggestions have been made to update marketplace practices, provide consistent definitions, revise reporting requirements, and give domestic insurers parity with insurers from other jurisdictions.

**DIGEST:** CSHB 3754 would amend certain provisions in the Asset Protection Act.

The bill would change the definition of "asset" to include any property in which an insurer owned a legal or equitable interest that was reported as an asset in the domestic insurer's statutory financial statements most recently filed with the Texas Department of Insurance (TDI).

The bill would require the calculation of quantitative limits under Insurance Code sec. 422.051 to be based on the statutory financial statements for the insurer most recently filed with the department as of the date compliance was determined.

The bill would expand exemptions under the Asset Protection Act to include any pledge, encumbrance, or lien contemplated by or customarily included in the documentation for certain authorized investments, transactions, and custodial or trust agreements.

CSHB 3754 would make other changes related to a claimant lien on certain assets and preferential claims on liquidation as specified in the bill.

The bill would take effect September 1, 2021.

SUBJECT: Requiring the disannexation of Lost Creek by the City of Austin

COMMITTEE: Land and Resource Management — favorable, without amendment

VOTE: 6 ayes — Deshotel, Leman, Biedermann, Burrows, Craddick, Spiller

3 nays — Romero, Rosenthal, Thierry

WITNESSES: For — Philip Howry and Missy Speer, Save Lost Creek; Kerri Baldwin; Matthew Berend; Amy Brady; Brittany McFarland; Katie Tucker; (*Registered, but did not testify*: Roger Borgelt, Ryan Brannan, Chris Hosek, Drew Lawson, and Todd Sorrel, Save Lost Creek; Mia McCord, Texas Conservative Coalition; and 20 individuals)

Against — Jonathan Kringen and Rob Vires, City of Austin; Mark Jones; Marc Stephenson; Leah Stewart; (*Registered, but did not testify*: Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; Julie Wheeler, Travis County Commissioners Court)

DIGEST: HB 3827 would require a municipality (Austin) to disannex an annexed area that:

- contained an access point to a greenbelt and at least 1,200 single-family homes;
- was separated from two other municipalities other than the municipality in which the area was located only by a highway; and
- before annexation, was part of a single census designated place and was served by a municipal utility district that owned a water treatment and storage facility (Lost Creek).

If the water treatment and storage facility of the area had been transferred to the municipality during annexation, the municipality would retain ownership of the facility after disannexation of the area.

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:

HB 3827 would disannex Lost Creek from the City of Austin, which annexed the area in 2015 when legislative efforts to prohibit unilateral municipal annexation were not yet in effect. Residents of Lost Creek opposed the area's annexation. It is appropriate for the area to be disannexed by HB 3827, as other avenues to separation from the City of Austin would be overly burdensome and unlikely to succeed. The bill would address a specific situation that could not occur again under current state law and so would not create a precedent for disannexation by legislation.

Since being annexed by Austin, the residents of Lost Creek have experienced a sharp rise in property taxes and crime accompanied by a decline in police, fire, and other services. By separating Lost Creek from Austin, HB 3827 would allow residents to receive better essential services and protect their community from burdensome city codes. If the City of Austin had planned services and infrastructure effectively since the annexation of Lost Creek, the residents would not be seeking disannexation.

Concerns about the need for an election and clearer plans for essential services following disannexation could be addressed in ongoing discussions.

CRITICS  
SAY:

HB 3827 would be an unnecessary legislative interruption of local control based on tenuous claims of inadequate city services. The bill is unnecessary because state law already provides judicial means for a neighborhood to pursue disannexation due to a city's failure to keep its obligations. Disannexing Lost Creek through legislation would encourage other high-income neighborhoods to pursue the same course to the detriment of city resources.

City of Austin police provide full services to Lost Creek with response times comparable to the rest of the city, and there has not been a significant rise in crime in the neighborhood. In addition, the bill does not provide a clear plan for replacing city services for Lost Creek that would be lost upon disannexation. Allowing Lost Creek to disannex would inhibit Austin's ability to plan and budget citywide services effectively, and in particular would likely negatively impact the quality of fire services

in the area, since the Austin Fire Department would not be able to move forward with a planned station in the area if Lost Creek would no longer be contributing to its funding.

OTHER  
CRITICS  
SAY:

HB 3827 should not automatically disannex Lost Creek from Austin but should require a formal election by the residents to determine whether or not to disannex.

- SUBJECT:** Creating a grant program for body worn camera data storage costs
- COMMITTEE:** Homeland Security and Public Safety — favorable, without amendment
- VOTE:** 9 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt
- 0 nays
- WITNESSES:** For — (*Registered, but did not testify*: Philip Mack Furlow, 106th Judicial District Attorney; Melissa Shannon, Bexar County Commissioners Court; Guadalupe Cuellar, City of El Paso; TJ Patterson, City of Fort Worth; Chris Jones and Charley Wilkison, Combined Law Enforcement Associations of Texas (CLEAT); M. Paige Williams, Dallas County Criminal District Attorney John Creuzot; Frederick Frazier, Dallas Police Association and FOP716 State FOP Director; James Parnell, Dallas Police Association; Daniel Collins, El Paso County; David Sinclair, Game Warden Peace Officers Association; Ender Reed, Harris County Commissioners Court; Jessica Anderson, Houston Police Department; Ray Hunt, HPOU; Noel Johnson, JPCA; Carlos Lopez and Jama Pantel, Justices of the Peace and Constables Association of Texas; James Smith, San Antonio Police Department; Brian Hawthorne, Sheriffs Association of Texas; Maggie Luna, Statewide Leadership Council; Sarah Reyes, Texas Criminal Justice Coalition; John Wilkerson, Texas Municipal Police Association; John Chancellor, Texas Police Chiefs Association; Julie Wheeler, Travis County Commissioners Court; Richard Bohnert; Thomas Parkinson; Michael Wolfe)
- Against — None
- On — (*Registered, but did not testify*: Cullen Grissom, Texas Commission on Law Enforcement)
- BACKGROUND:** Occupations Code sec. 1701.652 allows a police department, a sheriff of a county in Texas who has received the approval of the commissioners court for the purpose, or the Department of Public Safety to apply to the Office of the Governor for a grant to defray the cost of implementing a

body worn camera program and to equip peace officers with body worn cameras if that law enforcement agency employs officers who meet certain conditions.

Concerns have been raised about the potentially high costs of storing the footage from body worn police cameras, which can fluctuate significantly depending on how long the records are kept and how often officers have their cameras turned on. Some have called for grant resources to be made available specifically to address the costs relating to the storage of this footage.

**DIGEST:** HB 1938 would allow a law enforcement agency in Texas that provided body worn cameras to its peace officers to apply to the office of the governor for a grant to defray the cost of data storage for recordings created with the body worn cameras. The grant program could be funded by federal funds or by gifts, grants, and donations.

The bill would take effect September 1, 2021.

- SUBJECT:** Allowing appeals from certain interlocutory orders for certain contractors
- 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 — Timothy Herbert; (*Registered, but did not testify*: Steven Albright, Associated General Contractors of Texas-Highway Heavy Utility and Industrial Branch; Lee Parsley, Texans for Lawsuit Reform)
- Against — None
- BACKGROUND:** Civil Practice and Remedies Code sec. 51.014(a) specifies which interlocutory orders made by district courts, county courts at law, statutory probate courts, or county courts can be appealed. Sec. 51.014(a)(8) allows appeal from an interlocutory order that grants or denies a plea to the jurisdiction by a governmental unit.
- Under Civil Practice and Remedies Code sec. 97.002, a contractor who constructs or repairs a highway, road, or street for the Texas Department of Transportation (TxDOT) is not liable to a claimant for personal injury, property damage, or death arising from the performance of the construction or repair if, at the time of the injury, damage, or death, the contractor is in compliance with contract documents material to the condition or defect that was the proximate cause of the injury, damage, or death.
- Concerns have been raised about the appeals process for interlocutory orders denying a motion for summary judgment in certain cases relating to contractors who construct or repair a highway, road, or street for TxDOT. As a governmental unit, TxDOT is allowed to appeal such an interlocutory order, and because Civil Practice and Remedies Code sec. 97.002 gives highway construction contractors working under a TxDOT contract the same immunity as TxDOT, some have called for such

contractors to have the same access as TxDOT to the expedited appeals process in presenting their immunity.

DIGEST: HB 2086 would authorize the appeal of an interlocutory order made by a district or county court that denied a motion for summary judgment filed by a contractor based on the limited liability of a contractor who constructs or repairs a highway, road, or street for the Texas Department of Transportation.

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.