HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Monday, May 03, 2021
87th Legislature, Number 47
The House convenes at 10 a.m.
Part Two

One joint resolution is on the Major State Calendar and 44 bills are on the General State Calendar for second reading consideration today. The joint resolutions and 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: Defense and Veterans' Affairs; Land and Resource Management; Higher Education; Ways and Means; Licensing and Administrative Procedures; Criminal Jurisprudence; and Environmental Regulation.

Analyses for postponed bills and all bills on second reading can be found online on TLIS and at https://hro.house.texas.gov/BillAnalysis.aspx.

Alma Allen
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report

Monday, May 03, 2021

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Part 2

SUBJECT: Improving training to help educators serve students with disabilities

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 — Kristin Mcguire, TCASE; Christine Broughal, Texans for Special Education Reform; Amy Litzinger, Texas Parent to Parent; Jennifer Bacak; (*Registered, but did not testify*: Mike Meroney, Academic Language Therapy Association (ALTA); Andrea Chevalier, Association of Texas Professional Educators; Heather Sheffield, Decoding Dyslexia and Texans Advocating for Meaningful Student Assessment (TAMSA).; Steven Aleman, Disability Rights Texas; Lisa Flores, Easterseals Texas; Chloe Latham Sikes, IDRA (Intercultural Development Research Association); Matthew Lovitt, National Alliance on Mental Illness (NAMI) Texas; Taylor Sims, Project Lead the Way; Nancy Walker, Texans Care for Children; Courtney Hoffman, Texas Association for Behavior Analysis Public Policy Group; Barry Haenisch, Texas Association of Community Schools; Linda Litzinger, Texas Parent to Parent; Ashley Ford, The Arc of Texas; Jennifer Gonzalez; Thomas Parkinson)

Against — None

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

DIGEST: HB 159 would add to requirements for educator preparation programs and staff development related to serving students with disabilities. A student with a disability would mean a student who:

- was eligible to participate in a school district's special education program;
- was covered by Section 504 of the Rehabilitation Act of 1973; or

- was covered by the Individuals with Disabilities Education Act.

Educator certification. The State Board for Educator Certification would have to propose rules specifying what each educator was expected to know and be able to do, particularly with regard to students with disabilities. Training requirements for an educator certificate would include demonstration of the following:

- basic knowledge of disability categories under federal law and how they can affect student learning and development and conditions that could be considered a disability under Section 504 and how a condition can affect student learning and development;
- competence in the use of specified proactive instructional planning techniques; and
- competence in the use of evidence-based instructional practices.

Minimum academic qualifications for certification related to instruction in detection and education of students with dyslexia and instruction regarding mental health, substance abuse, and youth suicide would apply to all certifications regardless of whether the certification required a person to possess a bachelor's degree.

Principals. The qualifications for principal certification would have to emphasize, as part of instructional leadership, the principal's ability to create an inclusive school environment and to foster parent involvement, as well as curriculum and instruction management for students with disabilities.

Educator preparation programs. HB 159 would expand the requirements for an educator preparation program's eligibility for approval or renewal to include:

- incorporation of proactive instructional planning techniques throughout coursework and across content areas using a specified framework; and

- integration of inclusive practices for all students and evidence-based instruction and intervention strategies throughout coursework, clinical experience, and student teaching.

The bill would specify that certain educator preparation program standards had to include information about students with disabilities.

Field experience. HB 159 would add requirements for a comprehensive field-based teacher program to be applicable to all students, including students with disabilities, and include curriculum theory and application within diverse student populations. The current requirement that a candidate for certification as a teacher of record complete at least 15 hours of field-based experience would have to involve a diverse student population that, to the greatest extent practicable, included students with disabilities.

Staff development. The bill would require a school district, in designing staff development for an educator other than a principal, to use procedures that ensured the training incorporated proactive instructional planning techniques using a specified framework and integrated inclusive and evidence-based instructional practices for all students, including students with disabilities.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 159 would prepare educators to provide a more inclusive, supportive, and barrier-free educational environment for students with developmental, physical, and intellectual disabilities. It is crucial that all teachers be equipped for diverse learning needs of their students, and the bill would prepare teachers with multiple ways to present information and engage students.

The bill would change requirements for teaching certificates and staff development to integrate evidence-based, inclusive teaching practices. Teachers also are seeking these techniques to improve their ability to help all students, including those in gifted and talented programs, English learners, and students experiencing learning loss due to the pandemic.

CRITICS SAY:

No concerns identified.

SUBJECT: Authorizing MMDs to provide service to public education facilities

COMMITTEE: Public Education — favorable, without amendment

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

0 nays

1 absent — M. González

WITNESSES: For — (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office; Amanda List, Hunton Andrews Kurth; Grover Campbell, TASB; Amy Beneski, Texas Association of School Administrators; Michelle Wittenburg, Texas Public Charter Schools Association)

Against — None

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

BACKGROUND: Local Government Code sec. 375.112 authorizes a municipal management district (MMD) to use its assessments on specified improvement projects. Interested parties note that providing MMDs with specific authority to fund projects related to public education facilities would allow them to partner with a school for projects such as playground and playing field improvements.

DIGEST: HB 2261 would include the construction, acquisition, improvement, relocation, operation, maintenance, and provision of public education facilities and special supplemental services for public education among the improvement projects and services that a municipal management district could provide.

The bill would take effect September 1, 2021.

SUBJECT: Authorizing a civil penalty for interfering with a child custody order

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

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

0 nays

2 absent — Frank, Leach

WITNESSES: For — Derek Berry, Ericka Carrillo, Kimi-Lyn Reed, George Saldana, and Lindsey Urwin, Team 25.03; William Morris, Texas Family Law Foundation; SarahJae Johnston, The Fathers' Rights Movement; Taran Champagne; Stuart McMullen; Cassandra Spencer; (*Registered, but did not testify*: Thomas Parkinson)

Against — Faith Bussey, Just Liberty

On — (*Registered, but did not testify*: Jeffrey Morgan)

BACKGROUND: Penal Code sec. 25.03 makes it an offense for person to commit certain actions that interfere with a child custody order, including taking or retaining a child younger than 18 years of age when the person knew that the taking or retention violated the terms of a judgment or order or when the person had not been awarded custody of the child.

DIGEST: HB 4240 would authorize a municipality or county in this state to adopt an ordinance or order that imposed a civil penalty of not more than $500 for engaging in conduct that constituted an offense under Penal Code sec. 25.03.

The bill would take effect September 1, 2021.

SUPPORTERS SAY: HB 4240 would help to encourage compliance with child custody arrangements and ensure that parents had continuing access to their children by imposing a civil penalty of not more than $500 for interfering with a child custody arrangement. Local law enforcement sometimes has

difficulty enforcing child custody arrangements when parents are in conflict. The threat of a fine could help to deter behavior on the part of a parent that interfered with a child custody arrangement.

CRITICS SAY:

HB 4240 could impose a financial burden on families, especially poor ones, by allowing municipalities and counties to authorize penalties for certain actions that interfered with child custody orders. This could take money from the offender's pocket and impact the individual's ability to pay child support, having negative financial consequences for the family. Moreover, unpaid fines could cause an arrest warrant to be issued and lead to the offender spending time in jail.

SUBJECT: Expanding projects funded under Texas Emissions Reduction Plan

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 8 ayes — Landgraf, Dominguez, Goodwin, Kacal, Kuempel, Morales Shaw, Morrison, Reynolds

0 nays

1 absent — Dean

WITNESSES: For — Michael Lozano, Permian Basin Petroleum Association; Adrian Shelley, Public Citizen; Sam Gammage, Texas Chemical Council; (*Registered, but did not testify*: Marshall Kenderdine, Advanced Environmental Group LLC; Mike Meroney, BASF Corporation; Greg Macksood, Devon Energy; Daniel Womack, Dow Inc.; Cyrus Reed, Lone Star Chapter Sierra Club; William Stevens, Panhandle Producers and Royalty Owners Association; Brian Yarbrough, Port of Corpus Christi Authority; Mark Vickery, Texas Association of Manufacturers; Ryan Paylor, Texas Independent Producers & Royalty Owners Association (TIPRO); Shana Joyce, Texas Oil and Gas Association)

Against — None

On — (*Registered, but did not testify*: Mike Wilson, Texas Commission on Environmental Quality)

BACKGROUND: In 2001, the 77th Legislature created the Texas Emissions Reduction Plan (TERP) to provide financial incentives to eligible individuals, businesses, and government entities to reduce emissions from vehicles and equipment and help the state achieve federal Environmental Protection Agency air quality standards, or "attainment."

Health and Safety Code ch. 386 provides for the establishment of TERP, the programs that may receive funding under the plan, and the allocation of the TERP fund to different programs. Under sec. 386.055, a project receiving funding under TERP may not be used for credit under any state

or federal emissions reduction credit averaging, banking, or trading program.

Some have suggested that existing TERP funds could be used for air monitoring equipment and to enter into contracts for certain emissions control systems to bring nonattainment areas closer to attainment status.

DIGEST:

CSHB 2468 would expand the items receiving grants or funding under the Texas Emissions Reduction Plan (TERP) to include air monitoring equipment and fee-based contracts for the purchase of reductions in nitrogen oxides (NOx) emissions.

TCEQ would have to establish a program to enter into fee-based contracts for the purchase of reductions in NOx emissions that would:

- specify the types of projects that were eligible, such as marine emission capture systems;
- measure NOx emissions input and output on a continuous basis;
- require reduced NOx emissions to be verified and certified;
- assign a dollar per ton fee based solely on the cost of the reduction in NOx emissions;
- require payments under the contract to be made only for actual emissions reductions; and
- authorize TCEQ to enter into multiyear contracts.

TCEQ could enter into such a contract for a project involving a new emissions reduction measure that would otherwise generate marketable credits under a state or federal emissions reduction credit averaging, banking, or trading program if the project was not used for such credit during the term of the contract. A project could be used for the credit if the fee-based contract under this bill had expired or been terminated.

The bill would amend allocations from the TERP fund and account such that:

- the amount that could be used each year to support research related to air quality would be increased from $750,000 to $1 million;

- up to $10 million could be used for air monitoring equipment to be used in nonattainment areas and affected counties; and
- the balance could be used by TCEQ for fee-based contracts for NOx emissions reductions.

The bill would increase from $2.5 million to $5 million the amount that could be used to make necessary demonstrations to the U.S. Environmental Protection Agency to account for the impact of foreign emissions or an exceptional event.

The bill would take effect September 1, 2021.

SUBJECT: Prohibiting punitive action without investigation for some fire fighters

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 — Michael Glynn, Texas State Association of Firefighters; (*Registered, but did not testify*: Aidan Alvarado, Laredo Firefighters Association; Leroy Garcia, Mission Firefighter Association; Michael Silva and Jack Todd, Texas State Association of Fire Fighters)

Against — None

BACKGROUND: Some have suggested that most professional fire fighters should be guaranteed the right to a formal investigation of complaints against them for alleged misconduct.

DIGEST: HB 1973 would prohibit a municipality from taking punitive action, including suspension, demotion, reprimand, or a combination of these actions, against a firefighter employed by the municipality unless an investigation had been conducted in accordance with certain procedures related to police and firefighters under the Local Government Code or other applicable law.

The bill would require a city to which these procedures or another substantively similar set of investigation requirements did not apply to adopt and comply with procedures substantially identical to those required under that law for certain municipalities with a population of 460,000 and a city manager form of government. The bill also would require that a copy of a signed complaint against a municipal fire fighter be given to the fire fighter in accordance with the adopted procedures.

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

NOTES:

The bill's author plans to offer a floor amendment specifying that the bill would:

- apply only to a municipality with a population of 10,000 or more;
- supersede a conflicting provision in a meet and confer or collective bargaining agreement; and
- apply only to an agreement entered into on or after the bill's effective date.

SUBJECT: Modifying certain provisions related to the protective order registry

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 8 ayes — Leach, Davis, Julie Johnson, Krause, Middleton, Moody, Schofield, Smith

0 nays

1 absent — Dutton

WITNESSES: For — (*Registered, but did not testify*: Jama Pantel, Justices of the Peace and Constables Association of Texas; Thomas Parkinson)

Against — None

On — Kimberly Piechowiak, Office of Court Administration

BACKGROUND: Under Government Code sec. 72.153, the Office of Court Administration (OCA) must establish and maintain a centralized internet-based registry for applications for protective orders filed in Texas and protective orders issued in Texas.

Code of Criminal Procedure ch. 7B, subch. A establishes provisions on protective orders for victims of sexual assault or abuse, stalking, or trafficking.

The 86th Legislature enacted SB 325 by Huffman, which required OCA to develop a protective order registry. Some have suggested that the registry has been successful in helping victims but that additional statutory revisions and clarifications are needed for the administration of the registry, and there have been requests from OCA for such revisions to increase the registry's effectiveness.

DIGEST: CSHB 2702 would expand applicability of statutory provisions for the protective order registry maintained by the Office of Court Administration (OCA) to include protective orders for victims of sexual assault or abuse,

stalking, or trafficking, and to applications for those orders. OCA could not allow a member of the public to access through the registry any information related to a temporary ex parte order for such a protective order or to a protective order that was vacated.

The bill would require the clerk of the applicable court to ensure that a record of a vacated order was not accessible by the public. The bill also would require the clerk to notify OCA of any protective order that was vacated as the result of an appeal or bill of review from a district or county court by the end of the next business day after the date the order was vacated. OCA would have to remove such records from the registry not later than the third business day after the date the notice from the clerk was received.

As soon as practicable after bill's effective date, OCA would have to remove the record of any protective orders that had been vacated as the result of an appeal or bill of review from a district or county court from the registry and to ensure that any other vacated protective orders were not accessible by the public.

The bill would take effect September 1, 2021, and would apply only to an application for a protective order filed or a protective order issued on or after that date.

SUBJECT: Requiring HHSC to provide co-navigation services for deaf-blind persons

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Frank, Hinojosa, Hull, Meza, Neave, Noble, Rose

1 nay — Shaheen

1 absent — Klick

WITNESSES: For — Kim Powers, Deaf Blind Service Center of Austin; Erik Hammer; (*Registered, but did not testify*: Dennis Borel, Coalition of Texans with Disabilities; Lucy Robles, Deaf Grassroot Movement of Texas; Linda Litzinger, Texas Parent to Parent; Amy Litzinger)

Against — None

On — Ron Lucey and Randi Turner, Office of the Governor-Committee on People with Disabilities; (*Registered, but did not testify*: Lorraine Breslow, HHSC)

BACKGROUND: Interested parties note that about 2,500 Texans are challenged with hearing and vision loss and not all qualify for existing state-supported services such as the Deaf-Blind with Multiple Disabilities Medicaid waiver program. As a result, these individuals rely primarily on volunteers whose services often are difficult to obtain. Suggestions have been made to establish a co-navigator services program within the Health and Human Services Commission.

DIGEST: HB 3287 would require the Health and Human Services Commission (HHSC) by September 1, 2022, to operate a statewide co-navigation services program through which the commission would reimburse trained co-navigators for providing certain services to deaf-blind individuals.

Definition. The bill would define "co-navigation services" as services provided to a deaf-blind person that assisted the person to physically access the person's environment and to make informed decisions. The

term would include providing visual and environmental information or sighted guide services and assisting with communication accessibility by communicating in the deaf-blind person's preferred language and communication mode.

The term would not include performing any of the following for the person:

- providing personal care services;
- completing ordinary errands;
- making decisions;
- teaching or otherwise instructing; or
- interpreting in a formal setting, including a medical, legal, or business setting.

Duties of HHSC. The bill would require HHSC to ensure that quality co-navigation services were provided by:

- monitoring co-navigators' compliance with program rules;
- developing funding sources that were in addition to state sources and that would reduce reliance on the state sources for the program's continuation; and
- providing funding and technical assistance for training programs for co-navigators and deaf-blind persons.

The executive commissioner of HHSC by rule would have to establish reimbursement rates for co-navigators using a tiered wage scale based on a co-navigator's level of training in certain communication techniques.

Other provisions. The bill would authorize the executive commissioner to establish an advisory committee to advise the commission in developing and operating the program. The committee would be required to include persons who are deaf-blind and other stakeholders.

By September 1, 2022, the executive commissioner would have to adopt rules to implement the co-navigation services program.

Under the bill, the executive commissioner could adopt rules to operate the program efficiently and ensure that co-navigators receiving reimbursement had adequate training to provide services.

The bill would take effect September 1, 2021.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about $1.4 million to general revenue through fiscal 2023.

SUBJECT: Changing the criteria for actual progress by a condemning entity

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 8 ayes — Deshotel, Leman, Biedermann, Burrows, Craddick, Rosenthal, Spiller, Thierry

1 nay — Romero

WITNESSES: For — (*Registered, but did not testify*: Petrus Wassdorf, Delta Troy Interests; Adrian Shelley, Public Citizen; Eric Opiela, South Texans' Property Rights Association; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Josh Winegarner, Texas Cattle Feeders Association; Brian Adamek, Russell Boening, Mark Daniel, John Griffith, J. Walt Hagood, Charlie Leal, Pat McDowell, and Kevin Wikerson, Texas Farm Bureau; Jennifer Bremer, Texas Land & Mineral Owners Association; Rita Beving, Texas Landowners for Eminent Domain Reform; Jessica Karlsruher, TREAD Coalition; Trey Duhon, Waller County; and 10 individuals)

Against — Lee Christie, Tarrant Regional Water District; (*Registered, but did not testify*: Lisa Kaufman, Coalition for Critical Infrastructure; Chris Wallace, North Texas Commission; Ben Shepperd, Permian Basin Petroleum Association; Blaire Parker, San Antonio Water System; John Dahill, Texas Conference of Urban Counties; Monty Wynn, Texas Municipal League)

BACKGROUND: Property Code sec. 21.101 establishes that a person from whom a real property interest is acquired by an entity through eminent domain for a public use, or that person's heirs, successors, or assigns, is entitled to repurchase the property if no actual progress is made toward the public use for which the property was acquired within 10 years of acquisition. Actual progress may be demonstrated by the completion of any two of certain specified actions.

DIGEST: CSHB 2044 would increase from two to three the minimum number of specified actions a condemning entity had to perform to meet the criteria

for actual progress for the purpose of determining the right of owners or their heirs to repurchase real property from the entity. The bill would eliminate certain options from those actions, including the acquisition of real property adjacent to the property for the same public use.

A navigation district or port authority, or a water district implementing a project included in the state water plan adopted by the Texas Water Development Board, could establish actual progress by performing one of the specified actions and by a majority of the entity's governing body at a public hearing adopting a development plan for a public use project indicating that the entity will not complete more than one other specified action before the 10th anniversary of the acquisition of the property.

The bill would add to the specified actions contracting with an architect, engineer, or surveyor who performs a significant amount of work related to the relevant project, in addition to the current law action of hiring such a person. Significant work would include preparation of an easement for property acquired for the project.

The bill would take effect September 1, 2021, and would apply only to a real property interest acquired through a condemnation proceeding in which the petition was filed on or after that date.

SUPPORTERS SAY:

CSHB 2044 would strengthen private property rights by enabling landowners to repurchase their property unless it was substantively demonstrated that within 10 years actual progress had been made on a project for which land had been acquired by eminent domain. The bill would eliminate provisions that allow condemning entities to claim that actual progress has occurred and retain acquired land indefinitely without even beginning work on the project.

The requirements that CSHB 2044 would set for demonstrating progress are not especially burdensome. It is reasonable to expect that when property has been acquired for public use against the will of the landowner, concrete progress should be shown within 10 years. Taxpayers and public interest are not benefited by projects that are not substantially progressing.

CRITICS SAY:

CSHB 2044 could make it more difficult for municipalities to plan and carry out large infrastructure projects, which may face complex funding and permitting hurdles and often require the acquisition of land far in advance of completion. Making it easier for landowners to repurchase property acquired through eminent domain could lead to unnecessary litigation and increased costs that could be borne by taxpayers. The current requirements for actual progress reflect an appropriate balance between public and private interests.

NOTES:

According to the Legislative Budget Board, the bill would have an indeterminate fiscal impact to the state due to the case by case nature of the requirements on condemnations.

SUBJECT: Authorizing the issuance of Texas Mobility Fund obligations

COMMITTEE: Transportation — committee substitute recommended

VOTE: 11 ayes — E. Thompson, Ashby, Bucy, Harris, Landgraf, Lozano, Martinez, Ortega, Perez, Rogers, Smithee

0 nays

2 absent — Canales, Davis

WITNESSES: For — Steven Albright, Associated General Contractors of Texas-Highway Heavy Utility and Industrial Branch; (*Registered, but did not testify*: Anne O'Ryan, AAA Texas; Brian O'Reilly, Alamo RMA, Cameron County RMA, Camino Real RMA, Central Texas RMA, Grayson County RMA, North East Texas RMA, and Webb County-City of Laredo RMA; Scott Stewart, American Council of Engineering Companies of Texas; Dana Harris, Austin Chamber of Commerce; Eric Bustos, Capitol Metro; Kathy Sokolic, Central Texas Families for Safe Streets; Tammy Embrey, City of Corpus Christi; Jon Weist, City of Irving; Kyle Mauro, City of Nacogdoches; Jay Crossley, Farm&City; Ray Sullivan, HNTB; Patrick Brophey, North Texas Commission; Hugo Berlanga, Nueces County; Alina Carnahan, Real Estate Council of Austin; Geoffrey Tahuahua, Real Estate Councils of Texas; Martin Gutierrez, San Antonio Hispanic Chamber of Commerce; Colin Parrish, Statehouse Consultants; Mackenna Wehmeyer, TAG Houston and Texas Rail Advocates; John Esparza, Texas Trucking Association; Drew Campbell, Transportation Advocates of Texas; Marc Rodriguez, VIA Metropolitan Transit Authority; Dale Laine, VIA Transit; Tara Snowden, Zachry Corporation)

Against —Terri Hall, Texas TURF, Texans for Toll-free Highways; Don Dixon

On — James Bass, Texas Department of Transportation

BACKGROUND:

Transportation Code sec. 201.943 authorizes the Texas Transportation Commission to issue obligations secured by and payable from a pledge of and lien on all or part of the money in the Texas Mobility Fund, for a maturity up to 30 years. Obligations may be issued to pay the costs of constructing, acquiring, and expanding state highways, to provide state payments for the costs of constructing and providing publicly owned toll roads and other public transportation projects, and on debt service or other costs.

Sec. 201.943(l) prohibits obligations from being issued after January 1, 2015, except to refund outstanding obligations.

DIGEST:

CSHB 2219 would authorize the Texas Transportation Commission to issue Texas Mobility Fund obligations.

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 2219 would reauthorize the issuance of Texas Mobility Fund (TMF) obligations, allowing the fund to operate as intended by Texas voters. In 2001, a constitutional amendment to issue debt was approved by voters, and the Legislature dedicated certain revenues including vehicle title, inspection, and driver's license fees to the TMF, which secured the debt. As Texas grows, so does the gap in funding for vital transportation projects, which amounts to several billion dollars each year. The bill would allow the Texas Transportation Commission to use the $3 billion in borrowing capacity in the TMF to help close that gap and finance vital infrastructure.

The traditional pay-as-you-go funding for transportation has not been enough to cover the costs of transportation projects as the state's population and the number of vehicles grow. Texas will not catch up if it does not innovate its transportation financing methods. The bill would reauthorize a financing tool at a time of historically low interest rates that would come at no cost to general revenue since the obligations are backed by dedicated funds. This would provide immediate benefits and the debt service would be paid down over time by the dedicated funds.

CRITICS SAY:

The Legislature should not issue new state debt to finance transportation projects through CSHB 2219. Such projects should be funded using existing resources, on a pay-as-you-go basis, rather than tying up future funds to pay increasing debt service costs.

NOTES:

According to the Legislative Budget Board, the bill would have no impact to general revenue through fiscal 2023. If the Texas Transportation Commission issued $1.5 billion in obligations in fiscal 2022, this amount would be credited to the Texas Mobility Fund (TMF). Debt service payments on the obligations would begin in fiscal year 2023 at an estimated cost of $40 million to the TMF.

SUBJECT: Framework for broadband attachments on electric cooperative utility poles

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 10 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, P. King, Metcalf, Raymond, Shaheen, Smithee

0 nays

3 absent — Hunter, Lucio, Slawson

WITNESSES: For — Juli Blanda, Cable One; Todd Baxter and Luke Platzer, Charter Communications; Tom Giovanetti, Institute for Policy Innovation; Johnny Kampis, Taxpayers Protection Alliance; Walt Baum, Texas Cable Association; (*Registered, but did not testify*: Richard Dennis, Coastal Bend College; Frederick Frazier and James Parnell, Dallas Police Association; Richard Lawson, Frontier Communications; Ray Hunt, Houston Police Officer Union; Juan Garcia, Latino Farmers and Ranchers Trade Association; John McCord, NFIB; Yvette Clay, North Texas Commission; Julian Martinez, SeR Jobs for Progress National; Todd Morgan, T-Mobile; Bill Sproull, Tech Titans; Marshall Kenderdine, Texas Academy of Family Physicians; Charles O'Neal, Texas Association of African American Chambers of Commerce; Grover Campbell, Texas Association of School Boards; Ray Sullivan, Texas Association of Business; Jennifer Bergland, Texas Computer Education Association; Dallas Reed, Texas Municipal Police Association; Robert Scott, Texas Rural Broadband Coalition; Neal T. Buddy Jones, Texas Technology Consortium; Dana Harris, The Greater Austin Chamber of Commerce)

Against — William Hetherington, Bandera Electric Cooperative; Darren Schauer, Guadalupe Valley Electric Cooperative; Kathi Calvert, Houston County Electric Cooperative; Eric Craven, Texas Electric Cooperatives; Robert Walker, Upshur Rural Electric Cooperative; (*Registered, but did not testify*: John T. Wright, Big Sandy Sand Company; Greg Jones, Cherokee County Electric Cooperative; Nelson Nease, East Texas Electric Cooperative, Inc.; Mark Tamplin, Japer-Newton Electric Cooperative, Inc.; Doug Turk, Sam Houston Electric Cooperative; Robert Howard,

South Texans' Property Rights Association; Cliff Campbell and Trey Teaff, Wood County Electric Cooperative; Russell Parish)

On — JP Urban, AECT; Kaleb McLaurin, Texas and Southwestern Cattle Raisers Association; (*Registered, but did not testify*: Thomas Parkinson)

BACKGROUND: Some have suggested that certain practices by electric cooperatives regarding access to electric poles can act as a barrier to broadband deployment, including in underserved areas and that a modernized pole attachment regime for electric cooperatives should be established to promote consistency, fairness, and transparency in the deployment of broadband service to rural Texas.

DIGEST: CSHB 1505 would establish a framework for the affixture of a pole attachment by a broadband provider to a pole owned and controlled by an electric cooperative, including an application process and contracts, procedures related to make-ready activities and attachment specifications, and cost sharing of pole modifications and replacements.

The bill would define "pole attachment" as an affixture of cables, strands, wires, and associated equipment used in the provision of a broadband provider's services attached to a pole directly or indirectly or placed in a right-of-way owned or controlled by an electric cooperative.

Pole access. A broadband provider could not access a pole owned by an electric cooperative for the purpose of placing a pole attachment unless the provider applied for that access.

A broadband provider that attached a pole attachment could use the attachment for any service delivered over the provider's facilities, including cable service.

An electric cooperative could not deny access to a pole if a capacity, safety, reliability, or engineering consideration that would supply a basis for denial of access under federal law or any rule, regulation, or order issued by the Federal Communications Commission (FCC) could be remedied by rearranging, expanding, replacing, or otherwise safely reengineering the pole or pole attachments through make-ready activities.

An electric cooperative granting access would have to rearrange, expand, replace, or otherwise safely reengineer any pole if it was reasonably necessary to do so to accommodate a pole attachment and consistent with applicable safety and engineering standards as authorized under the bill.

Pole attachment contracts. An electric cooperative that owned a pole could require a broadband provider that attached a pole attachment to enter into a contract for access to the pole.

The terms and conditions of a contract would have to be consistent with federal law governing pole attachments as it existed on April 1, 2021, and any rule, regulation, or order issued by the FCC that existed on that date, unless if the terms and conditions addressed recurring pole rental rates.

Rates, terms, and conditions. A broadband provider and an electric cooperative would have to establish the rates, terms, and conditions for pole attachments by a written contract executed by both parties. The rates would have to be just, reasonable, and nondiscriminatory. In determining whether rates were just and reasonable, certain factors listed in the bill would have to be considered.

A broadband provider and an electric cooperative would have to negotiate a pole attachment contract and any amendment, modification, or renewal thereof in good faith. A request to negotiate a new pole attachment contract or to amend, modify, or renew a contract by a broadband provider or an electric cooperative would have to be made in writing.

Contract negotiations, mediation. If a broadband provider and an electric cooperative were unable to agree to a new pole attachment contract before the expiration date of an existing contract, the rates, terms, and conditions of the existing contract and the terms and conditions of the electric cooperative's application and permitting processes would remain in force for certain time periods after expiration and during negotiation or mediation.

The bill would provide for a mediation process if a broadband provider and an electric cooperative were unable to agree to a new pole attachment

contract before the 91st day after the expiration date of an existing contract and were unable to agree to an extension of the negotiation period for a certain number of days.

If the mediation process did not resolve the disagreement over rates, terms, or conditions of a new pole attachment agreement, or if a dispute arose under the terms of an existing agreement, the broadband provider or the electric cooperative could file suit in a district court to resolve the disagreement or dispute, including to enforce the terms of the agreement.

Pole replacement costs. An electric cooperative that replaced a pole would have to assess charges from a broadband provider consistent with federal law governing pole attachments as it existed on April 1, 2021, and any rules, regulations, or orders issued by the FCC under such law on or before that date.

The Public Utility Commission (PUC) would have to adopt and enforce rules regarding the compensation that an electric cooperative could require from a broadband provider to replace a pole if federal law was amended or a rule, regulation, or order issued by the FCC was repealed, amended, or replaced in a manner that pertained to the charges that could be assessed by a pole owner for a pole replacement. A PUC rule would have to be just, reasonable, and nondiscriminatory, and in adopting the rules, the PUC would have to consider certain items as listed in the bill.

Transfer of attachments. Before an electric cooperative installed a new pole to replace an existing pole due to the rerouting, maintenance, or upgrading of the electric distribution system, the cooperative would have to provide notice of the replacement to each broadband provider with a pole attachment on the existing pole.

The notice would have to specify a date by which the broadband provider had to remove the pole attachment from the existing pole and transfer the attachment to the new pole.

If a broadband provider did not transfer a pole attachment within 31 days after the date specified in the notice, the electric cooperative could transfer

the pole attachment at the broadband provider's expense, including the cost for the electric cooperative to return to the site.

A broadband provider would have to indemnify, defend, and hold harmless an electric cooperative and the cooperative's members, directors, officers, agents, and employees from and against all liability for the removal and transfer of a pole attachment, except for personal injury or property damage arising from the gross negligence or willful misconduct of the cooperative during the removal and transfer process.

Abandoned pole attachments. A broadband provider that received a written request from an electric cooperative to remove an abandoned pole attachment owned by the provider from a pole owned by the cooperative would have to remove the attachment within 60 days of receiving the request. Before the deadline, a broadband provider could request, and an electric cooperative could grant, a reasonable extension of that deadline.

If a broadband provider did not remove a role attachment by the deadline, the electric cooperative could remove, use, sell, or dispose of the pole attachment at the broadband provider's expense.

An electric cooperative could require that a broadband provider post a security instrument in an amount reasonably sufficient to cover the potential cost to the electric cooperative of removal and disposal of abandoned pole attachments.

A broadband provider would have to indemnify, defend, and hold harmless an electric cooperative and the cooperative's members, directors, officers, agents, and employees from and against all liability for the removal, use, sale, or disposal of abandoned pole attachments, except for personal injury or property damage arising from the gross negligence or willful misconduct of the cooperative during the removal and disposal process.

Easements. A broadband provider would be responsible for obtaining all rights-of-way and easements necessary for the installation, operation, and maintenance of the provider's pole attachments. An electric cooperative

would not be required to obtain or expand a right-of-way or easement to accommodate a pole attachment requested by a broadband provider.

An electric cooperative would not be liable if a broadband provider was prevented from placing or maintaining a pole attachment because the broadband provider did not obtain a necessary right-of-way or easement.

A broadband provider would have to indemnify, defend, and hold harmless the electric cooperative and the cooperative's members, directors, officers, agents, and employees from and against any liability resulting from the broadband provider's failure to obtain a necessary right-of-way or easement for a pole attachment.

Other provisions. The bill would apply to a pole attachment affixed by a broadband provider to a pole owned and controlled by an electric cooperative but would not apply to a pole attachment regulated by the FCC.

The bill would not abrogate or affect a right or obligation of a party to a pole attachment contract entered into by a broadband provider and an electric cooperative before September 1, 2021. The bill would not limit a right of a party to a pole attachment contract to request modification, amendment, or renewal of such contract to conform it to the bill.

The bill would not constitute state certification under federal law regulating pole attachments. If a court determined that the bill constituted certification, the bill would not be enforceable and would have no effect.

The bill could not be construed to subject an electric cooperative to regulation by the FCC. The bill would not authorize a department, agency, or political subdivision of the state to exercise enforcement or regulatory authority over attachments to electric cooperative poles.

Nonrecurring charges authorized by the bill would have to be cost-based.

The bill would take effect September 1, 2021.

SUBJECT: Shortening statutes of limitation and repose for certain construction claims

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 — Ben Westcott, AGC-TBB; Corbin Van Arsdale, AGC-Texas Building Branch; Brian Carroll, American Subcontractor Association; (*Registered, but did not testify*: Scott Stewart, American Council of Engineering Companies of Texas; Joey Bennett, Armko Industries, Inc.; Will McAdams, Associated Builders and Contractors of Texas; CJ Tredway, IEC of Texas; Lee Parsley, Texans for Lawsuit Reform; Raymond Risk, Texas Construction Association; Becky Walker, Texas Society of Architects)

Against — Max Thompson, Banquete ISD, TACS, and TREA; Barry Haenisch, Texas Association of Community Schools; Craig Eiland, Texas Trial Lawyers Association; (*Registered, but did not testify*: Brie Franco, City of Austin; Clifford Sparks, City of Dallas; TJ Patterson, City of Fort Worth; Jon Weist, City of Irving; Christine Wright, City of San Antonio; Bill Kelly, Mayor's Office, City of Houston; Grover Campbell, TASB; Colby Nichols, Texas Association of School Administrators and Fast Growth School Coalition; Monty Wynn, Texas Municipal League)

On — (*Registered, but did not testify*: Thomas Parkinson)

BACKGROUND: Under Civil Practice and Remedies Code secs. 16.008 and 16.009, a person must bring suit for damages for certain claims against a registered or licensed architect, engineer, interior designer, or landscape architect in Texas, who designs, plans, or inspects the construction of an improvement to real property or equipment attached to real property - or against a person who constructed or repaired an improvement to real property - not later than 10 years after the substantial completion of the improvement or the beginning of operation of the equipment in an action arising out of a

defective or unsafe condition of the real property, the improvement, or the equipment. If the claimant presents a written claim for damages, contribution, or indemnity to the design professional or the person performing or furnishing the construction repair within the 10-year limitations period, the period is extended for two years from the day the claim is presented.

DIGEST:

CSHB 3069 would shorten the limitations period under which a governmental entity could bring a suit for damages for certain claims against design professionals who designed, planned, or inspected the construction of an improvement to real property or equipment attached to real property, or against a person who constructed or repaired an improvement to real property, from not later than 10 years after the substantial completion of the improvement or the beginning of the operation of the equipment to not later than eight years after the completion or operation of the equipment.

The bill also would decrease the extension of the limitations period for governmental entity claimants that presented a written claim within the limitations period from two years from the date the claim was presented to one year from that date.

The bill would not apply to claims arising from a contract entered into by the Texas Department of Transportation, a project that received money from the state highway fund or a federal fund designated for highway and mass transit spending, or a civil works project.

The bill would apply only to a cause of action arising out of a design, plan, or inspection of the construction of an improvement to real property or equipment attached to real property, or arising out of construction or repair of real property, that commenced on or after that date. The bill would not apply to such a cause of action under a contract entered into before September 1, 2021.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 3069 would address issues resulting from the lengthy statute of repose for certain claims against a person or design professional who constructs or repairs an improvement to real property by shortening the limitations period during which a governmental entity had to bring suit for damages related to such claims.

Currently in Texas, building owners have 10 years under the statute of repose to discover defects for beginning a construction defect claim, plus two years to file suit after the defect has been discovered if a written claim was presented within the initial 10-year period. By the end of this time period, the architects, interior designers, engineers, and contractors may no longer be in operation, relevant records could be lost, and witnesses could be difficult to locate. Further, there is often a significant amount of wear and tear over the course of a 10- or 12-year period of time, resulting in contractors having to distinguish between defects that existed at the time of completion and effects from use, poor maintenance, secondary repairs, or other issues. The circumstances associated with the lengthy 10- or 12-year period can lead to increased litigation costs ultimately costing taxpayers more money.

The bill would implement a modest shortening of the statute of repose only for certain governmental entities, ensuring that the parties subject to the new limitation still had adequate time to pursue a claim related to construction defects, while also limiting the parties affected by the bill to governmental entities that are often already equipped with the resources and expertise needed to deal with potential design defects soon after the completion of a project. By doing so, CSHB 3069 would provide the limited balance needed to ensure fairness regarding certain claims related to construction defects in Texas.

CRITICS SAY:

CSHB 3069 would limit a governmental entity's ability to seek redress for deficiencies in public projects by reducing the statute of repose for certain governmental entities. The time afforded by the current statute is necessary to ensure quality construction, as it is common for defects to remain undiscovered for years, especially for large projects, which governmental entities engage in regularly.

SUBJECT: Establishing the digital identity work group

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 12 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

1 absent — Lucio

WITNESSES: For — Michael Lewellen, Texas Blockchain Council: (*Registered, but did not testify*: Hope Osborn, Texas 2036; John Fleming, Texas Mortgage Bankers Association; Thomas Parkinson)

Against — (*Registered, but did not testify*: Colt Szczygiel)

BACKGROUND: Interested parties have suggested that physical credentials issued by governmental agencies for identify are susceptible to counterfeiting or fraud and that the use of digital identity presents an opportunity to digitize and secure credentials using innovative methods, including blockchain technology and cryptography. This could lower costs and improve privacy, security, and convenience for governmental agencies, industry, and consumers. Some have called for a work group to be formed to develop recommendations and policies on digital identity technology.

DIGEST: CSHB 2199 would establish a 15-member digital identity work group to develop recommendations for the use of digital identity in Texas and to identify optimal policies and state investments related to digital identity technology.

The work group would have to:

- assess existing digital identity practices in Texas;
- identify areas of concern in current digital identity applications or the lack of applications;

- identify efficiencies and cost savings for governmental agencies and economic growth and development opportunities for Texas presented by digitizing identity;
- review technology standards for digital identity;
- identify attribute validation services at federal governmental agencies; and
- review the federal Improving Digital Identity Act of 2020.

Based on the information gathered, the work group would have to make legislative recommendations not later than September 30, 2022, as appropriate to:

- promote efficiencies in governmental agencies;
- protect the privacy of Texas residents;
- promote portability and interoperability of digital identity credentials; and
- general economic opportunities by prescribing the use of digital identity.

The bill would take effect September 1, 2021.

SUBJECT: Establishing the Texas Woman's University System

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 10 ayes — Murphy, Pacheco, Cortez, Frullo, Muñoz, Ortega, Parker, Raney, C. Turner, J. Turner

0 nays

1 absent — P. King

WITNESSES: For — (*Registered, but did not testify*: Ben Stratmann, Dallas Regional Chamber; Stephanie Hoffman; Thomas Parkinson)

Against — None

On — Dawna-Diamond Tyson and Kathleen Wu, Texas Woman's University Board of Regents; Carine Feyten, Texas Womans University

BACKGROUND: Education Code ch. 107 establishes Texas Woman's University (TWU) as an institution of higher education for women with its main campus at Denton. TWU was founded in 1901 and is the largest public university in the nation primarily for women. In addition to its main campus, TWU has two health science centers located in Dallas and Houston.

Interested parties note that providing a framework for TWU to become a university system would lead to increased enrollment and help Texas meet its workforce needs, including in nursing and other allied health professions, and could be accomplished within TWU's existing resources.

DIGEST: HB 2705 would establish the Texas Woman's University System as a woman-focused system composed of Texas Woman's University, Texas Woman's University at Dallas, and Texas Woman's University at Houston. The Dallas and Houston campuses would be classified as general academic institutions.

The bill would require the board of regents of the university system to appoint a chief executive officer to also serve as the president of Texas Woman's University and would establish that each of the component institutions was under the management and control of the system board. The board of regents would determine how certain state funds were allocated to the component institutions.

The bill would make conforming changes to provide for the transition of the Texas Woman's University to the Texas Woman's University System, including establishing concurrent jurisdiction of campus security personnel and police officers of a municipality in which a component institution of the system was located.

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.

SUBJECT: Requiring a high school elective course on U.S. founding principles

COMMITTEE: Public Education — favorable, without amendment

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

0 nays

1 absent — Lozano

WITNESSES: For — Thomas Lindsay, Texas Public Policy Foundation; (*Registered, but did not testify*: Eddie Conger, International Leadership of Texas Public Charter Schools; Mia McCord, Texas Conservative Coalition (TCC); Jonathan Saenz, Texas Values; Mary Castle, Jonathan Covey, and Gregory McCarthy, Texas Values Action; Karen Marshall; Mike Meroney)

Against — Starlee Coleman, Texas Public Charter School Association; (*Registered, but did not testify*: Chloe Latham Sikes, IDRA (Intercultural Development Research Association); Hillary Lilly, San Antonio ISD; and six individuals)

On — (*Registered, but did not testify*: Eric Marin and Monica Martinez, Texas Education Agency; Annemarie Donnelly; Thomas Parkinson)

DIGEST: HB 1776 would require each school district and open-enrollment charter school that offered a high school program to provide a one-half credit elective course on the founding principles of the United States. The course would have to focus on the principles underlying the U.S. form of government, the Declaration of Independence, the U.S. Constitution, the Federalist Papers, and the writings of the Founding Fathers of the United States.

School district boards of trustees and charter schools would have to permit and encourage the posting in a classroom or school building of a copy of the founding documents of the United States, including the Declaration of

Independence, the U.S. Constitution, the Federalist Papers, and the writings of the Founding Fathers of the United States.

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 1776 would help provide Texas public school students with an understanding of the nation's founding principles, which have contributed to making America exceptional and allowed liberty to flourish. A fundamental knowledge of foundational principles, such as the separation of powers and how laws are made, is essential to the ability of citizens to fully participate in democracy. Today, however, too many native-born Americans cannot pass the citizenship test that is successfully completed by most immigrants seeking to become naturalized citizens.

The bill would encourage schools to post copies of founding documents like the Declaration of Independence and U.S. Constitution to increase student's awareness of the nation's history and government.

While some say the bill would make it harder for certain schools to focus on programs such as African-American studies or Mexican-American studies, a half-credit course on U.S. founding principles still would leave time for other courses of study.

CRITICS SAY:

By mandating a new elective course on the founding principles of the United States, HB 1776 could infringe on the autonomy of schools to create specialized programs of study that help keep students engaged. Schools should have the flexibility to tailor programs as they deem appropriate. Some may prefer to offer programs on the history and experience of specific groups such as African-American studies or Mexican-American studies, and the bill could reduce the amount of time available for such programs.

SUBJECT: Allowing condo unit and property owners' association remote meetings

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 — Doug Plas, Texas Community Associations Advocates; Sipra Boyd, Texas State Bar Real Estate Probate Trust Law Section; (*Registered, but did not testify*: John Krueger, Associa; Nancy Kozanecki, HOA Reform Coalition of Texas; Ned Muñoz, Texas Association of Builders)

Against — None

BACKGROUND: Some have suggested there is a need to explicitly provide authority for condominium unit owners' associations and property owners' associations to meet remotely and vote electronically.

DIGEST: HB 3502 would allow a condominium unit owners' association or a property owners' association to hold a meeting by any method of communication, including electronic and telephonic means as provided by Business Organizations Code sec. 6.002. Voting at such a meeting could be conducted electronically.

The bill would take effect September 1, 2021.

SUBJECT: Possession and regulation of firearm suppressors

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 8 ayes — Paddie, Harless, P. King, Metcalf, Raymond, Shaheen, Slawson, Smithee

2 nays — Hernandez, Deshotel

3 absent — Howard, Hunter, Lucio

WITNESSES: For — Destiny Hallman and Rachel Malone, Gun Owners of America; John Bolgiano, Llano County Patriots; Rick Briscoe, Open Carry Texas; Tom Glass, Texas Constitutional Enforcement; and 13 individuals; (*Registered, but did not testify*: Ruth York, Tea Party Patriots of Eastland County and Texas Family Defense Committee; Mark Borskey, Texas State Rifle Association; Jason Vaughn, Texas Young Republicans; Shelia Franklin, True Texas Project; and 25 individuals)

Against — (*Registered, but did not testify*: Bill Kelly, City of Houston Mayor's Office; Susana Carranza, League of Women Voters of Texas; and 10 individuals)

On — (*Registered, but did not testify*: Tom Maddox, Sheriffs Association of Texas)

BACKGROUND: Penal Code sec. 46.05 establishes a criminal offense for an individual to intentionally or knowingly possess, manufacture, transport, repair, or sell certain weapons, including a firearm silencer, unless the silencer is classified as a curio or relic by the U.S. Department of Justice or the individual otherwise possesses, manufactures, transports, repairs, or sells the silencer in compliance with federal law.

Concerns have been raised that Texas' prohibition on possessing firearm silencers is unnecessary and infringes on the rights of Texans and that the state should not enforce federal laws and regulations that could restrict access to firearm suppressors made and sold in Texas.

DIGEST:

HB 957 would remove firearm silencers from the list of prohibited weapons in Penal Code sec. 46.05 so that it would no longer be an offense to possess a silencer. The bill also would state that a firearm suppressor that was manufactured and remained in Texas would not be subject to federal law or federal regulation under the authority of the United States Congress to regulate interstate commerce.

Defining suppressors made in Texas. Firearm suppressors would be considered to have been manufactured in state if they were manufactured in Texas from basic materials and without any part imported from another state other than a generic and insignificant part. A firearm suppressor would be considered manufactured in this state if it met these criteria without regard to whether a firearm imported into Texas from another state was attached to or used with the suppressor.

The bill also would state that basic material from which a firearm suppressor is manufactured in Texas, including unmachined steel, would not be a firearm suppressor and would not be subject to federal regulation under the authority of the United States Congress to regulate interstate commerce as if it actually were a firearm suppressor.

Firearm suppressors manufactured and sold in Texas would have to have "Made in Texas" stamped on them.

Upon written notification to the Texas attorney general by a U.S. citizen living in Texas of the citizen's intent to manufacture a firearm suppressor that would fall under the bill, the attorney general would be required to seek a declaratory judgment from a federal district court in Texas that the provisions in the bill covering suppressors manufactured in Texas was consistent with the U.S. Constitution.

Enforcement of federal laws concerning suppressors. The bill would prohibit the state of Texas and other entities listed in the bill from adopting a rule, order, ordinance, or policy under which the entity enforced, or allowed the enforcement of, a federal statute, order, rule, or regulation that purported to regulate a firearm suppressor if it imposed a prohibition, restriction, or other regulation that did not exist under Texas laws. In addition, no entity listed in the bill could enforce or attempt to

enforce such a federal statute, order, rule, or regulation, and entities could not receive state grant funds if they adopted a rule, order, or policy under which they enforced such a federal law.

The prohibition would apply to:

- the state of Texas, including an agency, department, commission, board, office, court, or other entity that was in any branch of state government and that was created by the constitution or a Texas statute, including a university system or a system of higher education;
- the governing body of a municipality, county, or special district or authority;
- an officer, employee, or other body that was part of a municipality, county, or special district or authority, including a sheriff, municipal police department, municipal attorney, or county attorney; and
- a district attorney or criminal district attorney.

Complaint process. Citizens living in the jurisdiction of an entity that fell under the bill could file a complaint with the attorney general if the citizen offered evidence to support an allegation that the entity was in violation of the bill's provisions relating to adopting certain polices or allowing the enforcement of certain federal laws. Any evidence the citizen had to support the complaint would have to be included with the complaint.

If the attorney general determined a complaint was valid certain actions could be taken to compel compliance with the bill. The attorney general could apply for relief in a district court in Travis County or a county in which the principal office of the entity was located.

Effective dates. The bill would take effect September 1, 2021. Offenses relating to prohibited firearm silencers could not be prosecuted after the bill's effective date, and criminal actions pending on that date would be dismissed. Final convictions that existed on the bill's effective date would be unaffected by the bill. Other provisions relating to firearm suppressors manufactured in Texas would apply to firearm suppressors manufactured on or after the bill's effective date.

SUBJECT: Creating a Medicaid pilot program for doula services

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Frank, Hinojosa, Hull, Meza, Neave, Noble

1 nay — Klick

2 absent — Rose, Shaheen

WITNESSES: For — Kristin Hutzler, Birth Boot Camp; Haley Rose, Circle Up United Methodist Women for Moms; Melissa Bentley, Pregnancy and Postpartum Health Alliance of Texas; (*Registered, but did not testify*: Stacey Pogue, Every Texan; Myra Leo, Methodist Healthcare Ministries; Alison Mohr Boleware, National Association of Social Workers-Texas Chapter; Nancy Walker, Texans Care for Children; Dan Finch, Texas Medical Association; Eric Woomer, Texas Pediatric Society; Molly Weiner, United Ways of Texas; Georgia Keysor)

Against — None

On — (*Registered, but did not testify*: Emily Zalkovsky, Health and Human Services Commission)

BACKGROUND: Interested parties suggest that interventions can help improve maternal health outcomes in Texas, including by increasing access to doula services for low-income mothers enrolled in Medicaid. Observers note that doula-assisted mothers are four times less likely to have a low birth weight baby and less likely to experience birth complications.

DIGEST: CSHB 158 would require the Health and Human Services Commission (HHSC) to establish a pilot program to provide Medicaid reimbursement for doula services. The executive commissioner of HHSC, in consultation with the Perinatal Advisory Council, by rule would have to determine the qualifications for an individual to be considered a doula and the covered doula services under the program. Under the bill, the commission would prescribe eligibility requirements for participation in the pilot program.

Doula services. "Doula" would mean a nonmedical birthing coach who provided doula services and met the qualifications for a doula under commission rule. "Doula services" would mean nonmedical childbirth education, coaching, and support services, including emotional and physical support provided during pregnancy, labor, delivery, and the postpartum period, or provided intermittently during pregnancy and the postpartum period.

Location of pilot program. By September 1, 2022, the commission would have to implement the pilot program in the state's most populous county and the county with the greatest maternal health support needs, as determined by the county's maternal and infant mortality rates and the number of Medicaid births in the county.

Reports. Beginning in 2023, by September 1 of each year, the commission would have to publish on its website a report evaluating:

- the program's total costs during the preceding year of providing Medicaid reimbursement for doula services; and
- the impact on birth outcomes for women who received doula services.

By September 1, 2026, the commission would have to submit to the Legislature a report that:

- summarized the results of the pilot program, including the program's effectiveness in reducing maternal mortality rates and racial disparities in health outcomes in the geographic areas in which the pilot program operated;
- included feedback from participating doulas and Medicaid recipients who received doula services under the program; and
- included a recommendation on whether the pilot program should be continued, expanded, or terminated.

Other provisions. The bill's provisions would expire September 1, 2027.

The bill would take effect September 1, 2021.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of about $832,000 to general revenue through fiscal 2023.

SUBJECT: Creating criminal offense for boating while intoxicated with a child

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Collier, K. Bell, Cason, Cook, Crockett, Hinojosa, A. Johnson, Murr, Vasut

0 nays

WITNESSES: For — Eric Carcerano, Chambers County District Attorney's Office; Tiana Sanford, Montgomery County District Attorney's Office; (*Registered, but did not testify*: Jennifer Tharp, Comal County Criminal District Attorney; M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Linda Nuno, Dem Party; Alison Baimbridge, Fort Bend County District Attorney's Office; David Sinclair, Game Warden Peace Officers Association; Lindy Borchardt, for Sharen Wilson, Tarrant County Criminal District Attorney; John Wilkerson, Texas Municipal Police Association; Aldo Caldo; Deana Johnston)

Against — (*Registered, but did not testify*: Shea Place, Texas Criminal Defense Lawyers Association)

On — (*Registered, but did not testify*: Bryan Baronet, Texas Parks and Wildlife)

BACKGROUND: Penal Code sec. 49.06 makes boating while intoxicated a crime. Offenses are class B misdemeanors (up to 180 days in jail and/or a maximum fine of $2,000) with a minimum 72 hour term of confinement. Under Penal Code sec. 49.09, repeat intoxication offenses can carry higher penalties.

DIGEST: HB 2505 would create a new offense for boating while intoxicated with a child. It would be a state-jail felony (180 days to two years in a state jail and an optional fine of up to $10,000) to be intoxicated while operating a watercraft with a passenger younger than 15 years.

The offense would be added to provisions that make repeat intoxication offenses carry higher penalties. It also would be included in several other

provisions that relate to intoxication offenses and currently include boating while intoxicated, including provisions on minors operating a watercraft under the influence of alcohol, use of ignition interlock devices, warrants for blood specimens after an arrest, eligibility for community supervision, suspension of drivers' licenses, and the taking of breath or blood specimens.

The bill would take effect September 1, 2021, and to the extent of any conflict, it would prevail over another act of the 87th Legislature, Regular Session, 2021, relating to nonsubstantive additions to and corrections in enacted codes.

SUPPORTERS SAY:

CSHB 2505 would help protect Texas children and treat boating while intoxicated with a child with the seriousness it deserves by creating an offense to cover this conduct. Currently, Texas has an offense for driving while intoxicated with a child, but not an analogous one for boating while intoxicated with a child. These two offenses present similar harm to youths and should be treated the same with a separate offense carrying a higher penalty for endangering a child. CSHB 2505 would close this gap in Texas law by treating the conduct of boating while intoxicated with a child the same way the state treats driving while intoxicated with a child.

CRITICS SAY:

Current penalties for boating while intoxicated are adequate to punish and deter this offense and repeat offenses carry higher penalties. The state should be cautious about creating new criminal offenses that can be handled by existing statute.

SUBJECT: Exempting certain professionals from the duty to report abuse or neglect

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

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

0 nays

2 absent — Frank, Leach

WITNESSES: For — Maggie Luna, Statewide Leadership Council; Kate Murphy, Texans Care for Children; Julia Hatcher, Texas Association of Family Defense Attorneys; Charissa Huntzinger, Texas Public Policy Foundation; (*Registered, but did not testify*: Alison Mohr Boleware, National Association of Social Workers - Texas Chapter; Gabriella McDonald, Texas Appleseed; Andrew Homer, Texas CASA; Shannon Jaquette, Texas Catholic Conference of Bishops; Meagan Corser, Texas Home School Coalition; Lauren Rose, Texas Network of Youth Services; Kerrie Judice, TexProtects; Knox Kimberly, Upbring; Thomas Parkinson)

Against — None

On — Marta Talbert, Department of Family and Protective Services

BACKGROUND: Family Code sec. 261.101 requires a person having cause to believe that a child's physical or mental health or welfare has been adversely affected by abuse or neglect by any person to immediately make a report. Abuse is defined to include the current use by a person of a controlled substance in a manner or to the extent that the use results in physical, mental, or emotional injury to a child.

Concerns have been raised that a pregnant woman who is addicted to a controlled substance may forgo prenatal care or seeking treatment for addiction out of fear the Department of Family and Protective Services will take their child away at birth.

DIGEST:

HB 4055 would exempt a professional providing prenatal, mental health, or other medical care to a woman who voluntarily disclosed to the professional that the woman illegally used a controlled substance during pregnancy from the requirement to make a report under Family Code sec. 261.101 if:

- the woman enrolled in or had successfully completed a substance abuse treatment program; or
- the professional determined there was no immediate risk of harm to the child from the exposure to the controlled substance and that the woman did not otherwise pose an immediate risk of harm to the child.

The Department of Family and Protective Services would be prohibited from investigating a report of child abuse or neglect allegedly committed by a woman based on the woman's illegal use of a controlled substance during pregnancy if the woman enrolled in and successfully completed a substance abuse treatment program under the supervision of the referring or treating professional.

The bill would take effect September 1, 2021.

SUBJECT: Disclosure of certain information about communicable diseases under PIA

COMMITTEE: Human Services — favorable, without amendment

VOTE: 8 ayes — Frank, Hinojosa, Hull, Meza, Neave, Noble, Rose, Shaheen

0 nays

1 absent — Klick

WITNESSES: For — Wesley Lewis, Freedom of Information Foundation of Texas; Leonard Woolsey, The Galveston County Daily News and Texas Press Association; Cissy Sanders; (*Registered, but did not testify*: Amanda Fredriksen, AARP; Kelley Shannon, Freedom of Information Foundation of Texas; Patricia Ducayet, Office of the State Long-Term Care Ombudsman; Michael Schneider, Texas Association of Broadcasters; Donnis Baggett and Mike Hodges, Texas Press Association; Laura Prather, Transparent & Accountable Government Coalition; Thomas Parkinson)

Against — None

On — Avery Travis

BACKGROUND: Government Code ch. 522, the Public Information Act, gives the public the right to request access to government information, with some exceptions to required public disclosure for certain information, such as protected health information.

Health and Safety Code sec. 181.006 establishes that, for a governmental unit subject to the Health Insurance Portability and Accountability Act (HIPAA), an individual's protected health information:

- includes any information that reflects the individual received health care from the governmental unit; and
- is not public information and is not subject to disclosure under the Public Information Act.

Some have suggested that during the earlier months of the COVID-19 pandemic, some residential health care facilities lacked transparency regarding the spread of communicable diseases within the facilities, making it difficult for residents and their families to make informed health care decisions. Suggestions have been made to codify an attorney general open records letter ruling issued in July 2020 that required the public disclosure of the names and locations of nursing homes and assisted living facilities where residents contracted COVID-19.

DIGEST:

HB 3306 would establish that, unless made confidential under other law, certain information would not be confidential and would be subject to disclosure under the Public Information Act.

Protected health information under current law would not include information that identified:

- the name or location of a facility in which residents had been diagnosed with a communicable disease; or
- the number of residents who had been diagnosed with a communicable disease in a facility.

The bill would apply to a licensed nursing facility, continuing care facility, and an assisted living facility.

The bill would make conforming changes under current law.

The bill would take effect September 1, 2021.

SUBJECT: Requiring Windham School District to provide certain programs

COMMITTEE: Corrections — committee substitute recommended

VOTE: 6 ayes — Murr, Allen, Rodriguez, Sherman, Slaton, White

0 nays

3 absent — Bailes, Burrows, Martinez Fischer

WITNESSES: For — (*Registered, but did not testify*: Mark Wiggins, Association of Texas Professional Educators; Jennifer Toon, Coalition of Texans with Disabilities; Greg Hansch, National Alliance on Mental Illness Texas; Maggie Luna, Statewide Leadership Council; Alycia Castillo, Texas Criminal Justice Coalition; Suzi Kennon, Texas PTA; Jennifer Allmon, The Texas Catholic Conference of Bishops; Molly Weiner, United Ways of Texas; Susana Carranza; Idona Griffith; Vanessa MacDougal; Thomas Parkinson)

Against — None

On — Kristina Hartman, Windham School District; (*Registered, but did not testify*: Robert O'Banion, Windham School District)

BACKGROUND: Windham School District provides educational, career, technical and life-skills training programs to those incarcerated in the Texas Department of Criminal Justice (TDCJ).

Concerns have been raised that the approximately 300 minors and those under 22 years old who are eligible to receive special education and are incarcerated in TDCJ do not have appropriate access to educational programs, including a high school diploma program. Some have suggested that Windam School District should be given the flexibility to provide such educational programs.

DIGEST: CSHB 30 would require the Windham School District to develop and provide an educational program for certain individuals younger than 18

years old who are incarcerated in the Texas Department of Criminal Justice (TDCJ). The educational programs would have to include the curriculum requirements for a high school diploma or instruction that prepared the person for the high school equivalency examination.

The programs would have to be provided to individuals incarcerated in TDCJ who were not high school graduates and were:

- younger than 18 years old; or
- younger than 22 years old and eligible to receive special education services.

When developing an individual's educational program, the Windham School District would have to consider:

- the duration of the person's incarceration;
- the person's current level of education and educational goals and preference; and
- if applicable, recommendations of the individual's admission, review, and dismissal committee.

The bill would take effect September 1, 2021.

NOTES:

The bill would have a negative impact of $1.3 million through the fiscal 2022-23 biennium, according to the Legislative Budget Board.

SUBJECT: Requiring an evaluation of 2-1-1 services provided in Texas

COMMITTEE: Human Services — committee substitute recommended

VOTE: 6 ayes — Frank, Hinojosa, Hull, Klick, Meza, Neave

1 nay — Noble

2 absent — Rose, Shaheen

WITNESSES: For — Ashley Harris, United Ways of Texas; (*Registered, but did not testify*: Marisa Finley, Baylor Scott & White Health; Joshua Houston, Texas Impact)

Against — None

On — (*Registered, but did not testify*: Gerald Welty Jr., Convention of States)

BACKGROUND: Government Code sec. 2306.1096 establishes the duties of the Housing and Health Services Coordination Council, which are related to the provision of service-enriched housing in Texas. The council must develop a biennial plan for implementing its goals, including the development and implementation of policies to increase efforts to offer service-enriched housing and the identification of barriers affecting such efforts, and must deliver a biennial report of the council's findings and recommendations to the governor and the Legislative Budget Board.

2-1-1 Texas is a program of the Texas Heath and Human Services Commission that connects Texans to the Texas Information and Referral Network for help with basic needs and connection to community-based services.

Many other states have used their 2-1-1 technology and collaboration infrastructure to support specialized populations, including to enable closed-loop referrals for young families, provide care coordination and navigation services for children and families on Medicaid, and implement

a coordinated entry process for certain services. Interested parties in Texas have suggested the state identify strategies on how to best leverage Texas' 2-1-1 system capabilities for these purposes and to provide for better use of the system in disaster response and recovery, especially in the wake of the COVID-19 pandemic.

DIGEST:

CSHB 1225 would require the Health and Services Coordination Council by August 1 of each year to complete and submit to the Texas Department of Housing and Community Affairs (TDHCA) an evaluation of the 2-1-1 services provided by the Texas Information and Referral Network (TIRN) to help inform an expansion of service-enriched housing throughout Texas.

Among other considerations listed in the bill, the evaluation of the 2-1-1 services would have to consider:

- data collection from user calls and website visits to determine the extent of 2-1-1 use and the demographic characteristics and existing needs of 2-1-1 users;
- the database of TIRN with respect to current integration status of area-specific information and resources, the process of identifying new service providers and including them in the database, the monitoring of local and state organizations and entities to ensure the provision of updated lists of resources, and the ability to timely update emergency-related information;
- 2-1-1 Texas user interviews and recommendations;
- referral outcome statistics for 2-1-1 Texas users; and
- 2-1-1 Texas leadership interviews and recommendations, including recommendations related to technology and communication enhancements, measures designed to connect specialized populations with available services, and supportive practices for engagement in special projects that leverage the 2-1-1 platform.

TIRN would be required to work with the council to determine what de-identified information could be included in the required annual evaluation.

As part of the council's biennial plan, the council would have to plan to improve the delivery of community resource information and referrals by considering the results of the 2-1-1 services evaluation.

TDHCA could use funds from general revenue to contract for services on behalf of the council in relation to the 2-1-1 services evaluation.

The bill would take effect September 1, 2021.

NOTES:

According to the Legislative Budget Board, the bill would have a negative impact of about $700,000 to general revenue through fiscal 2023.

SUBJECT: Posting certain environmental and water use permit applications online

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 9 ayes — T. King, Harris, Bowers, Larson, Paul, Price, Ramos, Walle, Wilson

0 nays

2 absent — Kacal, Lucio

WITNESSES: For — Andrew Brady, Harris County Pollution Control Services Department; Cyrus Reed, Lone Star Chapter Sierra Club; Adrian Shelley, Public Citizen; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; Adam Haynes, Conference of Urban Counties; Jim Allison, County Judges and Commissioners Association of Texas; Thamara Narvaez, Harris County Commissioners Court; Myron Hess, National Wildlife Federation; Julie Wheeler, Travis County Commissioners Court; Buddy Garcia; Vanessa MacDougal)

Against — None

On — Sam Gammage, Texas Chemical Council; (*Registered, but did not testify*: Erin Chancellor and Charly Fritz, Texas Commission on Environmental Quality)

BACKGROUND: Interested parties have recommended extending practices established during the COVID-19 pandemic that provide for online posting of environmental and water use permit applications to allow for easier public access to this information.

DIGEST: CSHB 2990 would require an applicant for an environmental or water use permit or the Texas Commission of Environmental Quality (TCEQ) to post on a publicly accessible website the application and any revision or supplement to the application after the application was determined to be complete. For a water use permit, the posting also would have to include

certain other required materials. The posting would have to be maintained until TCEQ took final action on the application, and the website address would have to be included in any public notice provided by the applicant or TCEQ.

The bill would take effect September 1, 2021, and apply only to an application received by TCEQ on or after that date.