HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, May 04, 2021
87th Legislature, Number 48
The House convenes at 10 a.m.
Part One

One joint resolution is on the Constitutional Amendments 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 One of today's *Daily Floor Report* are listed on the following page.

The following House committees were scheduled to meet today: Judiciary and Civil Jurisprudence; Homeland Security and Public Safety; Corrections; Public Health; Pensions, Investments and Financial Services; and Licensing and Administrative Procedures.

Analyses of 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
87(R) - 48

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Tuesday, May 04, 2021
87th Legislature, Number 48
Part 1

SUBJECT: Constitutionally prohibiting a tax on certain financial transactions

COMMITTEE: Ways and Means — favorable, without amendment

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

0 nays

1 absent — Martinez Fischer

WITNESSES: For — None

Against — (*Registered, but did not testify*: Dick Lavine, Every Texan)

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

DIGEST: HJR 140 would amend the Texas Constitution to prohibit a law from being enacted after January 1, 2022, that would impose an occupation tax upon a registered securities market operator or a tax upon a securities transaction of a registered securities market operator.

The resolution would not prohibit the change of a tax rate in existence on January 1, 2022, nor would it prohibit the imposition of:

- a general business tax measured by business activity;
- a tax on the production of minerals;
- a tax on insurance premiums;
- a general sales tax on tangible personal property or services; or
- a fee based on the cost of processing documents.

The ballot proposal would be presented to voters at an election in November 2021, and would read: "The constitutional amendment to prohibit the enactment of a law that imposes a tax on certain transactions that either convey a security or involve specified derivative contracts."

SUPPORTERS SAY:

HJR 140 would amend the Texas Constitution to prohibit the Legislature from imposing any new taxes on either the transfer of securities or the processing of financial transactions, protecting Texans and Texas businesses. Many people have a 401(k), IRA, or pension that they rely on for their retirement and that depends on marginal returns on investment. A tax on financial transactions could cut into those returns and make it more difficult to save for the future. Such a tax would be even more detrimental to institutional investors that invest money on behalf of individuals. By prohibiting a tax on financial transactions, the legislation would support retirees while keeping Texas open for business. The Legislature has chosen to preemptively prohibit certain taxes before, and it is appropriate to do so in this case in order to help protect the prosperity of the state and its retirees.

CRITICS SAY:

The Legislature should not cut off potential future sources of revenue through HJR 140. Given the potential for growth in the financial industry and financial technologies, it would be unwise to preemptively exempt certain financial transactions from taxation.

NOTES:

HB 3702, the enabling legislation for HJR 140 by Paddie, is set for second reading consideration today.

According to the fiscal note, the cost to the state for publication of the resolution would be $178,333.

SUBJECT: Prohibiting a tax on certain financial transactions

COMMITTEE: Ways and Means — favorable, without amendment

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

0 nays

1 absent — Martinez Fischer

WITNESSES: For — None

Against — Dick Lavine, Every Texan

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

DIGEST: HB 3702 would prohibit a law from being enacted after January 1, 2022, that would impose an occupation tax upon a registered securities market operator or a tax upon a securities transaction of a registered securities market operator.

The bill would not prohibit the change of a tax rate in existence on January 1, 2022, nor would it prohibit the imposition of:

- a general business tax measured by business activity;
- a tax on the production of minerals;
- a tax on insurance premiums;
- a general sales tax on tangible personal property or services; or
- a fee based on the cost of processing documents.

The bill would take effect January 1, 2022, but only if the constitutional amendment to authorize the Legislature to prohibit the enactment of a law that would impose a tax on certain security transactions was approved by voters. If not approved, the bill would have no effect.

SUPPORTERS SAY:

HB 3702 would prohibit the Legislature from imposing any new taxes on either the transfer of securities or the processing of financial transactions, protecting Texans and Texas businesses. Many people have a 401(k), IRA, or pension that they rely on for their retirement and that depends on marginal returns on investment. A tax on financial transactions could cut into those returns and make it more difficult to save for the future. Such a tax would be even more detrimental to institutional investors that invest money on behalf of individuals. By prohibiting a tax on financial transactions, the legislation would support retirees while keeping Texas open for business. The Legislature has chosen to preemptively prohibit certain taxes before, and it is appropriate to do so in this case in order to help protect the prosperity of the state and its retirees.

CRITICS SAY:

The Legislature should not cut off potential future sources of revenue through HB 3702. Given the potential for growth in the financial industry and financial technologies, it would be unwise to preemptively exempt certain financial transactions from taxation.

NOTES:

HB 3702 is the enabling legislation for HJR 140 by Paddie, which would constitutionally prohibit a tax on certain security transactions. HJR 140 is on the Constitutional Amendments Calendar today.

SUBJECT: Authorizing health benefits offered by nonprofit agricultural organizations

COMMITTEE: Insurance — committee substitute recommended

VOTE: 6 ayes — Oliverson, Vo, Hull, Middleton, Paul, Sanford

3 nays — J. González, Israel, Romero

WITNESSES: For — Benjamin Sanders, Tennessee Farm Bureau Insurance and Farm Bureau Health Plans; Charles Miller, Texas 2036; Si Cook, Texas Farm Bureau; David Balat, Texas Public Policy Foundation; (*Registered, but did not testify*: Jay Thompson, Afact; Carrie Simmons, Opportunity Solutions Project; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; John Henderson, Torch)

Against — Blake Hutson, AARP Texas; (*Registered, but did not testify*: Patricia Kolodzey, Blue Cross Blue Shield of Texas; Stacey Pogue, Every Texan; Jamie Dudensing, Texas Association of Health Plans; Bill Hammond, Texas Employers for Insurance Reform)

On — (*Registered, but did not testify*: Jenny Blakey, Office of the Public Insurance Counsel)

BACKGROUND: Insurance Code Title 8, subtitle K governs health care sharing ministries, which are faith-based, nonprofit organizations that are tax-exempt under the Internal Revenue Code of 1986 if certain criteria are met. A health care sharing ministry is not considered to be engaging in the business of insurance.

DIGEST: CSHB 3924 would allow a nonprofit agricultural organization or an organization's affiliate to offer nonprofit agricultural organization health benefits in the state. A nonprofit agricultural organization that acted in accordance with the bill's provisions would not be an insurer and would not be engaged in the business of insurance.

Definitions. Under the bill, "nonprofit agricultural organization" would mean an organization that:

- was exempt from taxation under Section 501(a), Internal Revenue Code of 1986, as an organization described by Section 501(c)(5);
- was domiciled in the state;
- was in existence prior to 1940;
- was composed of members who were residents of at least 98 percent of the state's counties;
- collected annual dues from its members; and
- was created to promote and develop the most profitable and desirable system of agriculture and the most wholesome and satisfactory conditions of rural life in accordance with the organization's articles and bylaws.

"Nonprofit agricultural organization health benefits" would include health benefits:

- sponsored by a nonprofit agricultural organization or an affiliate of the organization;
- offered only to the organization's members and members' family members;
- that were not provided through an insurance policy or other product the offering or issuance of which constituted the business of insurance in the state; and
- deemed by the organization to be important in assisting its members to live long and productive lives.

Disclosure. The bill would require a nonprofit agricultural organization that offered health benefits to provide to an individual applying for health benefits written notice stating that the organization's provided benefits were not through an insurance policy or other product regulated as the business of insurance.

An individual would have to sign and return the notice to the nonprofit agricultural organization prior to enrolling in the organization's health benefits. The organization would be required to:

- maintain a copy of the signed written notice for the duration in which health benefits were provided to the individual; and
- upon request, provide a copy of the notice to the individual.

Other provisions. The bill would allow a nonprofit agricultural organization offering health benefits to contract with a company authorized to engage in the business of insurance in the state that was not under common control with the organization to:

- transfer to that company all or a portion of the organization's risks arising from the organization's offered health benefits; or
- obtain insurance coverage from the company guarantying the organization's obligations arising from the organization's offered health benefits.

The bill would make conforming changes under current law.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 3924 would increase access to affordable health care for individuals, especially those in rural communities, by allowing Farm Bureau plans to offer health benefits in Texas. Texans in rural communities have limited choices in the health insurance market and often are forced to go without health coverage due to exorbitant premiums and deductibles.

Five other states already authorize Farm Bureau health plans to operate successfully in providing robust benefits and more affordable options, while helping to decrease the number of uninsured individuals. Exempting these plans from the definition of insurance would allow for advanced coverage options that are not subject to stringent insurance regulations. Farm Bureau health plans are similar to self-funded employer plans in that they have flexibility to design their own coverages. Since the plans authorized under the bill would be self-funded and offered exclusively to Farm Bureau members, they do not meet the threshold of being considered insurance.

CRITICS SAY:

By exempting Farm Bureau health plans from the definition of insurance, CSHB 3924 could decrease consumer protections and increase financial risk in the health insurance market. These unregulated Farm Bureau health plans would not be subject to preexisting condition protections or network adequacy requirements, among other essential consumer protections. It also could produce instability in the market, divide up the individual risk pool, and unnecessarily inflate the cost of insurance for Texans who rely on comprehensive coverage.

SUBJECT: Authorizing subsidiaries of Texas Mutual to offer health benefits

COMMITTEE: Insurance — committee substitute recommended

VOTE: 5 ayes — Oliverson, Hull, Middleton, Paul, Sanford

3 nays — J. González, Israel, Romero

1 absent — Vo

WITNESSES: For — Charles Miller, Texas 2036; Richard Gergasko and Ron Simmons, Texas Mutual Insurance Company; (*Registered, but did not testify*: Shannon Jaquette, Texas Catholic Conference of Bishops; Paul Schlaud, Texas Mutual Insurance Company; David Balat, Texas Public Policy Foundation)

Against — Carl Isett, Texas Association of Benefit Administrators; Bill Hammond, Texas Employers for Insurance Reform; (*Registered, but did not testify*: Patricia Kolodzey, Blue Cross Blue Shield of Texas)

On — Blake Hutson, AARP Texas; Jamie Dudensing, Texas Association of Health Plans; (*Registered, but did not testify*: Jenny Blakey, Office of the Public Insurance Counsel)

BACKGROUND: Insurance Code ch. 2054 governs the Texas Mutual Insurance Company, which provides workers' compensation insurance. Sec. 2054.107 prohibits the company from having:

- an affiliate, spin-off, or subsidiary that writes a line of insurance other than workers' compensation insurance; or
- interlocking boards of directors with an insurer that writes a line of insurance other than workers' compensation insurance.

DIGEST: CSHB 3752 would authorize the Texas Mutual Insurance Company to create, acquire, or otherwise own or operate one or more subsidiaries that offered accident or health insurance or another specified type of health benefit or health plan. A subsidiary of the company could offer accident or

health insurance or another type of health plan authorized under current law, in accordance with a certificate of authority issued to the subsidiary under the Insurance Code, or alternative health benefits.

Under the bill, "alternative health benefits" would mean health benefits:

- provided by a subsidiary of the company that was not authorized to engage in the business of insurance in the state;
- offered only to individuals, small businesses with a maximum of 250 full-time employees, or the company's policyholders or their employees; and
- that were not provided through an insurance policy or other offered or issued product which constituted the business of insurance; or
- that were not benefits subject to the state's workers' compensation laws.

The bill would prohibit a subsidiary from offering or issuing any policy, plan, or benefits under the bill before January 1, 2023. This provision would expire September 1, 2023.

The Texas Mutual Insurance Company could not be held liable for an act or obligation of a subsidiary of the company that operated under the bill.

The commissioner of the Texas Department of Insurance could adopt rules to implement the bill's provisions.

CSHB 3752 also would make certain conforming changes under current law.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 3752 would increase access to affordable health insurance for individuals, especially those in rural communities, and employees of small businesses by allowing a subsidiary of the Texas Mutual Insurance Company to provide a health insurance product to Texans. Because there is a lack of provider competition outside major metropolitan areas, many Texans in less populated areas struggle to find affordable health care.

Near-monopoly conditions in many parts of Texas have contributed to higher health insurance premiums and overall health care costs.

The Texas Mutual Insurance Company was established by the Legislature in 1991 in response to rapidly increasing workers' compensation rates and an unstable market, not unlike today's individual health insurance market. Within two years of creation, the company was one of the state's largest workers' compensation insurers. Today, Texas Mutual has about 40 percent of the state's workers' compensation market share and maintains an "A" rating from AM Best. The bill would enable Texas Mutual to bring the same level of affordability to the health insurance market that it currently brings to the workers' compensation market.

CRITICS SAY:

By authorizing Texas Mutual subsidiaries that were exempt from insurance regulations to provide health benefits in Texas, CSHB 3924 could decrease consumer protections and increase financial risk in the health insurance market. These entities would not be subject to preexisting condition protections or network adequacy requirements, among other essential consumer protections. This also could produce instability in the market, divide up the individual risk pool, and unnecessarily inflate the cost of insurance for Texans who rely on comprehensive coverage.

SUBJECT: Revising law of parties in capital murder cases seeking death penalty

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Collier, K. Bell, Cason, Crockett, Hinojosa, A. Johnson, Vasut

2 nays — Cook, Murr

WITNESSES: For — Terri Been and Bella Sanford, Save Jeff Wood Campaign; Rachana Chhin, Texas Catholic Conference of Bishops; Allen Place, Texas Criminal Defense Lawyers Association; Becky Haigler, Texas Inmate Families Association; Amanda Marzullo; (*Registered, but did not testify*: Lauren Johnson, ACLU of Texas; Greg Glod, Americans For Prosperity; M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Scott Henson, Just Liberty; Delia Perez Meyer, Secretary for Texas Moratorium Network; Maggie Luna, Statewide Leadership Council; Amanda List, Texas Appleseed; Shea Place, Texas Criminal Defense Lawyers Association; Douglas Smith, Texas Criminal Justice Coalition; Emily Gerrick, Texas Fair Defense Project; Derek Cohen, Texas Public Policy Foundation; Doug Deason; Zoe Russell)

Against — (*Registered, but did not testify*: Frederick Frazier, Dallas Police Association/FOP716 State FOP; Ray Hunt, HPOU; James Smith, San Antonio Police Department; Jimmy Rodriguez, San Antonio Police Officers Association; Lindy Borchardt, Sharen Wilson, Tarrant County Criminal District Attorney; Jacob Putman, Smith County Criminal District Attorney's Office; John Wilkerson, Texas Municipal Police Association; Deana Johnston)

On — Benjamin Wolff, Office of Capital and Forensic Writs

BACKGROUND: Penal Code sec. 7.02 defines four types of actions that can result in a person being held criminally responsible for the actions of another person, often referred to as the law of parties. The actions fall into two broad areas: the liability of accomplices under sec. 7.02(a) and the liability of conspirators under sec. 7.02(b). Under the conspirator liability provisions, if persons conspire to commit a serious crime and, in the process of

committing the crime, one of them commits another crime that should have been anticipated, all parties can be guilty of the crime actually committed, even though they did not intend to commit it. Those who are charged under the law of parties are charged with the actual crime committed.

Code of Criminal Procedure art. 37.071, sec. 2 outlines sentencing procedures in capital felony cases in which the state is seeking the death penalty. After a guilty verdict, courts must conduct a separate proceeding to determine if the defendant will be sentenced to death or life in prison without parole. After evidence is presented, courts are required to ask the jury two questions, one of which applies in cases in which the charge to the jury in the guilt or innocent phase allowed the jury to find the defendant guilty under the law of parties. In such cases the court is required to ask the jury whether the defendant actually caused the death or did not actually cause the death but intended to kill the deceased or another or anticipated that a human life would be taken.

DIGEST:

CSHB 1340 would create new provisions governing criminal responsibility for another's conduct in capital murder cases that fall under Penal Code sec. 7.02(b), the conspirator liability statute.

Under certain circumstances, an individual conspirator would be guilty of capital murder as a party to the offense if in the attempt to carry out a conspiracy to commit one felony, a capital murder was committed by one of the other conspirators, even though there was no intent to commit it, if:

- the individual was a major participant in the conspiracy;
- in attempting to carry out the conspiracy, the individual acted with reckless indifference to human life; and
- the capital murder was committed in furtherance of an unlawful purpose.

A conspirator would be considered a major participant if the conspirator planned, organized, directed, or otherwise substantially participated in the specific conduct that resulted in a victim's death. A conspirator would be considered to be acting with reckless indifference to human life if the conspirator was aware of but consciously disregarded a substantial and

unjustifiable risk that another conspirator intended to commit an act that was clearly dangerous to human life.

Courts would no longer be required to ask juries in the sentencing phase of capital murder cases involving the law of parties whether the defendant anticipated that a human life would be taken.

The bill would take effect September 1, 2021, and would apply to the prosecution of offenses committed on or after that date.

SUPPORTERS SAY:

CSHB 1340 would address the most troubling aspect of the state's law of parties by limiting the death penalty in certain cases to ones in which an individual was a major participant and acted with reckless indifference to human life. Current law allows individuals to be found guilty of capital murder and be eligible for a death sentence if certain conditions are met and the person should have anticipated the murder.

The cases of Jeffery Wood and others have called attention to deficiencies in Texas' law of parties. The conspirator liability provisions of the law of parties have been used to obtain death sentences in this and other cases in which accomplices, such as lookouts or getaway drivers, were not directly involved in the capital murder and did not kill or intend to kill, but were convicted because they should have anticipated the murder. Such conjecture about what was on someone's mind should not be used to make someone eligible for a death sentence.

Current law violates the concept that punishment for a crime should be in proportion to a person's actions and culpability. The death penalty should be reserved for the worst of the worst, and this principle is violated by allowing a death sentence for conspirators who did not kill, were not major participants, and did not act with reckless indifference. The bill is narrowly drawn to apply only to capital murder and to eliminate only the criteria regarding whether someone "should have anticipated" that a life would be taken. Death sentences could still be imposed for conspirators if they met both the criteria in the bill and current provisions requiring the jury to determine the defendant actually caused the death or intended to kill. Other individuals not meeting the criteria in the bill but who were

found guilty of murder under the law of parties could still be held accountable and sentenced appropriately.

The bill would leave other parts of the law of parties intact and would put the Texas criminal justice system in step with court rulings by stating that an accomplice must have been a major participant in underlying conspiracy and must have acted with reckless indifference to human life. Juries would continue to play their role in deciding cases and those guilty of capital murder would continue to receive appropriate punishments.

CRITICS SAY:

There are situations in which a death sentence reached under the current law of parties would be justified, and changes should not be made that would reduce the ability of the criminal justice system to address these situations.

In these situations, as in any case in which the death penalty is sought, it is juries that examine the specific facts and decide if capital punishment is warranted, and CSHB 1340 would step into the province of these juries. In past cases, some juries have decided that a defendant's participation as a party warranted the death penalty.

SUBJECT: Updating the population requirement for the location of certain courts

COMMITTEE: County Affairs — favorable, without amendment

VOTE: 8 ayes — Coleman, Stucky, Anderson, Cason, Longoria, Spiller, Stephenson, J. Turner

0 nays

1 absent — Lopez

WITNESSES: None

BACKGROUND: Local Government Code sec. 292.001(d) allows a justice of the peace court to be housed or conducted in a building located outside the court's precinct if the court is situated in the county courthouse in a county with a population of at least 275,000 but no more than 285,000.

It has been noted that the population of Lubbock County is outgrowing the statutory bracket that allows a justice of the peace court to operate in the county's courthouse even if the courthouse is outside of the justice of the peace court's precinct.

DIGEST: HB 3354 would allow a justice of the peace court to be housed or conducted in a building located outside the court's precinct if the court was situated in the county courthouse of a county with a population of at least 305,000 and that had its county seat located in the Llano Estacado region of the state (Lubbock County).

The bill would take effect September 1, 2021

SUBJECT: Allowing children younger than 14 to read and mark their parents' ballots

COMMITTEE: Elections — committee substitute recommended

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

0 nays

WITNESSES: For — (*Registered, but did not testify*: Alicia Bell, Grassroots Gold; Ender Reed, Harris County Commissioners Court; Glen Maxey, Texas Democratic Party; Robert L. Green, Travis County Republican Party Election Integrity Committee; and 19 individuals)

Against — Alexie Swirsky; (*Registered, but did not testify*: Alan Vera, Harris County Republican Party Ballot Security Committee; Christina Drewry, Texas Nationalist Movement; Terry Lynch, True Texas Project; and 17 individuals)

On — Zenobia Joseph; (*Registered, but did not testify*: Christina Adkins, Texas Secretary of State; Lori Gallagher)

BACKGROUND: Election Code sec. 64.002(b) allows a child under 18 years of age to accompany the child's parent to a voting station.

DIGEST: CSHB 1300 would amend Election Code sec. 64.002(b) to allow a child under 14 years of age to read or mark a ballot at the direction of the child's parent. Such a reading or marking of a ballot would not constitute assisting a voter.

The bill would take effect September 1, 2021.

SUPPORTERS SAY: CSHB 1300 would help instill civics and a respect for the voting process in young people by allowing children younger than 14 to read or mark their parent's ballot at the direction of the parent. Children under 18 may accompany their parents to the polls, and the bill would simply ensure that parents could exercise the right to teach their children about the rights and

duties of voting as an American. It also would enable children to help visually impaired or otherwise differently abled parents exercise their right to vote.

The bill would not complicate or delay voting procedures because children would simply be marking the parent's ballot, not performing complex tasks on voting equipment. It would not create opportunities for voter fraud since children are unlikely to covertly change their parents' votes and would act at the direction of the parent.

CRITICS SAY:

CSHB 1300 could lead to unintended delays in voting and could open the door to voter fraud by allowing a person other than the voter to mark a ballot. Children should not be allowed to handle voting machines, as any error could lead to delays in voting and require intervention from poll workers to fix. The bill also would open the door to fraud by allowing a person other than the individual casting a vote to mark a ballot.

OTHER CRITICS SAY:

CSHB 1300 should not be limited to children accompanying parents in voting but should be broadened to encompass children accompanying their grandparents or other individuals acting in loco parentis.

SUBJECT: Making dates of birth generally available under public information laws

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 — Mary Ann Cavazos Beckett, Corpus Christi Caller-Times; Laura Prather, Transparent and Accountable Government Coalition; (*Registered, but did not testify*: Matt Simpson, ACLU of Texas; Joe Ellis and Kelley Shannon, Freedom of Information Foundation of Texas; Joseph Coleman, Hill Country News; Adrian Shelley, Public Citizen; Jeff Heckler, PublicData.com; Michael Schneider, Texas Association of Broadcasters; Donnis Baggett and Mike Hodges, Texas Press Association; Don Dixon; Terri Hall)

Against — (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Daniel Collins, El Paso County; Ender Reed, Harris County Commissioners Court)

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

Sec. 552.102 excepts from public disclosure information in a personnel file the disclosure of which would constitute a clearly unwarranted invasion of personal privacy, except that all information in the file of an employee of a governmental body is to be made available to that employee as public information.

DIGEST: CSHB 3535 would specify that the Texas Public Information Act would not authorize a governmental body to withhold a date of birth, except as permitted by Government Code sec. 552.102, federal privacy

requirements under the Health Insurance Portability and Accountability Act of 1996, or constitutional or statutory law.

The bill would apply only to a request for information that was received by a governmental body or an officer of public information on or after the bill's effective date.

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

SUPPORTERS SAY:

CSHB 3535 would enhance government transparency by restoring the ability of the public to obtain dates of birth under the Texas Public Information Act. Dates of birth in public records mostly have been closed off since the 2015 Third Court of Appeals ruling in *Paxton v. City of Dallas*. The ruling expanded on a prior Texas Supreme Court ruling in which dates of birth in public employees' personnel files were declared confidential and ruled that dates of birth of public citizens are also protected under common-law privacy.

CSHB 3535 would restore public access to important information for accuracy by clarifying dates of birth were accessible in public records except for under limited circumstances. Dates of birth are found in a variety of public records, including certain databases, jail records, civil legal findings, election candidate applications, and voter registration rolls. Access to dates of birth is vitally important for many purposes, including to monitor the actions of public officers, to ensure the accuracy of information, for news reporting, for business transactions, and for identity verification in the context of elections, credit checks, loan decisions, crime reporting, and employment.

Public access to dates of birth does not create significant privacy or security issues, as identity theft and fraud are not problems commonly associated with the release of a date of birth unaccompanied by other key identifiers. Dates of birth are listed on driver's licenses and often requested in public settings, such as during bank transactions, hotel check-ins, and age verification for alcohol purchases. Also, many people voluntarily post their dates of birth on social media.

CRITICS SAY:

CSHB 3535 would place an undue burden on local governments who wish to redact dates of birth from released records. Under the bill, governmental bodies always would be required to seek an attorney general decision prior to redacting dates of birth, rather than being able to act under current automatic redaction processes. This would reduce efficiency and tax local resources.

Further, since dates of birth are key components of the identification process of many governmental services, making them more easily accessible could make it easier for individuals to engage in identity theft. Any benefit of public disclosure would be outweighed by the negative impact of increasing identity theft.

SUBJECT: Removing certain grounds for involuntarily terminating rights to a child

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 — Julia Hatcher, Texas Association of Family Defense Attorneys; Jeremy Newman, Texas Home School Coalition; (*Registered, but did not testify*: Alison Mohr Boleware, National Association of Social Workers - Texas Chapter; Judy Powell, Parent Guidance Center; Maggie Luna, Statewide Leadership Council; Sarah Crockett, Texas CASA; Andrew Brown, Texas Public Policy Foundation; Knox Kimberly, Upbring; Cecilia Wood)

Against — (*Registered, but did not testify*: Lindy Borchardt, for Tarrant County Criminal District Attorney Sharen Wilson; Michele Nigliazzo)

On — Carlos Salinas, Texas Family Law Foundation; (*Registered, but did not testify*: Carol Self, Department of Family and Protective Services)

BACKGROUND: Family Code sec. 161.001 establishes grounds for involuntary termination of the parent-child relationship. Under this section, the court may order termination of the parent-child relationship if the court finds by clear and convincing evidence that the parent has engaged in any of the listed types of conduct, including if the court finds that the parent has:

- knowingly placed or knowingly allowed the child to remain in conditions or surroundings which endanger the physical or emotional well-being of the child (sec. 161.001(b)(1)(D));
- engaged in conduct or knowingly placed the child with persons who engaged in conduct which endangers the physical or emotional well-being of the child (sec. 161.001(b)(1)(E)); or

- had his or her parent-child relationship terminated with respect to another child based on a finding that the parent's conduct was in violation of the above provisions or substantially equivalent provisions of the law of another state (sec. 161.001(b)(1)(M)).

DIGEST:

HB 2924 would remove Family Code sec. 161.001(b)(1)(M) as grounds for a court to order the involuntary termination of the parent-child relationship.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 2924 would protect a parent's right to due process by removing a provision under which parents may be penalized in a current case concerning the parent-child relationship for a past mistake. Under current law, a court may terminate a parent's parental rights to a child solely because their parental right to another child previously was terminated for certain conduct involving endangerment of the child's well-being. Parents who successfully turn their lives around and could be good parents to a subsequent child or children should not be unfairly and permanently penalized for their past behavior. Concerns about the utility of the provision removed by the bill in certain habitual cases could be addressed in a floor amendment.

CRITICS SAY:

HB 2924 would eliminate a useful tool for expediting the termination of a parent's right to a child in certain habitual cases, including those in which a parent's harmful conduct has not changed over time and would endanger a child not covered by a previous order. The bill should allow the use of the current provision that allows a court to terminate a parent's parental rights to a child in such cases.

NOTES:

The bill's author plans to offer a floor amendment that would strike the bill's deletion of Family Code sec. 161.001(b)(1)(m) and insert language to prohibit the court from ordering termination under that section unless the petition for the termination of the parent-child relationship was filed not later than the first anniversary of the date the Department of Family and Protective Services or an equivalent agency in another state was granted managing conservatorship of a child in the case that resulted in the termination of the parent-child relationship with respect to that child

based on a finding that the parent's conduct violated Family Code sec. (b)(1)(D) or (E) or substantially equivalent provisions of the law of another state.

SUBJECT: Enhancing penalties for certain repeat misdemeanor offenders

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 7 ayes — Collier, K. Bell, Cason, Cook, A. Johnson, Murr, Vasut

2 nays — Crockett, Hinojosa

WITNESSES: For — David Cook, Fort Worth Police Officers Association; Brian Harris, Harris County Pct. 5 Constable; (*Registered, but did not testify*: Jennifer Szimanski, CLEAT; Frederick Frazier, Dallas Police Association/State FOP; James Parnell, Dallas Police Association; Quint Balkcom, Game Warden Peace Officer's Association; George Craig, Houston Police Department; Ray Hunt, Houston Police Officers' Union; Jimmy Rodriguez, San Antonio Police Officers Association; Brian Hawthorne, Sheriffs' Association of Texas; John Wilkerson, Texas Municipal Police Association)

Against — Theresa Laumann, Texas Criminal Justice Coalition; *Registered, but did not testify*: Amanda List, Texas Appleseed; Shea Place, Texas Criminal Defense Lawyers Association; Emily Gerrick, Texas Fair Defense Project)

On — Jason Clark, Texas Department of Criminal Justice

BACKGROUND: Penal Code sec. 12.43 establishes penalties for repeat and habitual misdemeanor offenses. Generally, class A misdemeanors carry a punishment of up to one year in jail and/or a maximum fine of $4,000. Under the repeat offender provisions, an individual convicted of a class A misdemeanor who has been previously convicted of a class A misdemeanor or any degree of felony is required to be punished by a fine of up $4,000, confinement in jail for a term of 90 days to one year, or both.

DIGEST: CSHB 1509 would revise provisions that increase punishments for repeat misdemeanor offenses by increasing a class A misdemeanor to a state-jail felony (180 days to two years in a state jail and an optional fine of up to

$10,000) if it was committed by individuals with certain previous offenses.

An offense that is a class A misdemeanor would be increased to a state jail felony if:

- the defendant had previously been convicted four or more times of a class A misdemeanor or any higher category of offense;
- at least one of these convictions was a felony;
- each misdemeanor conviction was for an offense that occurred subsequent to the previous conviction; and
- each of the previous offenses was committed in the 10 years before the date of the current offense.

The bill would establish when the state jail felonies arising out of provisions of the bill could be used to enhance punishments for other offenses. While offenses arising out of the bill would not be allowed to increase some punishments, they would be allowed to count as a previous state jail felony that can allow another state jail felony to be enhanced to a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000.

State jail felonies that would result from the bill would be included with other state jail felonies for which judges are authorized to suspend sentences and place defendants on probation or served in whole or in part on community supervision. State jail felonies for certain drug offenses that would result from the bill would be included among other drug offenses for which judges are required to place defendants on community supervision.

The bill would take effect September 1, 2021, and would apply to offenses committed on or after that date.

SUPPORTERS SAY:

CSHB 1509 would help reduce crime and improve public safety by targeting a small group of individuals who commit repeat misdemeanor offenses for periods of confinement in the state system so these offenders could benefit from rehabilitation and treatment programs.

Some individuals commit multiple misdemeanor offenses and are convicted, serve time, and soon return to the local jail. Current punishments, including terms in county jails, have not been effective at reducing recidivism of these offenders. The bill would address this revolving door by allowing certain individuals with multiple repeat offenses to receive a sentence in a state jail so they could benefit from programs such as drug addiction, anger management, literacy, and job skills. These programs and services could help stop the cycle of crime before it increased to a more serious level and resulted in longer terms of incarceration.

The bill would be highly targeted to a small number of repeat misdemeanor offenders who have not been rehabilitated under current law. The enhanced penalties would not be triggered until a fifth conviction within 10 years, one of which would have to be a felony. Judges would retain the discretion they have at sentencing to determine the length of a sentence and in some cases to place an individual on community supervision.

CRITICS SAY:

CSHB 1509 would move the criminal justice system in the wrong direction by increasing incarceration of low-level offenders and emphasizing punishment over rehabilitation. Providing education, training, and other assistance outside of incarceration would be a better approach to address repeat misdemeanor offenders, especially drug offenders, and would come without the negative affects of a felony conviction and incarceration. Current law has sufficient provisions for enhanced penalties against repeat offenders.

SUBJECT: Revising provisions relating to multiple employer welfare arrangements

COMMITTEE: Insurance — committee substitute recommended

VOTE: 5 ayes — Oliverson, Hull, Middleton, Paul, Sanford

3 nays — J. González, Israel, Romero

1 absent — Vo

WITNESSES: For — (*Registered, but did not testify*: Bill Hammond, Texas Employers for Insurance Reform; David Balat, Texas Public Policy Foundation)

Against — Blake Hutson, AARP Texas; George Linial, LeadingAge Texas; (*Registered, but did not testify*: Stacey Pogue, Every Texan)

On — Michael Nored, Texas Department of Insurance; Jocelyn Dabeau, Texas Professional Service Providers Benefits Trust; (*Registered, but did not testify*: Jenny Blakey, Office of the Public Insurance Counsel)

BACKGROUND: Insurance Code ch. 846 governs multiple employer welfare arrangements, defined by Section 3(40) of the Employee Retirement Income Security Act of 1974 (ERISA) as employee welfare benefit plans, or any other arrangements that provide certain health insurance benefits to employees of at least two employers.

Under ch. 846, a multiple employer welfare arrangement is exempt from all of the state's insurance laws, except for certain applicable laws, and is only considered an insurer for those applicable laws. A person may not establish or maintain a multiple employer welfare arrangement in the state unless the arrangement obtains and receives a certificate of authority issued by the commissioner of the Texas Department of Insurance.

Employers in the multiple employer welfare arrangement must be members of an association or group of five or more businesses that are in the same trade or industry, including closely related businesses that provide support, services, or supplies to that trade or industry.

DIGEST:

CSHB 3923 would revise certain provisions relating to multiple employer welfare arrangements.

Applicability. The bill would apply only to a multiple employer welfare arrangement that was issued an initial certificate of authority on or after January 1, 2022, or that elected to be bound in a manner prescribed by the commissioner of the Texas Department of Insurance.

Comprehensive health benefit plan. Under the bill, an arrangement that provided a comprehensive health benefit plan, as determined by the commissioner, would be subject to certain laws as if the arrangement were an insurer, individuals entitled to the plan's coverage were insureds, and the health benefits were provided through an insurance policy. These arrangements would be subject to the following laws under the Insurance Code:

- ch. 421, regarding required reserves;
- ch. 422, regarding the Asset Protection Act;
- certain subchapters under ch. 1451, regarding access to certain practitioners and facilities; and
- ch. 4201, regarding utilization review agents.

PPBP or EPBP plan. Under the bill, an arrangement that provided a comprehensive health benefit plan, as determined by the commissioner to be structured like a preferred provider benefit plan (PPBP) or an exclusive provider benefit plan (EPBP), would be subject to certain laws as if the arrangement were an insurer, individuals entitled to the plan's coverage were insureds, and the health benefits were provided through an insurance policy. These arrangements would be subject to the following laws under the Insurance Code:

- ch. 1301, regarding preferred provider benefit plans; and
- ch. 1467, regarding out-of-network claim dispute resolution.

Location of business. To be eligible for the initial certificate of authority, the bill would require a multiple employer welfare arrangement to have a principal place of business in the same region that did not exceed the

boundaries of the state or the boundaries of a metropolitan statistical area designated by the U.S. Office of Management and Budget.

Working owner. To be eligible for the initial certificate of authority under current law, the bill would allow a working owner of a trade or business without employees to qualify as both an employer and as an employee of the trade or industry.

"Working owner" would mean an individual who:

- had an ownership right of any nature in a trade or business, whether incorporated or unincorporated, including a partner and other self-employed individual; and
- earned wages or self-employment income from the trade or business for providing personal services, among other specified provisions.

Other provisions. The bill would make certain conforming changes under current law.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 3923 would harmonize state law with new federal regulations while preserving existing safeguards for consumers who use association health plans. Multiple employer welfare arrangements enable small businesses and sole proprietors to band together and negotiate better deals when buying health insurance. The bill would make it easier for employers that share a common profession or geographic location to join together and form these arrangements.

CRITICS SAY:

CSHB 3923 could decrease consumer protections and increase financial risk in the health insurance market by amending certain revisions relating to multiple employer welfare arrangements. The bill could produce instability in the market, divide up the individual risk pool, and unnecessarily inflate the cost of insurance for Texans who rely on comprehensive coverage.

SUBJECT: Extending hours for selling alcoholic beverages in hotels

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — S. Thompson, Darby, Fierro, Geren, Guillen, Hernandez, Huberty, Pacheco

0 nays

3 absent — Kuempel, Ellzey, Goldman

WITNESSES: For — (*Registered, but did not testify*: Justin Bragiel, Texas Hotel and Lodging Association; Thomas Parkinson)

Against — None

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

BACKGROUND: Alcoholic Beverage Code sec. 105.01 prohibits selling, offering for sale, or delivering liquor on New Year's Day, Thanksgiving Day, Christmas Day, and Sundays and before 10 a.m. or after 9 p.m. on other days. There are exceptions to this provision, including ones for the sale of mixed beverages. Alcoholic Beverage Code sec. 105.06 establishes hours of consumption for alcoholic beverages, including standard and extended hour areas.

Some have suggested that limits on the times for sale and consumption of alcoholic beverages in hotels could hinder tourism and the hotel industry, which have been hurt during the pandemic.

DIGEST: HB 1518 would authorize hotel bars to sell alcoholic beverages at any time to a registered guest of the hotel and would authorize individuals who are registered guests of a hotel to consume or possess alcoholic beverages at any time in the hotel bar.

The bill would take effect September 1, 2021.

SUBJECT: Requiring monthly report by the attorney general related to federal rules

COMMITTEE: State Affairs — favorable, without amendment

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

3 nays — Deshotel, Howard, Lucio

2 absent — Hernandez, Smithee

WITNESSES: For — Ed Heimlich, Informed Citizens; Tom Glass, Texas Constitutional Enforcement; James Quintero, Texas Public Policy Foundation (*Registered, but did not testify*: Mark Borskey, Texas State Rifle Association; Jonathan Saenz, Texas Values; James Dickey)

Against — (*Registered, but did not testify*: Clifford Sparks, City of Dallas; T.J. Patterson, City of Fort Worth; Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; Christine Wright, City of San Antonio; Rick Ramirez, City of Sugar Land; and six individuals)

On — (*Registered, but did not testify*: Thomas Albright, Office of the Attorney General; Thomas Parkinson)

DIGEST: HB 3046 would require the attorney general to provide a monthly written report that identified each rule adopted in the past month by a federal agency that was in response to a presidential executive order, violated the rights guaranteed by the U.S. Constitution, and was related to:

- pandemics or other health emergencies;
- the regulation of natural resources;
- the regulation of the agriculture industry;
- the use of land;
- the regulation of the financial sector as it relates to environmental, social, or governance standards; or
- the regulation of the constitutional right to keep and bear arms;

- the free exercise of religion, including the congregating of religious practitioners.

The report would also have to provide the status of any lawsuit filed against the federal government relating to a rule identified by another report, including whether a court has found the rule to violate the rights guaranteed to citizens by the U.S. Constitution.

The report would have to be provided to the governor, lieutenant governor, House speaker and each member of the Legislature

The bill would prohibit a state agency or political subdivision from cooperating with a federal agency in implementing a rule that the report indicated had been found by a court to violate constitutional rights.

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 3046 would help to protect the rights guaranteed to Texas citizens by the U.S. Constitution by instituting a robust system of tracking and transparency with regard to presidential executive orders and related federal agency rules. The bill would be a timely response to the growing problem of the outsized role of federal government in American life and would fortify the doctrine of federalism by providing a tool for the state to assert its constitutional prerogatives and confront federal overreach.

HB 3046 would set clear priority on preventing any state resources from being used to violate citizens' constitutional rights, while at the same time ensuring that any action taken based on the attorney general's report would depend on a court ruling. Any risk to federal funds received by cities or other political subdivisions would not relieve those entities of their obligation to adhere to the laws of state from which their authority is derived. Complying with a federal rule that a court had found to violate constitutional rights also would place the state and its subdivisions and agencies under threat of litigation.

CRITICS SAY:

HB 3046 would allow the state attorney general to unilaterally make official pronouncements on the constitutionality of federal rules, which is not an appropriate action for the office. Assessing constitutionality should be left to the courts, and the attorney general is free to pursue litigation in the judicial system related to a federal rule that might be unconstitutional.

HB 3046 could place cities and other political subdivisions and state agencies in the position of violating federal law and agency rules, which could jeopardize access to federal grants and funds and invite litigation. The bill's requirement of non-compliance with federal rules found by a court to violate certain constitutional rights could be problematic because the state attorney general could incorrectly interpret a court ruling.

NOTES:

According to the Legislative Budget Board, the bill's fiscal impact on the state would be indeterminate since it is unknown what federal agency rules, or how many, may be considered by a court to violate federal constitutional rights, or the potential loss of federal funds that may or may not result from federal sanctions for not enforcing such rules.

SUBJECT: Establishing a process for receivership for certain platted lots

COMMITTEE: Land and Resource Management — committee substitute recommended

VOTE: 7 ayes — Deshotel, Leman, Biedermann, Burrows, Rosenthal, Spiller, Thierry

2 nays — Craddick, Romero

WITNESSES: For — Steve Bresnen, El Paso County; Sergio Estrada, HCIA; Roxanne Jurado, Horizon Communities Improvement Association; (*Registered, but did not testify*: Daniel Collins, County of El Paso; Claudia Russell, El Paso County; Julia Parenteau, Texas Realtors; Vanessa MacDougal)

Against — None

BACKGROUND: It has been suggested that a statutory framework is needed in order to enable around 90,000 lots in El Paso County, many of them abandoned and most lacking utilities and of minimal economic value, to be returned to productive use.

DIGEST: CSHB 1564 would establish a process for the appointment of a receivership for and disposition of certain lots that are abandoned, unoccupied, and undeveloped in a county that:

- had a population of more than 800,000;
- was adjacent to an international border; and
- contained more than 30,000 acres of lots that had remained substantially undeveloped for more than 25 years after being platted (El Paso County).

The bill would allow the commissioners court of an applicable county to implement an expedited process to administratively determine that a platted lot was abandoned, unoccupied, or undeveloped, if the lot:

- had remained undeveloped for 25 years or more after being platted;

- was part of a subdivision in which 50 percent or more of the lots were undeveloped, unoccupied, or no more than 10 acres in size;
- had an assessed value of less than $1000 as of January 1, 2020; and
- as of that date, had not been valued for ad valorem taxation as land for agricultural use.

The county would not have an ownership interest in any lot administratively determined to be abandoned, unoccupied, and undeveloped, except for any existing or future legal interest established by other law.

Notice of hearing. Before making such an administrative determination, the county would have to hold a public hearing and make reasonable efforts to notify each owner and lienholder of the lot of the time and place of the hearing. The county also would have to:

- publish notice of the hearing in a local newspaper of general circulation no later than 10 days before the hearing and on the county's website; and
- file notice of the hearing in the county property records.

Notice to owners and lienholders and notice filed in county records would have to use and include the relevant names and addresses that could be reasonably ascertained from the deeds of trust or other instruments on file in county records. Once the county had taken such actions, an owner or lienholder would be presumed to have received notice of the hearing regardless of a response from the person.

Hearing and order of determination. The hearing could be held by the county commissioners court or by an appropriate commission or board appointed by the court. At the hearing the owner or lienholder would be able to provide testimony and present evidence to refute any of the bill's required elements for a determination of lot abandonment. It would be an affirmative defense to a determination of lot abandonment that a lot's ad valorem taxes had been paid in full for each year that a tax invoice was issued. The county could conduct a single hearing for multiple lots and make a determination on multiple lots based on the same evidence.

No later than 14 days after a hearing at which a lot was determined to be abandoned, unoccupied, and undeveloped, the court would issue an order of its determination. No later than 14 days after the order was issued, the county would have to post notice of the order at the county courthouse and either publish notice of the determination including instructions for appeal in a newspaper of general circulation in the county or post the required information on the county's website.

Any owner of lienholder aggrieved by an order of determination under the bill's provisions would be able to file in a district court in the county a verified petition alleging that the decision was illegal and specifying the grounds for the allegation. The petition would have to be filed within 60 calendar days of the order. Otherwise, the order would become final.

Receivership. Upon a final determination that a platted lot was abandoned, unoccupied, and undeveloped, an owner or lienholder's rights and legal interests would be extinguished, and the county would bring a civil action to have the lot placed in a receivership. The court could appoint as receiver any person with a demonstrated record of knowledge of the problems created by abandoned lots. The county, its officials and employees, and their relatives would not be eligible to be receiver. Notice of the civil action proceedings would be provided to owners and lienholders of record of the lot.

The receiver would be an officer of the court, sworn to perform the relevant duties faithfully, and could:

- take control of a platted lot;
- make any repairs or improvements needed to make the lot developable;
- make provisions for the lot to be subject to infrastructure requirements;
- aggregate platted lots with others determined to be abandoned, unoccupied, and undeveloped;
- re-plat the lot;

- accept the grant or donation of any lot within the affected area to carry out the purpose of the bill; and
- exercise all other authority that an owner could have exercised.

If the donation of a lot to the receiver was not challenged within one year, the donation would be final and irrevocable.

The receiver's use of funds related to their duties would be subject to the approval of the court. All net proceeds from the disposition of a lot would be placed in trust and remain in trust for at least three years, unless claimed within that time. The court would have to provide additional notices as practicable to an owner or lienholder about net proceeds. On expiration of the trust period, any money remaining in the receivership would escheat to the state.

After the receiver had improved the lot to the degree that it was developable and met all applicable standards, or before petitioning the court for termination of the receivership, the receiver would have to file with the court a summary account of costs and expenses incurred, which could include a receivership fee of up to 15 percent of costs and expenses. The receiver also would have to file with the summary account certain information about the disposition of the lot and related revenue and net proceeds. The receiver would have a lien on the property for all unreimbursed costs and expenses and any receivership fee.

Sale. The sale of any property by the receiver would be subject to approval by the court, and would have to be made by public auction, sealed bid, or sealed proposal. Before a sale could take place, the receiver would have to publish notice in English and Spanish of the sale in a local newspaper of general circulation. The receiver also would be required to try to provide notice specifically to persons with an interest in developing the property. The receiver would be able to reject any and all offers and reoffer the property for sale, including in combination with other property.

The bill would take effect September 1, 2021.

SUBJECT: Replacing a compliance path for energy efficiency building standards

COMMITTEE: Energy Resources — committee substitute recommended

VOTE: 9 ayes — Goldman, Anchia, Craddick, Darby, Geren, T. King, Leman, Longoria, Reynolds

0 nays

2 absent — Herrero, Ellzey

WITNESSES: For — Phil Crone, Dallas Builders Association; James Rodriguez, Greater Fort Worth Builders Association; (*Registered, but did not testify*: David Mintz, Texas Apartment Association; Scott Norman, Texas Association of Builders)

Against — None

On — Cyrus Reed, Lone Star Chapter Sierra Club; (*Registered, but did not testify*: William Stevens, Panhandle Producers and Royalty Owners Association; Hector Rivero, Texas Chemical Council; Maston Stafford, TexEnergy Solutions, Inc. and US-Eco Logic, Inc.)

BACKGROUND: Under Health and Safety Code sec. 388.003, a building may be considered in compliance with state energy efficiency requirements if the building is certified by a national, state, or local accredited energy efficiency program and determined to be in compliance with statutory energy efficiency requirements. The U.S. Environmental Protection Agency's Energy Star Program certification of energy code equivalency also is considered in compliance, as is the Energy Rating Index Compliance Alternative or a subsequent alternative compliance path.

Some have suggested that federal energy conservation requirements may be too costly and rigorous and that providing homeowners and builders with an alternative way to achieve energy efficiency would be beneficial.

DIGEST:

CSHB 3215 would amend Health and Safety Code sec. 388.003 to allow the use of Standard 301 of the American National Standard for the Calculation and Labeling of the Energy Performance of Dwelling and Sleeping Units using an Energy Rating Index, as it existed on January 1, 2021, as a standard considered to be in compliance with certain state building energy efficiency standards. This standard would replace the Energy Rating Index Compliance Alternative and subsequent alternative compliance path for that purpose.

The bill also would remove outdated provisions related to energy rating indexes used to measure compliance for single-family residential construction and would repeal a provision that set statutory provisions related to such indexes to expire September 1, 2025.

The bill would take effect September 1, 2021.

SUBJECT: Retaining juvenile court jurisdiction over certain persons; sealing records

COMMITTEE: Juvenile Justice and Family Issues — committee substitute recommended

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

1 nay — Swanson

1 absent — Leach

WITNESSES: For — (*Registered, but did not testify*: M. Paige Williams, Dallas County Criminal District Attorney John Creuzot; Bryan Mares, Texas CASA; Alycia Castillo, Texas Criminal Justice Coalition; Molly Weiner, United Ways of Texas; Thomas Parkinson)

Against — None

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

BACKGROUND: Under Family Code sec. 51.0412, which governs jurisdiction over incomplete proceedings, the court retains jurisdiction over a person, without regard to the age of the person, who is a respondent in an adjudication proceeding, a disposition proceeding, a proceeding to modify disposition, a proceeding for waiver of jurisdiction and transfer to criminal court, or a motion for transfer of determinate sentence probation to an appropriate district court if:

- the petition or motion was filed while the respondent was younger than 18 or 19 years of age, as applicable;
- the proceeding is not complete before the respondent becomes 18 or 19 years of age, as applicable; and
- the court enters a finding in the proceeding that the prosecuting attorney exercised due diligence in an attempt to complete the proceeding before the respondent became 18 or 19 years of age, as applicable.

Family Code sec. 58.256 states that a person may file an application for the sealing of records related to the person in the juvenile court served by the juvenile probation department to which the person was referred.

Some have raised concerns that under current law, any juvenile who has been placed on a determinate sentence is ineligible to have his or her juvenile record sealed and that as a result, juveniles who made one mistake at a young age but successfully turned their lives around are subject to being stigmatized and burdened by a criminal record as adults.

DIGEST:

HB 1193 would establish that a juvenile court retained jurisdiction over a person, without regard to the age of the person, if the proceeding had been delayed through no fault of the state.

A juvenile court would be required on receipt of an application from a person who received a determinate sentence and was not transferred to a district court to hold a hearing to determine whether it was in the best interest of the person and of justice to order the sealing of the person's records and could order the records to be sealed. A juvenile court would be prohibited from ordering the sealing of records of a person who received a determinate sentence and was transferred to district court.

The bill would take effect September 1, 2021, and would apply only to conduct violating a penal law of this state that occurred on or after the effective date.

SUBJECT: Requiring notice of change in prescription drug benefits coverage

COMMITTEE: Insurance — favorable, without amendment

VOTE: 7 ayes — Oliverson, Vo, J. González, Israel, Middleton, Romero, Sanford

2 nays — Hull, Paul

WITNESSES: For — Chase Bearden, Coalition of Texans with Disabilities; Greg Hansch, National Alliance on Mental Illness-Texas; Kevin Finkel; (*Registered, but did not testify*: Michael Wright, American Pharmacies; Denise Rose, AstraZeneca; Christine Bryan, Clarity Child Guidance Center; Dennis Borel, Coalition of Texans with Disabilities; Alison Mohr Boleware, National Association of Social Workers-Texas Chapter; Rebecca Galinsky, Protect TX Fragile Kids; Josette Saxton, Texans Care for Children; Marshall Kenderdine, Texas Academy of Family Physicians; Melissa Compton, Texas Bleeding Disorders Coalition; David Reynolds, Texas Chapter of the American College of Physicians; Janis Carter, Texas Federation of Drug Stores; Cameron Duncan, Texas Hospital Association; Clayton Stewart, Texas Medical Association; Kevin Stewart, Texas Nurses Association; Duane Galligher, Texas Pharmacy Association; Khrystal Davis, Texas Rare Alliance; Thomas Parkinson)

Against — Melodie Shrader, Pharmaceutical Care Management Association; Jamie Dudensing, Texas Association of Health Plans; Bill Hammond, Texas Employers for Insurance Reform; (*Registered, but did not testify*: Billy Phenix, America's Health Insurance Plans; Patricia Kolodzey, Blue Cross Blue Shield of Texas; Eric Glenn, Superior Health Plan)

On — Libby Elliott, Texas Department of Insurance; (*Registered, but did not testify*: Jenny Blakey, Office of Public Insurance Counsel)

BACKGROUND: Insurance Code ch. 1369, subch. B governs certain health benefit plans that provide coverage of prescription drugs specified by a drug formulary. The subchapter does not apply to certain health plans, including:

- a Medicare supplemental policy;
- a workers' compensation insurance policy;
- the Children's Health Insurance Program (CHIP) or the health benefits plan for certain other children; and
- the state Medicaid program, including Medicaid managed care.

Sec. 1369.0541(a) allows a health benefit plan issuer to modify its prescription drug coverage if:

- the modification occurs at the time of coverage renewal;
- the modification is effective uniformly among all group health benefit plan sponsors or individuals covered by identical or substantially identical plans; and
- by the 60th day before the modification is effective, the issuer provides written notice of the change to the Texas Department of Insurance commissioner and each affected plan sponsor, enrollee, and individual plan holder.

Sec. 1369.055 requires an issuer to offer each enrollee at the contracted benefit level any prescription drug that was approved or covered under the plan for a medical condition or mental illness until the enrollee's plan renewal date, regardless of whether the drug has been removed from the plan's drug formulary before that date.

DIGEST:

HB 1646 would require a health benefit plan issuer to provide notice of modifications affecting prescription drug coverage if the modification:

- increased a coinsurance, copayment, deductible, or other out-of-pocket expense; or
- reduced the maximum drug coverage amount.

The bill would require the notice to include a statement explaining the type of modification and indicating that on renewal of the health plan, the plan issuer could not modify an enrollee's contracted benefit level for any prescription drug that was approved or covered under the plan in the immediately preceding plan year.

The bill would not apply to a self-funded health benefit plan as defined by the Employee Retirement Income Security Act.

Exceptions. Under the bill, modifications affecting drug coverage that were more favorable to enrollees could be made at any time, and notice would not be required if the modification:

- added a drug to a formulary;
- reduced an enrollee's coinsurance, copayment, deductible, or other out-of-pocket expense; or
- removed a utilization review requirement.

Renewal. On renewal of a health plan, the plan issuer could not modify an enrollee's contracted benefit level for any prescription drug that was approved or covered under the plan in the immediately preceding plan year and prescribed during that year for an enrollee's medical condition or mental illness if:

- the enrollee was covered by the plan on the date immediately preceding the renewal date;
- a physician or other prescribing provider prescribed the drug for the medical condition or mental illness; and
- the physician or other prescribing provider in consultation with the enrollee determined that the drug was the most appropriate course of treatment.

The bill would not require a health plan to provide coverage to an enrollee excluded by the above circumstances during the renewal period.

The bill would prohibit certain modifications regarding a health plan's drug coverage during the renewal period, including:

- removing a drug from a formulary;
- adding a preauthorization requirement;
- imposing or altering a quantity limit;
- imposing a step-therapy restriction;
- moving a drug to a higher cost-sharing tier;

- increasing a coinsurance, copayment, deductible, or other out-of-pocket expense; and
- reducing the maximum drug coverage amount.

The bill would not prohibit:

- a health plan from requiring a pharmacist to provide a substitution for a prescription drug in accordance with statute under which the pharmacist could substitute an interchangeable biological product or therapeutically equivalent generic product as determined by the U.S. Food and Drug Administration (FDA);
- a physician or other prescribing provider from prescribing another medication; or
- the health plan from adding a new drug to a formulary.

The bill also would not prohibit a health plan from removing a drug from its formulary or denying an enrollee drug coverage if:

- the FDA issued a statement questioning the drug's clinical safety;
- the manufacturer notified the FDA of the drug's manufacturing discontinuance or potential discontinuance; or
- the drug manufacturer removed the drug from the market.

The bill would take effect September 1, 2021, and would apply only to a health benefit plan issued or renewed on or after January 1, 2022.

SUPPORTERS SAY:

HB 1646 would address gaps in existing protections against nonmedical switching, which occurs when health plans force patients off medications for financial reasons instead of medical ones. When patients lose access to treatment, they often experience recurring symptoms, further disease progression, missed work, and even hospitalization. The bill would ensure patients continued receiving prescribed medications, as long as a patient remained on the same health plan and was previously approved by the plan for that medication.

The bill would help prevent unnecessary health care costs, including increased doctor and ER visits and hospitalizations. The bill also would

not change the way health plans negotiate prices with drug manufacturers. Health plans could continue updating their formularies as needed or incentivize one medication over another by offering less expensive drugs, but they could not reduce coverage for patients' preexisting prescriptions.

CRITICS SAY:

HB 1646 could cause health plans to freeze their drug formularies, resulting in significantly increased costs for the health care system. Freezing drug formularies inhibits the ability of health plans to negotiate lower drug prices. The bill is unnecessary because existing step therapy provisions protect patients from drug formulary and plan changes.

SUBJECT: Issuing certain licenses during assisted living facility ownership changes

COMMITTEE: Human Services — committee substitute recommended

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

0 nays

1 absent — Klick

WITNESSES: For — Diana Martinez, Texas Assisted Living Association; (*Registered, but did not testify*: George Linial, LeadingAge Texas; Kevin Warren, Texas Health Care Association)

Against — None

On — (*Registered, but did not testify*: Michelle Dionne Vahalik, Health and Human Services Commission)

BACKGROUND: Under Health and Safety Code sec. 247.021, a person cannot establish or operate an assisted living facility without a license issued in accordance with statute. Sec. 247.021(h) allows the automatic issuance of a provisional license to an assisted living facility in the case of a corporate change of ownership of the facility.

Interested parties have noted that new owners of assisted living facilities operating under provisional licenses may face issues with insurers and lenders due to suspicions surrounding the discrepancy between the new owner's information and the previous owner's license. Some have suggested that issuing a temporary license in the new owner's name would increase confidence in the validity of such facilities undergoing ownership changes.

DIGEST: CSHB 2867 would require the Health and Human Services Commission (HHSC) to automatically issue a temporary license to an existing assisted living facility licensed under applicable laws that had a change of ownership. HHSC could issue such a license without conducting an

inspection of the facility if the commission determined an inspection was not necessary.

As soon as practicable after the bill's effective date, but not later than January 1, 2022, the executive commissioner of HHSC would be required to adopt rules necessary to implement the bill.

The bill would take effect September 1, 2021.

SUBJECT: Defining sexual contact in improper educator, student relationships

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

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

0 nays

WITNESSES: For — John Hoover, 216th Judicial District Attorney's Office; (*Registered, but did not testify*: Brian Hawthorne, Sheriffs' Association of Texas; Barry Haenisch, Texas Association of Community Schools; Mark Terry, Texas Elementary Principals and Supervisors Association; John Chancellor, Texas Police Chiefs Association)

Against — None

BACKGROUND: Penal Code sec. 21.12 governs improper relationships between educators and students. An employee of a public or private primary or secondary school commits an offense if the employee:

- engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person enrolled at the school in which the employee works;
- holds a position at the school and engages in sexual contact, sexual intercourse, or deviate sexual intercourse with a person whom the employee knows is enrolled at a different school or with a student participant in an educational activity that is sponsored by another school district or school, if students are the primary participants in the activity;
- engages in online solicitation of a minor with a person enrolled at the school in which the employee works, another school, or who is a student participant in an educational activity, regardless of the age of the person.

The offense is a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000).

Concerns have been raised that current law is not broad enough to cover certain types of sexual contact between students and school personnel.

DIGEST:

HB 246 would define sexual contact, as it related to offenses of improper relationships between educators and students, as acts committed with the intent to arouse or gratify the sexual desire of any person that involved:

- touching by an employee of a public or private primary or secondary school of the anus, breast, or any part of the genitals of a person enrolled at the school or a student participant in an educational activity; or
- touching of any part of the body of a person enrolled in a public or private primary or secondary school or a student participant with the anus, breast, or any part of the genitals of an employee of the school.

The bill would take effect September 1, 2021, and would apply to offenses committed on or after that date.

SUBJECT: Creating abbreviated educator preparation for certain certifications

COMMITTEE: Public Education — favorable, without amendment

VOTE: 10 ayes — Dutton, Allison, K. Bell, Bernal, Buckley, Huberty, K. King, Meza, Talarico, VanDeaver

0 nays

2 absent — Lozano, Allen

1 present not voting — M. González

WITNESSES: For — Brian Holt, Randolph Field ISD; (*Registered, but did not testify*: Taylor Sims, Project Lead the Way; Starlee Coleman, Texas Public Charter School Association; Gilbert Zavala, The Greater Austin Chamber of Commerce; Annemarie Donnelly)

Against — (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Dena Donaldson, Texas AFT; Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Paige Williams, Texas Classroom Teachers Association; Carrie Griffith, Texas State Teachers Association)

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

BACKGROUND: Education Code ch. 21, subch. B establishes the State Board for Educator Certification to regulate and oversee all aspects of the certification, continuing education, and standards of conduct of public school educators.

DIGEST: HB 622 would require the State Board for Educator Certification to propose rules to create abbreviated educator preparation programs for a person seeking a certification to teach courses in marketing and a certification to teach courses in health science technology.

In proposing rules, the board would have to ensure that each program required at least 200 hours of coursework or training.

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 622 would address a shortage of technical skill educators by creating abbreviated certification for teachers of marketing and health science technology. The abbreviated certification would provide a path for individuals who had worked in these fields, including retirees, to pass on to students the skills they learned over their careers. These candidates for certification already understand the subject content and the bill would require them to complete 200 hours of coursework or training to ensure they were ready for the classroom.

While some say the bill would lower the bar for educator certification, the individuals targeted by the bill have many years of experience, knowledge, and hands-on skills that they could use to help build the pool of workers needed in these fields.

CRITICS SAY:

HB 622 could unnecessarily lower the bar for educator certification and potentially place students in the care of teachers who were underprepared for the rigors of the classroom. State law already requires special accommodations for individuals seeking health science technology certification and provides expedited routes to certification for subject areas for which there may be a shortage of teachers.

SUBJECT: Establishing the Texas 1836 Project to promote patriotic education

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 — Amie Calhoun, Civics4Yall; Ed Heimlich, Informed Citizens; Tom Glass, Texas Constitutional Enforcement; (*Registered, but did not testify*: Mia McCord, Texas Conservative Coalition; Angela Smith; Calvin Tillman)

Against — (*Registered, but did not testify*: Susana Carranza, League of Women Voters of Texas; and 12 individuals)

DIGEST: CSHB 2497 would establish the 1836 Project as an advisory committee to promote patriotic education and increase awareness of Texas values. Patriotic education would include the presentation of the history of the state's founding and foundational principles, examination of how Texas has grown closer to those principles throughout its history, and explanation of why commitment to those principles is beneficial and justified.

The 1836 Project would be composed of nine members who would serve two-year terms and could not be removed except for inefficiency, neglect of duty, or malfeasance. The governor, lieutenant governor, and House speaker each would appoint three members, and the governor would appoint one member as the presiding officer to convene regular meetings and coordinate and direct project activities.

Duties of the 1836 Project would be to promote awareness among Texas residents of the following as they related to the history of prosperity and democratic freedom in the state:

- Texas history, including the indigenous peoples of the state, the state's Spanish and Mexican heritage, Tejanos, the Texas War for Independence, annexation of Texas by the United States, and Juneteenth;
- the founding documents and founders of the state; and
- state civics.

The 1836 Project would have the following additional duties:

- advising the governor on the core principles of the founding of Texas and how those principles further enrich the lives of its residents;
- facilitating the development and implementation of the Gubernatorial 1836 Award to recognize student knowledge of Texas Independence;
- advising state agencies with regard to their efforts to ensure patriotic education was provided to the public at state parks, battlefields, monuments, museums, installations, landmarks, cemeteries, and other places important to the Texas War for Independence and founding of the state; and
- facilitating, advising on, and promoting other activities to support public knowledge of and patriotic education on the Texas War for Independence and founding of Texas.

The bill would permit the 1836 Project to solicit statements and contributions from intellectual and cultural figures.

Pamphlets. CSHB 2497 would require the 1836 Project to provide a pamphlet to the Texas Department of Public Safety for distribution to persons who received a driver's license. The pamphlet, which would have to be provided by September 1, 2022, would explain the significance of Texas policy decisions that promote liberty and freedom for businesses and families. The contents would have to include an overview of Texas history and civics, the legacy of economic prosperity in Texas, and the abundant opportunities for businesses and families in the state.

Funding. The Texas Education Agency (TEA) would be required to provide funding and administrative support for the 1836 Project, including for the pamphlets required by the bill.

Report. The bill would require the 1836 Project to prepare a report that included a description of the project's activities, its findings and recommendations, a plan for carrying out its duties, any proposals for legislation, and any other matter the project considered appropriate. The report would have to be prepared by September 1, 2022, and TEA would have to publish the report on its website.

Expiration. The 1836 Project would be abolished September 1, 2036.

The bill would take effect September 1, 2021, and appointments to the 1836 Project would have to be made as soon as possible after that date.

SUPPORTERS SAY:

CSHB 2497 would expand civic awareness of the importance of Texas history and state economic policies through the establishment of an advisory committee called the Texas 1836 Project, named for the year Texas gained independence from Mexico. The bill would deepen civics education both in and beyond the classroom. Every Texan, regardless of age, would benefit from having a deeper understanding of this history of opportunity and limited government in order for the Texas legacy to last for future generations.

The bill would ensure that all aspects of Texas history, including contributions made by indigenous peoples, the state's Spanish and Mexican heritage, and the significance of Juneteenth were part of the Texas 1836 Project's public awareness campaign.

While some say the bill is unnecessary because public schools already teach Texas history, the bill also would benefit those who have moved to Texas from other states and do not know the details of Texas history. Regardless of the political party of state leaders who would appoint the advisory committee, the Texas 1836 Project is expected to be a bipartisan effort that would include many perspectives about the story of Texas.

CRITICS SAY:

CSHB 2497 could be an unnecessary and costly effort to raise awareness of Texas history when public school students in the state already are required to study the subject in grades 4 and 7. Because the bill would create an advisory committee that was appointed by the governor, lieutenant governor, and House speaker, the 1836 Project could include members who all came from one political party and policy perspective.

NOTES:

CSHB 2497 would have an estimated negative impact of about $2.3 million through the biennium ending August 31, 2023.

SUBJECT: Revising confidentiality of communications of victims of sexual assault

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Leach, Julie Johnson, Krause, Middleton, Schofield, Smith

0 nays

3 absent — Davis, Dutton, Moody

WITNESSES: For — Kristen Lenau, Texas Association Against Sexual Assault; (*Registered, but did not testify*: Ian Randolph, Animal Legal Defense Fund; Ken Shetter, One Safe Place; Jennifer Mudge, Texas Council on Family Violence; Thomas Parkinson)

Against — None

On — Amanda Oder, Texas Advocacy Project

BACKGROUND: Government Code ch. 420 is the state's Sexual Assault Prevention and Crisis Services Act. Under sec. 420.071, communications between an advocate and a survivor that are made in the course of providing sexual assault advocacy services to the survivor are confidential and may not be disclosed except as provided by the act. Sec. 420.072 governs the disclosure of the information.

Concerns have been raised that survivors of sexual assault do not have full confidentiality protections for communications and records when seeking crisis center assistance. Some have proposed giving these survivors a higher level of confidentiality, mirroring that given to domestic violence survivors.

DIGEST: CSHB 1374 would revise provisions in the Sexual Assault Prevention and Crisis Services Act relating to the confidentiality of communications and records made between an advocate and a survivor in the course of providing sexual assault advocacy services to the survivor and the disclosure of such information.

Confidentiality of information. The bill would expand confidentiality currently given to communications to include confidentiality of certain records. The bill would specify that confidential communications would be those made in the course of advising, counseling, and assisting survivors, rather than the current reference to communications made in the course of providing sexual assault advocacy services. The confidentiality of records would apply if the record related to the services provided to a survivor.

Disclosure of information. CSHB 1374 would revise provisions establishing when information that was confidential under the law could be disclosed.

Survivors would be given a privilege to refuse to disclose and to prevent others from disclosing confidential communications or records in civil, criminal, administrative, or legislative proceedings. The bill would establish that an unauthorized disclosure of a portion of a confidential communication or record would not constitute a waiver of this privilege. CSHB 1374 would establish provisions governing the waiver of portions of confidential communications relating to relevant court or administrative proceedings.

References to the disclosure of evidence would be removed and disclosures of communications and records would be authorized if a survivor waived the privilege.

Provisions governing when information could be disclosed if there was an imminent physical danger would be revised to remove a restriction on who could receive information in these circumstances. A new requirement would be established that the disclosures could only be made if, in the absence of the disclosure, there was a probability of imminent physical danger to any person or immediate mental or emotional injury to the survivor.

The bill would remove an authorization for disclosure to any governmental agency if required by law and would establish an authorization to disclose information if it was necessary to comply with

investigations relating to child abuse and neglect and to protective services for persons who were elderly or persons with disabilities.

The bill would specify that current provisions limiting disclosure of information to parents or guardians of survivors when the parent or guardian was a suspect or accomplice in the sexual assault of a minor would remain in place regardless of whether the parent or guardian gave consent for the release. Provisions governing disclosures to employees or volunteers of sexual assault programs also would be revised.

CSHB 1374 would establish that the Texas Rules of Evidence would govern the disclosure of confidential information in certain civil or criminal proceedings concerning certain expert witnesses. The bill would repeal provisions that require persons to disclose communications, records, or evidence that is confidential for use in a criminal investigation or proceeding in response to a subpoena.

The bill would take effect September 1, 2021, and would apply to any communications or records regardless of the date they were created.

SUBJECT: Requiring voting system vendors to disclose certain ownership interests

COMMITTEE: Elections — favorable, without amendment

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

0 nays

WITNESSES: For — Robert Green, Travis County Republican Party Election Integrity Committee; Laura Pressley, True Texas Elections; Marcia Strickler, Wilco We Thee People; Bill Sargent; (*Registered, but did not testify*: Heather Hawthorne, County and District Clerks Association of Texas; Angela Smith, Fredericksburg Tea Party; Ender Reed, Harris County Commissioners Court; Alan Vera, Harris County Republican Party Ballot Security Committee; Susana Carranza, League of Women Voters of Texas; Don Garner, Texas Faith and Freedom Coalition; and 10 individuals)

Against — David Carter; (*Registered, but did not testify*: Frank Holman)

On — (*Registered, but did not testify*: Christina Adkins, Texas Secretary of State)

BACKGROUND: Elections Code sec. 123.031 allows counties to contract to acquire the equipment necessary for operating a voting system by purchase, lease, or other means.

Interested parties have raised concerns that election equipment vendors are not required to disclose ownership interests in their company, parent company, or affiliates.

DIGEST: HB 1397 would require a contract to acquire equipment necessary for operating a voting system from a vendor to identify each person or entity that had a 5 percent or greater ownership interest in:

- the vendor;

- the vendor’s parent company, if applicable; and
- each subsidiary or affiliate of the vendor, if applicable.

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

SUBJECT: Allowing donation of property acquired using toll revenue bonds to U.S.

COMMITTEE: Transportation — favorable, without amendment

VOTE: 13 ayes — Canales, E. Thompson, Ashby, Bucy, Davis, Harris, Landgraf, Lozano, Martinez, Ortega, Perez, Rogers, Smithee

0 nays

WITNESSES: For — Cynthia Garza-Reyes, City of Pharr and Pharr International Bridge; (*Registered, but did not testify*: Mackenna Wehmeyer, TAG Houston)

Against — None

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

BACKGROUND: Some have recommended expressly authorizing municipalities near the Rio Grande bordering Mexico to donate property or other facilities acquired using toll revenue bonds to the U.S. government to facilitate the safe movement of people and goods across the Mexican border.

DIGEST: HB 2843 would authorize a municipality within 15 miles of a section of the Rio Grande bordering Mexico to donate to the United States property or a facility that was acquired, constructed, improved, enlarged, or equipped with proceeds from the sale of bonds issued for purposes related to a toll bridge. The bill would establish that such a donation was a public purpose and a proper municipal function.

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. It would apply only to a bond issued on or after the effective date.

SUBJECT: UIL participation for students receiving outpatient mental health services

COMMITTEE: Public Education — committee substitute recommended

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 — Hannah Meeker, Carrolton Springs Changes; (*Registered, but did not testify*: Matthew Lovitt, National Alliance on Mental Illness-Texas; Nancy Walker, Texans Care for Children; Paige Williams, Texas Classroom Teachers Association; Lee Johnson, Texas Council of Community Centers; Dan Finch, Texas Medical Association; Joanna Mejia)

Against — None

On — Jamey Harrison, UIL; (*Registered, but did not testify*: Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code sec. 33.081 requires certain limitations on participation in and practice for extracurricular activities during the school day and school week to preserve the school day for academic activities.

Interested parties note that students who are outpatients at mental health facilities may be excluded from participating in extracurricular activities given factors related to the student's absence during instruction time while receiving outpatient services.

DIGEST: CSHB 1080 would require the University Interscholastic League (UIL) to ensure that its rules did not exclude from eligibility for participation in a UIL activity a student who met the following criteria:

- received outpatient mental health services from a mental health facility; and
- was enrolled in a school district or open-enrollment charter school or otherwise received public education services from a district or school.

A school district or charter school could not adopt or enforce policies that restricted participation in UIL activities based solely on the student receiving the services or on the student's absence during instructional time while receiving the services.

A student to whom the bill applied would not be exempted from any other eligibility requirement for participation in UIL activities.

The UIL would have to propose or amend rules to comply with the bill's requirements, and a school district or charter school would have to propose or amend policies to comply with the bill's requirements as soon as practicable after the effective date of the bill.

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