HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
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HOUSE RESEARCH ORGANIZATION

daily floor report

Wednesday, May 05, 2021
87th Legislature, Number 49
The House convenes at 10 a.m.
Part Two

Five bills are on the Major State Calendar and 41 bills are on the General State Calendar for second reading consideration today. The bills analyzed or digested in Part Two of today's *Daily Floor Report* are listed on the following page.

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.

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

Alma Allen
Chairman
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SUBJECT: Allowing pharmacists to immunize, vaccinate children three years and up

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Klick, Guerra, Allison, Coleman, Collier, Jetton, Oliverson, Price, Smith, Zwiener

0 nays

1 absent — Campos

WITNESSES: For — Jeff Loesch, NACDS, TFDS, and Kroger; Mia McCord, Texas Conservative Coalition; Debbie Garza, Texas Pharmacy Association; Casey Nicholas, Walgreens; (*Registered, but did not testify*: David White, Baylor Scott and White; Allison Greer, CHCS; Chase Bearden, Coalition of Texans with Disabilities; Allen Horne, CVS Health; Leticia Van de Putte, Davila Pharmacy and Medical, Inc.; Austin Holder, H-E-B Pharmacy; Justin Keener, Libre Initiative; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Matthew Lovitt, National Alliance on Mental Illness Texas; Nicole Kralj, National Association of Chain Drug Stores; Bruce Scott, Pfizer; Hope Osborn, Texas 2036; Megan Herring, Texas Association of Business; Janis Carter, Texas Federation of Drug Stores; Duane Galligher and Keith Strama, Texas Pharmacy Association; Jerry Valdez, Texas Pharmacy Business Council; George Kelemen, Texas Retailers Association; Aimee Lusson, Walgreens; Mark Vane, Walmart; Katherine Bennett; Susana Carranza; Lauren Clark; Shelby Humpert; Lacy Waller)

Against — Dawn Richardson, National Vaccine Information Center; Seth Kaplan, Texas Pediatric Society, Texas Medical Association, and Texas Academy of Family Physicians; (*Registered, but did not testify*: David Reynolds, Texas Chapter of the American College of Physicians; Dan Finch, Texas Medical Association; Jill Sutton, Texas Osteopathic Medical Association; Bonnie Bruce, Texas Society of Anesthesiologists; Kathryn Rightmyer)

BACKGROUND: Occupations Code sec. 554.052(c-1) allows a pharmacist to administer an influenza vaccination to a patient over seven years old without an established physician-patient relationship.

DIGEST: CSHB 678 would allow a pharmacist to order or administer an immunization or vaccination to a patient who was at least three years of age without an established physician-patient relationship if the immunization or vaccination was:

- authorized or approved by the U.S. Food and Drug Administration or listed in the routine immunization schedule recommended by the federal Advisory Committee on Immunization Practices published by the federal Centers for Disease Control and Prevention; and
- ordered or administered in accordance with the federal Advisory Committee on Immunization Practices vaccine-specific recommendations.

The Texas State Board of Pharmacy (TSBP) would have to specify conditions under which a pharmacist could order or administer an immunization or vaccination. The conditions for such an order would have to ensure that:

- the pharmacist possessed the necessary skills, education, and certification to order or administer the immunization or vaccination;
- within a reasonable time after administering an immunization or vaccination prescribed by a licensed health care provider, the pharmacist notified the patient's health care provider that the immunization or vaccination was administered; and
- the authority of a pharmacist to administer an immunization or vaccination could be delegated to a certified pharmacy technician.

The bill would remove certain requirements for the conditions under which a pharmacist could order or administer an immunization, vaccination, or medication and make conforming changes to reflect the bill's provisions.

The bill would specify that for pharmacists administering a vaccine or immunization to children younger than three, instead of 14 as under current law, supervision by a physician would be considered adequate if the delegating physician had an established relationship with the patient and referred the patient to the pharmacist.

The bill would modify the deadline by which a pharmacist had to notify a physician who prescribed an immunization or vaccination from 24 hours to 14 days after administering an immunization or vaccination.

The bill would include pharmacists who ordered an immunization or vaccination in the list of individuals for whom TSBP would have to establish minimum education and continuing education standards.

The bill would update the definition of the "practice of pharmacy" in the Texas Pharmacy Act to reflect changes made by the bill.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

CSHB 678 would expand access to critical preventive health services for Texas children by allowing pharmacists to order and administer immunizations and vaccinations to children three years old and older. Pharmacists are the most accessible health care providers for Texans and could provide crucial services to the large percentage of Texas children without a primary care physician. Enabling pharmacists to provide the full range of crucial childhood immunizations and vaccinations on a permanent basis by codifying the temporary authorization under the federal Public Readiness and Emergency Preparedness Act would help the state fight infectious diseases and expand access to vaccinations for underserved and needy populations.

The bill would not interfere in the doctor-patient relationship but would provide greater flexibility in accessing vaccinations and immunizations to Texas children. Pharmacists are trained and qualified to order and administer vaccines, and have been doing so successfully during the COVID-19 pandemic when many doctors' offices have been closed.

The bill would not put children at greater risk of adverse vaccine reactions, as these reactions are no more likely to occur in a pharmacy than in a doctor's office. Pharmacists are trained to identify adverse vaccine reactions and to respond accordingly. Pharmacists also have access to the state's immunization registry and would be equipped to properly update a child's records and space immunizations.

CRITICS SAY:

CSHB 678 could undermine the relationship between young children and their primary care providers by fragmenting child health care services. When patients come to their primary care doctor for a required or recommended immunization, physicians use the opportunity to assess other areas of a child's health, including potential mental health issues and school readiness. If parents were able to immunize their children at neighborhood pharmacies, they could forgo trips to their child's primary care physician and removing opportunities for a doctor to regularly assess a child's health.

Doctors know a child's medical and family history and can warn of contraindications to a vaccine and space vaccinations appropriately. Pharmacists do not have this information or the complete context of a child's medical background and could inadvertently administer a vaccine a child should not receive. This could be deadly in the case of certain adverse reactions, as standalone and grocery store pharmacies likely would not have life-saving defibrillators handy in the case of cardiac arrest.

SUBJECT: Extending the ability to require municipal registration of vacant buildings

COMMITTEE: Urban Affairs — favorable, without amendment

VOTE: 5 ayes — Cortez, Bernal, Campos, Minjarez, Morales Shaw

2 nays — Gates, Slaton

2 absent — Holland, Jarvis Johnson

WITNESSES: For — (*Registered, but did not testify*: Austin Holder, City of Lubbock)

Against — None

BACKGROUND: Local Government Code section 214.233(a) allows municipalities located in counties with a population of at least 2 million to require owners to register vacant buildings with a city official.

It has been suggested that since registering vacant buildings helps municipalities to minimize threats to health and safety, the City of Lubbock would benefit from having the authority to require such registration.

DIGEST: HB 4245 would extend the ability to adopt an ordinance requiring owners of vacant buildings to register their buildings with a designated municipal official to a municipality with a population of at least 250,000 and located wholly in a county with a population of less than 320,000 that does not contain an international border (Lubbock).

The bill would take effect September 1, 2021.

SUBJECT: Extending eligibility for an electric vehicle incentive to some motorcycles

COMMITTEE: Environmental Regulation — committee substitute recommended

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

0 nays

1 absent — Dean

WITNESSES: For — Fred Bosshardt; (*Registered, but did not testify*: Steven Albright, Associated General Contractors of Texas-Highway Heavy Utility and Industrial Branch; Jay Propes, Harley Davidson Motor Co.; Cyrus Reed, Lone Star Chapter Sierra Club; Buddy Garcia)

Against — Tom Smitty Smith, Texas Electric Transportation Resources Alliance

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

BACKGROUND: Under Health and Safety Code sec. 386.154, a new light-duty motor vehicle powered by an electric drive is eligible for a $2,500 incentive if the vehicle has four wheels, was manufactured for use primarily on public streets, roads, and highways, has not been modified from the original manufacturer's specifications, has a maximum speed capability of at least 55 miles per hour, and is propelled to a significant extent by an electric motor that draws electricity from a hydrogen fuel cell or from specified types of batteries. The incentive is limited to 2,000 vehicles for each state fiscal biennium.

Concerns have been raised that current statutory language excludes electric motorcycles from eligibility for certain incentives for electric vehicles under the Texas Emissions Reduction Plan.

DIGEST:

CSHB 2577 would extend eligibility for the $2,500 incentive under the light-duty motor vehicle incentive program to a motorcycle that was powered by an electric drive, met other program requirements, and was not a motor-assisted scooter, pocket bike, or minimotorbike.

The bill also would require a recipient of the incentive to remit $750 to the comptroller for deposit in the State Highway Fund. The money deposited in the fund would have to be used in a manner consistent with the purposes specified by provisions in the Texas Constitution related to revenues from motor vehicle registration fees and taxes on motor fuels and lubricants.

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.

NOTES:

According to the Legislative Budget Board, the bill would have no fiscal impact on the state through fiscal 2023. However, there would be revenue gains to the State Highway Fund that could not be estimated, since the number of vehicle numbers that would be remitting a portion of the electric motor vehicle incentive is unknown.

SUBJECT: Identifying and evaluating multiregional water supply projects

COMMITTEE: Natural Resources — committee substitute recommended

VOTE: 8 ayes — T. King, Harris, Larson, Paul, Price, Ramos, Walle, Wilson

0 nays

3 absent — Bowers, Kacal, Lucio

WITNESSES: For — (*Registered, but did not testify*: Dana Harris, Austin Chamber of Commerce; Jace Houston, San Jacinto River Authority; Justin Yancy, Texas Business Leadership Council; Heather Harward, Texas Water Supply Partners)

Against — None

On — (*Registered, but did not testify*: Jeff Walker, Texas Water Development Board)

BACKGROUND: Interested parties have suggested creating a planning process, separate from the current regional water planning process, to identify and evaluate long-range, visionary projects that would extend beyond the state's 50-year planning horizon and benefit multiple regions.

DIGEST: CSHB 3084 would require the Texas Water Development Board (TWDB) to submit a report to the Legislature by December 1, 2024, that:

- proposed a framework for the addition of a new state-level planning component to the existing regional water planning process that would identify and evaluate multiregional water supply projects; and
- contained a general outline for a potential work plan, timeline, and estimated cost for the implementation of the planning component.

"Multiregional water supply project" would mean a project that had the potential to serve more than one regional water planning area and create

greater yields of water at a lower unit cost due to economies of scale or provide strategic reserves for the state's long-term water needs.

TWDB, in developing the multiregional planning component, would have to consider:

- the current regional and state water plans;
- potentially available unused or new water sources, including sources related to flooding and seawater;
- potential multiregional water supply projects;
- the potential of such projects to provide water supplies beyond the 50-year state water planning horizon and address droughts worse than the drought of record; and
- other relevant factors as determined by TWDB.

In developing the report, TWDB could consult with the interregional planning council and contract for research and technical services.

The bill would take effect September 1, 2021, and expire January 1, 2025.

NOTES:

According to the Legislative Budget Board, the bill would cost $736,889 in general revenue related funds in fiscal 2022-23. These costs would be used by the Texas Water Development Board for additional FTEs and contracted services.

SUBJECT: Allowing certain navigation districts to sell leased real property to lessee

COMMITTEE: Transportation — committee substitute recommended

VOTE: 12 ayes — Canales, E. Thompson, Ashby, Bucy, Davis, Harris, Lozano, Martinez, Ortega, Perez, Rogers, Smithee

0 nays

1 absent — Landgraf

WITNESSES: For — Tony Chovanec, Enterprise Products Partners L.P.; (*Registered, but did not testify*: Michael Lozano, Permian Basin Petroleum Association; Shana Joyce, Texas Oil and Gas Association)

Against — None

BACKGROUND: Interested parties have called to allow Texas ports to use private funds received through the conveyance of land to a long-term lessee to expedite federally financed projects to deepen and widen ship channels.

DIGEST: CSHB 3713 would allow certain navigation districts, to the extent that the district had entered into a surface lease with an original term of at least 20 years, to sell the land, improvements, easements, and any other interests in the real property or part of the property to the surface lease counterparty.

The land, improvements, easements, and any other interests in real property could be conveyed without complying with certain notice and bidding requirements. The sale would have to be:

- approved by the port commission;
- executed by the chair of the port commission;
- attested by the executive director of the district; and
- made for an amount that was not less than the sum of the reasonable market value of the property.

The bill would apply only to a district that controlled a ship channel or waterway that was the subject of a project that had been authorized or modified by the U.S. Congress in the Water Resources Development Act of 2016 or 2020. Money received from the sale in excess of the sum of the reasonable market value of the property and the amount of rent due for the unexpired term of the lease could be used only for the purposes of such a project.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021. The bill would apply only to a lease entered into before the effective date.

SUBJECT: Excluding chicken coops, rabbit pens from market value of property

COMMITTEE: Ways and Means — committee substitute recommended

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

1 nay — Cole

WITNESSES: For — (*Registered, but did not testify*: Wayne Hamilton, Lodi Pines, LLC; Rick Dennis, Texas Association of Property Tax Professionals)

Against — (*Registered, but did not testify*: Ender Reed, Harris County Commissioners Court; Julie Wheeler, Travis County Commissioners Court)

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

BACKGROUND: Some have suggested that certain improvements used for the noncommercial production of food for personal consumption should be excluded from the market value of real property for tax purposes since those improvements are similar to trade fixtures, which are excluded under current law.

DIGEST: CSHB 2535 would require the chief appraiser, in determining the market value of real property for taxation, to exclude the value of chicken coops or rabbit pens used for the noncommercial production of food for personal consumption.

The bill would take effect January 1, 2022, and would apply only to the appraisal of property for a tax year on or after that date.

NOTES: According to the Legislative Budget Board, the bill could reduce taxable property values, which would reduce property tax revenue for local governments and increase costs to the Foundation School fund through the operation of the school finance formulas. However, because the number of

backyard chicken and rabbit projects for personal consumption is unknown, the cost cannot be determined.

SUBJECT: Allowing home-schooled students to access UIL-sponsored activities

COMMITTEE: Public Education — committee substitute recommended

VOTE: 7 ayes — Dutton, Lozano, Bernal, Buckley, M. González, Huberty, Talarico

6 nays — Allen, Allison, K. Bell, K. King, Meza, VanDeaver

WITNESSES: For — Jeremy Newman, Texas Home School Coalition; Olivia Lawson; Jayla Ward; (*Registered, but did not testify*: Jennifer Allmon, The Texas Catholic Conference of Bishops; Kara Alexander; Meagan Corser; Shayron Lawson)

Against — Kevin McCasland, Olton ISD; Joe Martin, Texas High School Coaches Association; Faith Bussey, Texans for Homeschool Freedom; Paula Broadway; Kate Craig; Elise Eaton; (*Registered, but did not testify*: Monty Exter, ATPE; Charles Luke, Coalition for Education Funding; Grover Campbell, TASB; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administators; Mark Terry, Texas Elementary Principals and Supervisors Association; Suzi Kennon, Texas PTA; Dee Carney, Texas School Alliance)

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

DIGEST: CSHB 547 would authorize a public school that participated in an activity sponsored by the University Interscholastic League (UIL) to provide a home-schooled student who otherwise meets UIL eligibility standards with the opportunity to participate in the activity on behalf of the school in the same manner that the school provides that opportunity to its enrolled students. A home-schooled student would mean a student who predominantly received instruction in a general elementary or secondary education program that was provided by the parent, or a person standing in parental authority, in or through the child's home.

The bill would specify the following provisions regarding academic proficiency for a home-school student to participate in a UIL activity:

- the student, as a condition of eligibility to participate during the first six weeks of the school year, would have to demonstrate grade-level academic proficiency by means of certain nationally recognized standardized test scores and establishes target score ranges;
- a district would be required to accept test results administered or reported by a third party;
- a student's demonstration of academic proficiency would be sufficient for determining eligibility for the school year in which it occurs and the subsequent school year; and
- the student's parent or person with parental standing, periodically after the first six weeks of a school year, would be required to provide written verification to the school that the student was receiving a passing grade in each course or subject.

A home-schooled student would not be authorized to participate in a league activity during the remainder of any school year during which the student was previously enrolled in a public school.

The UIL could not prohibit a home-schooled student from participating in league activities in the manner authorized by the bill.

CSHB 547 would prohibit its provisions from being construed to permit an agency of the state, a public school district, or any other governmental body to exercise control, regulatory authority, or supervision over a home-schooled student beyond that required to participate in a UIL activity.

The bill would establish the following limitations on regulation of an education program provided to a home-schooled student, subject only to applicable UIL eligibility requirements:

- specified aspects of a program may not be required to be changed for the student to participate in a UIL activity; and

- a program provided to a home-schooled student who was participating in that program on January 1, 2021, may not be required to comply with any state law for Texas Education Agency rule relating to that program unless the law or rule was in effect on January 1, 2021.

The bill would apply beginning with the 2021-2022 school year.

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

SUPPORTERS SAY:

CSHB 547 would provide an opportunity for home-schooled students from across Texas to participate in sports and other extracurricular activities at a local public school. Texas should join the 35 others states with policies that support home-schooled students who want to participate in their favorite school sport or activity.

The bill would authorize but would not require a public school to provide an eligible home-schooled student with the opportunity to participate in University Interscholastic League (UIL) events. Such an opportunity would be especially important for home-schooled students in rural areas that may not offer opportunity for sports participation outside of the local public school.

CSHB 547 contains provisions to ensure that home-schooled students would meet academic standards similar to those required of their public school counterparts for participation in UIL competitions. They would have to demonstrate grade-level proficiency on a nationally recognized, norm-referenced test such as the Iowa Test of Basic Skills.

While some say that UIL participation should be limited to students who attend public schools, the parents of home-schooled students pay taxes for public schools and school facilities. Concerns that the bill could lead to more government involvement in home schooling are unfounded as that has not occurred in the many other states that allow extracurricular participation by home-schooled students.

CRITICS SAY:

CSHB 547 would create an imbalance between home-schooled students and public school students who must meet state attendance and academic requirements to be eligible for UIL sports participation. Giving parents responsibility for their children's academic eligibility is problematic and unfair to other students competing for the same opportunities. Participation in UIL activities is a privilege that should be reserved for students who did not opt out of the right to access a public, free education at a Texas school.

OTHER CRITICS SAY:

CSHB 547 essentially would redefine home schooling in Texas in a way that could lead to government regulations. For instance, the bill would require a home-schooled student to demonstrate grade-level proficiency on a nationally recognized, norm-referenced test. This is a higher standard than the requirement that public school students have passing grades in order to be eligible for UIL activities.

SUBJECT: Disclosing contract scoring methods for government construction projects

COMMITTEE: State Affairs — committee substitute recommended

VOTE: 11 ayes — Paddie, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson

0 nays

2 absent — Hernandez, Smithee

WITNESSES: For — Perry Fowler, Texas Water Infrastructure Network; (*Registered, but did not testify*: William Ben Westcott, ABC of Texas; Clifford Sparks, City of Dallas; Bill Kelly, Mayor's Office, City of Houston; Jennifer Fagan, Texas Construction Association)

Against — Blaire Parker, San Antonio Water System; (*Registered, but did not testify*: Steven Albright, Associated General Contractors of Texas Highway Heavy Utility and Industrial Branch)

BACKGROUND: Some have raised concerns that current contracting standards for construction projects do not promote competition by qualified contractors due to inadequate weighting of pricing factors and a lack of transparency, impacting the ability to ensure the best price and value for public dollars spent on infrastructure.

DIGEST: CSHB 2581 would require all governmental entities, rather than just state agencies, to publish a detailed methodology for scoring each criterion when using a method other than competitive bidding for construction contracts. After the contract was awarded, an offeror who submitted a bid, proposal, or response to a request for qualifications for a construction contract could make a written request to the governmental entity to provide documents related to the evaluation of the offeror's submission. The governmental entity would have to deliver the documents within 30 days of the request.

For civil works projects, the weighted value assigned to price included in a governmental entity's request for a competitive sealed proposal would have to be at least 50 percent of the total weighted value of all selection criteria. If the entity's governing body determined that assigning a lower weighted value to price was in the public interest, the entity could assign a weighted value of at least 40 percent of the total weighted value of all selection criteria.

The bill would require a governmental entity using a competitive sealed proposal method to make public the evaluations, including any scores, and provide them to all offerors within seven business days after the contract was awarded.

The bill would extend the time period under which state law governing contracting and delivery procedures for construction projects could be enforced through an action for declaratory or injunctive relief from 10 to 15 days after the contract was awarded.

The bill would take effect September 1, 2021, and would apply to a contract for which a governmental entity first advertised or solicited on or after that date.

SUBJECT: Providing greater access to certain academic records; authorizing a fee

COMMITTEE: Higher Education — committee substitute recommended

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

0 nays

1 absent — C. Turner

WITNESSES: For — (*Registered, but did not testify*: Molly Weiner, United Ways of Texas)

Against — None

On — (*Registered, but did not testify*: Priscilla Camacho, Alamo Colleges District)

BACKGROUND: Concerns have been raised that students who leave a Texas college, university, or career school before completing their degree and with an outstanding debt to the institution are denied access to their official transcripts. The inability to submit transcripts can limit their ability to apply for a job or resume their education, further limiting their ability to repay their student loans.

DIGEST: CSHB 237 would require a postsecondary educational institution to release a student's transcript or certificate of completion of training, as applicable, with certain exceptions.

On request by a student who had not fulfilled the student's financial obligation to an institution, a postsecondary educational institution would be required to release the student's transcript or certificate of completion of training issued by the postsecondary institution, as applicable, only if the student:

- had not been enrolled in the institution for at least five years;

- included with the student's request a copy of the posting for the job for which the student intended to apply or a statement that the student intended to enroll in another institution; and
- had made a good faith effort to fulfill their financial obligation to the institution, such as by entering into a payment plan with the institution.

A transcript or certificate of completion of training released on request to a student in debt to the postsecondary institution would be issued directly to the employer or institution for which the student was requesting the documentation.

Fees. A postsecondary institution would be authorized to charge a reasonable fee to release the transcript or certificate of completion of training. The amount of the fee would have to be the same for each student, but an institution could establish a policy that charged a lower fee for certain students based on criteria other than whether the student had paid their debt to the institution.

Other provisions. The bill would remove language in the Education Code specifying that a person who was liable to a public institution of higher education for unpaid nonresident tuition due to an erroneous residency classification was not entitled to receive an official transcript that included credit for courses taken while the person was misclassified.

The bill would repeal provisions that allow a career school or college to withhold a student's transcript or certificate until the student's financial obligation to the school or college has been fulfilled.

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

SUBJECT: Modifying consent requirements for immunization registry, creating portal

COMMITTEE: Public Health — favorable, without amendment

VOTE: 10 ayes — Klick, Guerra, Allison, Coleman, Collier, Jetton, Oliverson, Price, Smith, Zwiener

0 nays

1 absent — Campos

WITNESSES: For — Nora Belcher, Texas e-Health Alliance; Joseph Schneider, Texas Medical Association; (*Registered, but did not testify*: Marisa Finley, Baylor Scott and White Health; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Tom Banning, Texas Academy of Family Physicians; Craig Holzheauser, Texas Association of City and County Health Officials; Shelby Tracy, Texas Association of Community Health Centers; David Reynolds, Texas Chapter of the American College of Physicians; Meredith Armstrong, Texas Healthcare and Bioscience Institute; Steve Wohleb, Texas Hospital Association; Troy Alexander and Dan Finch, Texas Medical Association; Don McBeath, Texas Organization of Rural and Community Hospitals; Clayton Travis, Texas Pediatric Society; Allison Winnike, The Immunization Partnership; Roxanna Llinas; Adam Navara; Melody Tan)

Against — None

On — (*Registered, but did not testify*: Kevin Allen and Grace Kubin, Department of State Health Services; Thomas Parkinson)

BACKGROUND: Health and Safety Code sec. 167.007 requires the Department of State Health Services to establish and maintain an immunization registry for the primary purpose of establishing and maintaining a single repository of accurate, complete, and current immunization records to be used in aiding, coordinating, and promoting efficient and cost-effective communicable disease prevention and control efforts.

Some have raised concerns that the existing consent procedures for participation in the state immunization registry can be burdensome for health care providers and patients and that these problems could be addressed by standardizing these procedures and creating a portal for individuals to request exclusion of records from the registry.

DIGEST:

HB 4272 would modify the retention period for information in the immunization registry after certain events, modify procedures for the verification of consent for inclusion of records in the registry, require the creation of a process to provide a first responder's immunization records to an immediate family member, and create an online consent portal.

Immunization record retention period. Information collected pertaining to immunizations in preparation for certain emergencies would have to remain in the registry for seven years following the end of a disaster, public health emergency, terrorist attack, hostile military or paramilitary action, or extraordinary law enforcement emergency. The bill would remove the requirement for the executive commissioner of the Health and Human Services Commission (HHSC) to determine the time period for which this information remained in the immunization registry.

Consent verification. The bill would require the executive commissioner of HHSC to determine the process by which consent for an individual's information to be included in the immunization registry was verified.

The executive commissioner by rule also would have to develop guidelines and procedures for obtaining the required consent from an individual or the individual's legally authorized representative for continued inclusion in the registry of information collected in preparation for certain disasters beyond the required seven-year period.

For an individual whose immunization history was included in the registry and for whom the required consent had not been obtained, prior to the expiration of the seven-year record retention period, DSHS would have to make a reasonable effort to provide notice to the individual or the individual's representative. A reasonable effort would include at least two attempts by the department to provide notice by telephone or email, or by regular mail.

A notice would have to inform an individual or the individual's representative that the individual's immunization records would be removed from the immunization registry at the end of the seven-year retention period unless consent for continued inclusion was provided.

DSHS would have to make a reasonable effort to obtain current contact information for written or electronic notices sent by the department that were returned due to incorrect address information.

The fields necessary to populate the immunization registry on an electronic report would have to include a "yes" or "no" field indicating the patient's consent to be listed in the registry had been obtained. The fields and data standards relating to a patient's consent to be included in the registry could not include demographic information relating to the patient.

Consent portal. DSHS would have to develop and maintain a secure internet portal through which an individual or the individual's representative could request exclusion of the individual's immunization records from the registry. The department would have to develop the portal as soon as practicable after the effective date of the bill.

Access to immunization registry records. The process for providing the employer of a first responder with direct access to the first responder's immunization information in the registry for verification of immunization history would have to require affirmation by the employer that the first responder was a current employee.

DSHS could establish a process to provide an immediate family member of a first responder with access to the individual's own immunization information in the registry, and the executive commissioner of HHSC by rule would have to develop guidelines to determine the process by which the immunization information of a first responder or immediate family member of a first responder could be accessed.

The bill would take effect September 1, 2021.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of $2.9 million to general revenue through fiscal 2023.

SUBJECT: Modifying the calculated amount of certain hospital or physician liens

COMMITTEE: Judiciary and Civil Jurisprudence — committee substitute recommended

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

0 nays

WITNESSES: For — Laura Tamez, Texas Trial Lawyers Association; Kevin Glasheen; Nancy Powell; (*Registered, but did not testify*: Ware Wendell, Texas Watch; Calvin Tillman)

Against — Cesar Lopez, Texas Hospital Association

BACKGROUND: Property Code sec. 55.002(a) establishes that a hospital has a lien on a cause of action or claim of an individual who receives hospital services for injuries caused by an accident that is attributed to the negligence of another person. For the lien to attach, the individual must be admitted to the hospital not later than 72 hours after the accident.

Under Property Code sec. 55.003(a), the hospital or emergency medical services lien attaches to:

- a cause of action for damages arising from an injury for which the injured individual is admitted to the hospital or receives emergency medical services;
- a judgment of a Texas court or the decision of a public agency in a proceeding brought by the injured individual or by another person entitled to bring the suit to recover damages arising from an injury for which the injured individual is admitted to the hospital or receives emergency medical services; and
- the proceeds of a settlement of a cause of action or a claim by the injured individual or another person entitled to make the claim, arising from an injury for which the injured individual is admitted to the hospital or receives emergency medical services.

Under Property Code sec. 55.004, a hospital or emergency medical services lien is for the lesser of:

- the amount of the hospital's charges for services provided to the injured individual during the first 100 days of the injured individual's hospitalization; or
- 50 percent of all amounts recovered by the injured individual through a cause of action, judgment, or settlement described by sec. 55.003(a).

Concerns have been raised regarding the potential for disparate results when using the current calculation method for the amount of hospital and emergency medical services liens on causes of action or claims of an individual who receives services for injuries related to another person's negligence, as the calculation method can result in lien amounts larger than the amount a jury would reasonably award the injured person.

DIGEST:

CSHB 2064 would modify the method for determining the amount of a hospital lien on a cause of action or claim of an individual who receives hospital services for injuries caused by an accident that is attributed to the negligence of another person.

The hospital lien would be for the lesser of:

- the amount of the hospital's charges for services provided to the injured individual during the first 100 days of the injured individual's hospitalization less the pro rata share of attorney's fees and expenses the injured individual incurred in pursuing the claim;
- 50 percent of all amounts recovered by the injured individual through a cause of action, judgment, or settlement described by Property Code sec. 55.003(a) less the pro rata share of attorney's fees and expenses the injured individual incurred in pursuing the claim; or
- the amount awarded by the trier of fact for the services provided to the injured individual by the hospital less the pro rata share of attorney's fees and expenses the injured individual incurred in pursuing the claim.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021. The bill would apply only to a lien for services provided to an injured individual on or after the effective date.

SUBJECT: Increasing the penalty for illegal operation of a watercraft in certain cases

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

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

0 nays

WITNESSES: For — (*Registered, but did not testify*; Eric Carcerano, Chambers County District Attorney's Office; M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Frederick Frazier, Dallas Police Association/FOP716 State FOP; Linda Nuno, Democratic Party; David Sinclair, Game Warden Peace Officers Association; John Wilkerson, Texas Municipal Police Association; Julie Renken, Washington County District Attorney's Office; Aldo Caldo; Deana Johnston)

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

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

BACKGROUND: Penal Code sec. 49.06 makes it an offense for a person to operate a watercraft while intoxicated. With certain exceptions, the offense is a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000) with a minimum term of confinement of 72 hours.

Concerns have been raised that the current criminal penalty for operating a watercraft while intoxicated is too lenient for situations that involve child passengers.

DIGEST: HB 2327 would amend Penal Code sec. 49.06 to establish that if it was shown on the trial of offense under that section that at the time of the offense the watercraft was occupied by a passenger who was younger than 15 years old, the offense would be a state-jail felony (180 days to two

years in a state jail and an optional fine of up to $10,000). Such an offense would not be eligible for deferred adjudication community supervision.

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

SUBJECT: Revising standards for appointed trial, appellate attorneys in capital cases

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

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

0 nays

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

Against — None

On — Ben Wolff, Office of Capital and Forensic Writs; Scott Ehlers, Texas Indigent Defense Commission

BACKGROUND: Code of Criminal Procedure art. 26.052 establishes minimum requirements for attorneys appointed to represent indigent defendants in death penalty cases at trial and on direct appeal. A local selection committee in each administrative judicial region must adopt standards for the qualification of these appointed attorneys.

Concerns have been raised that the number of attorneys qualified in Texas to handle an increase in capital murder defendants is insufficient. Others have noted the frequent appointment of poorly performing attorneys to represent indigent defendants. To address this issue, it has been suggested that experienced, trial-ready defense attorneys should be allowed to be appointed as lead counsel in a capital case if they met certain criteria.

DIGEST: HB 679 would revise the minimum standards for attorneys appointed to represent indigent defendants in death penalty cases at trial and on direct appeal.

The bill would specify that a trial attorney appointed as lead counsel to a capital case would be required to have trial experience in investigating and presenting mitigating evidence at the penalty phase of a death penalty

trial, regardless of whether the case resulted in a judgment or dismissal or the state subsequently waived the death penalty in the case, or an equivalent amount of trial experience as determined by the local selection committee.

For an attorney appointed as lead appellate counsel in the direct appeal of a capital case, the bill would specify the attorney would be required to have trial or appellate experience in the use of mitigating evidence at the penalty phase of a death penalty trial, regardless of whether the case resulted in a judgment or dismissal or the state subsequently waived the death penalty in the case. The appellate counsel also could satisfy the requirement with an equivalent amount of trial or appellate experience, as determined by the local selection committee.

The bill would take effect September 1, 2021, and would apply only to a capital felony case that was filed on or after that date.

SUBJECT: Creating a mental health parity complaint portal, educational materials

COMMITTEE: Insurance — committee substitute recommended

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

0 nays

WITNESSES: For — Greg Hansch, National Alliance on Mental Illness Texas; Frances Douglas, Texas Psychological Association; (*Registered, but did not testify*: Cynthia Humphrey, Association of Substance Abuse Programs; Allison Greer, CHCS; Stacy Wilson, Children's Hospital Association of Texas; Christine Bryan, Clarity Child Guidance Center; Chase Bearden, Coalition of Texans with Disabilities; Stacey Pogue, Every Texan; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Alison Mohr Boleware, National Association of Social Workers Texas Chapter; Josette Saxton, Texans Care for Children; Shannon Meroney, Texas Association of Health Underwriters; David Reynolds, Texas Chapter of the American College of Physicians; Lee Johnson, Texas Council of Community Centers; Cameron Duncan, Texas Hospital Association; Clayton Stewart, Texas Medical Association; Ashley Harris, United Ways of Texas; Thomas Parkinson)

Against — None

On — Luke Bellsnyder, Texas Department of Insurance

BACKGROUND: Insurance Code ch. 1355, subch. F governs coverage for mental health conditions and substance use disorders. Under sec. 1355.254, a health benefit plan must provide benefits and coverage for mental health conditions and substance use disorders under the same terms and conditions applicable to the plan's medical and surgical benefits and coverage. This coverage may not impose treatment limitations on benefits for a mental health condition or substance use disorder that are generally more restrictive than treatment limitations imposed on coverage of benefits for medical or surgical expenses.

Some have called for the state to increase awareness regarding mental health parity, including by establishing a health insurance parity complaint portal through which enrollees of health benefit plans could submit suspected violations of equal mental health coverage requirements.

DIGEST:

CSHB 2595 would create a portal for complaints by health benefit plan enrollees regarding mental health parity and require the development of additional educational materials and training on parity law for mental health conditions. The bill also would designate October as Mental Health Condition and Substance Use Disorder Parity Awareness Month to increase awareness of and compliance with state and federal requirements regarding benefits for mental health conditions and substance use disorders.

Parity complaint portal. The bill would require the commissioner of insurance to develop and maintain a parity complaint portal that allowed a health benefit plan enrollee to submit complaints of suspected violations of statutory provisions relating to health benefit plan coverage for mental health conditions and substance use disorders. The commissioner could develop a new complaint portal or modify an existing complaint portal.

The portal would have to allow an enrollee to submit a complaint in multiple ways, provide updates on the complaint, and ensure timely, effective, and equitable resolutions for the submitted complaints.

The portal would have to provide education materials regarding:

- benefits for mental health conditions and substance use disorders required by the state;
- an enrollee's rights and responsibilities under a health benefit plan concerning coverage;
- circumstances under which a claim could be denied; and
- the processes for reviewing a complaint submitted through the portal.

In developing the portal, the commissioner would have to develop best practices standards for submissions and tracking, and would have to

conduct an assessment of similar complaint portals used by other relevant public or private entities. The commissioner would have to develop the portal, required educational materials, and parity law training sessions as soon as practicable after the bill's effective date.

Education, training. The commissioner, in collaboration with the Health and Human Services Commission's (HHSC) behavioral health ombudsman, would have to develop educational materials and parity law training sessions regarding coverage for mental health conditions and substance use disorders. The material and training sessions would have to:

- be made available to health benefit plan issuers and enrollees;
- include online, print, and in-person formats;
- be made available through the parity complaint portal and at relevant locations and settings, including any relevant agency offices, health benefit plan provider service locations, and professional conferences and trade association meetings; and
- include a list of relevant third-party organization educational and parity law awareness materials that provide additional information regarding mental health conditions and substance use disorder parity and, if provided online, the links needed to access those materials.

Report. By September 1 of each year, the commissioner in collaboration with the HHSC behavioral health ombudsman would have to submit a report to the appropriate legislative committees and state agencies on the status of the rights and responsibilities for mental health condition and substance use disorder benefits and resolved and unresolved complaints submitted through the parity complaint portal. The report also must be published to the portal.

The bill would take effect September 1, 2021.

SUBJECT: Ensuring college credit eligibility for completion of the PAL program

COMMITTEE: Human Services — favorable, without amendment

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

0 nays

1 absent — Neave

WITNESSES: For — Brenda Woolley, Texas Network of Youth Services; (*Registered, but did not testify*: Alison Mohr Boleware, National Association of Social Workers - Texas Chapter; Adriana Kohler, Texans Care for Children; Jamie McCormick, Texas Alliance of Child and Family Services; Jennifer Biundo, Texas Campaign to Prevent Teen Pregnancy and Collaborative For Youth In Care; Sarah Crockett, Texas CASA; Michelle Wittenburg, Texas Public Charter Schools Association; Kerrie Judice, TexProtects; 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: Family Code sec. 264.121 governs the Transitional Living Services Program, which is administered by the Department of Family and Protective Services (DFPS) to assist youth who are between 14 and 21 years of age and are currently or were formerly in foster care in transitioning from foster care to independent living. The transitional program provides Preparation for Adult Living Program (PAL) services, which include independent living skills assessments, short-term financial assistance, basic self-help skills, and life skills development and training regarding money management, health and wellness, job skills, planning for the future, housing and transportation, and interpersonal skills.

Under this section, DFPS was required to develop and report to the Legislature by December 1, 2018, a plan to standardize the curriculum for

the PAL program that ensured that the youth enrolled in the program received relevant and age appropriate information and training.

Concerns have been raised that only a fraction of foster youth eligible for a state program providing a tuition and fee waiver are taking advantage of that program. There have been calls to ensure that such youths have the opportunity to begin using the waiver and obtaining college credits for completion of the PAL program while still in DFPS care.

DIGEST:

HB 700 would the Department of Family and Protective Services (DFPS), in coordination with the Texas Higher Education Coordinating Board, to establish a work group to develop a plan to ensure that foster youth who completed the standardized curriculum for the Preparation for Adult Living Program (PAL) were eligible to receive college credit for completion of the program.

The work group would have to include representatives from urban and rural institutions of higher education. In developing its evidence-based recommendations, the work group would be required to consider the feasibility of implementing each recommendation, a foster youth's access to the PAL program, and the average length of time a foster youth would remain in a placement.

DFPS would be required to report the plan to the Legislature by November 1, 2022.

The bill would take effect September 1, 2021, and its provisions would expire on September 1, 2023.

SUBJECT: Modifying rules for the imposition of certain administrative penalties

COMMITTEE: Human Services — committee substitute recommended

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

0 nays

1 absent — Rose

WITNESSES: For — Carole Smith, Private Providers Association of Texas; Sandra Frizzell Batton, Providers Alliance for Community Services of Texas; Erin Lawler, Texas Council of Community Centers; (*Registered, but did not testify*: George Linial, LeadingAge Texas; Roland Leal, ResCare; Diana Martinez, Texas Assisted Living Association; Kevin Warren, Texas Health Care Association; Tim Schauer, The Center for Pursuit, Reach Unlimited, and Avalon House)

Against — Cissy Sanders

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

BACKGROUND: Health and Safety Code sec. 252.065(b) establishes administrative penalties for violations at intermediate care facilities for individuals with intellectual disabilities (ICF-IID). The penalty for a facility with fewer than 60 beds cannot be less than $100 or more than $1,000 for each violation. The penalty for a facility with 60 beds or more cannot be less than $100 or more than $5,000 for each violation. Each day a violation occurs or continues is a separate violation for purposes of imposing a penalty. The total amount of a penalty for each day a violation occurs or continues cannot exceed $5,000 for a facility with fewer than 60 beds or $25,000 for a facility with 60 beds or more.

Human Resources Code sec. 161.089 allows the Health and Human Services Commission (HHSC) to assess and collect administrative penalties against providers participating in the home and community-

based services (HCS) waiver program and the Texas home living (TxHmL) waiver program. The HHSC executive commissioner is required by statute to develop and adopt rules regarding the imposition of such administrative penalties.

Government Code sec. 531.0581 governs the Long-Term Care Facilities Council and requires that the council be composed of specified long-term care facility providers.

Interested parties have suggested that clarification of certain administrative penalties and rules governing the imposition of such penalties as applied to ICF-IID facilities and providers participating in the HCS and TxHmL waiver programs is needed to ensure standard and consistent application of such penalties.

DIGEST:

CSHB 3240 would modify certain administrative penalties for violations at ICF-IID facilities to specify that the total amount of penalties assessed for an on-site regulatory visit or complaint investigation, regardless of the duration of any ongoing violations, could not exceed the total amounts allowed under current law.

The bill also would require that the rules related to the imposition of administrative penalties against providers participating in the home and community-based services (HCS) waiver program and the Texas home living (TxHmL) waiver program would:

- ensure standard and consistent interpretation of service delivery rules and consistent application of administrative penalties throughout the state;
- include interpretative guidelines for regulatory staff and providers regarding the imposition of administrative penalties; and
- authorize the imposition of an administrative penalty in an amount not to exceed $5,000 for violations discovered during each on-site regulatory visit or complaint investigation.

CSHB 3240 would add to the Long-Term Care Facilities Council at least one member who was a community-based provider at a licensed

intermediate care facility for individuals with intellectual or developmental disabilities (ICF-IID).

The HHSC executive commissioner would be required to adopt rules necessary to implement the bill's provisions by December 1, 2021, and the commission could not assess a penalty as changed by the bill's provisions until the necessary rules were adopted.

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

SUBJECT: Allowing remote technology for probate or guardianship proceedings

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

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

0 nays

1 absent — Dutton

WITNESSES: For — Melissa Shannon, Bexar County Commissioners Court; (*Registered, but did not testify*: Thamara Narvaez and Julie Wheeler, Harris County Commissioners Court; Guy Herman, Travis County Probate Court; Lauren Hunt)

Against — (*Registered, but did not testify*: Craig Hopper)

BACKGROUND: Interested parties have noted that during the COVID-19 pandemic, the Texas Supreme Court issued emergency orders allowing certain court proceedings to take place using remote technology. Some have called for authorizing the use of remote technology in conducting probate and guardianship proceedings as a way to facilitate easier access for Texans, particularly for elderly or disabled individuals who may have more difficulty traveling to the courthouse.

DIGEST: HB 1447 would allow for the use of remote technology, including teleconference and videoconference technology, in a probate or guardianship proceeding. The bill would establish that a proceeding, testimony, and decision, order, decree, or judgment rendered through remote technology would have been considered to have occurred in open court.

A court that conducted a probate or guardianship proceeding through remote technology would be required to ensure the public maintained access to the proceeding and to establish and make readily available to the

parties and the public guidelines regarding the conduct of proceedings through remote technology.

The bill would take effect September 1, 2021, and would apply to a probate or guardianship proceeding that was pending on or commenced on or after that date.

SUBJECT: Creating the On-The-Ground Conservation Program

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 9 ayes — Burns, Anderson, Bailes, Cole, Cyrier, Guillen, Herrero, Rosenthal, Toth

0 nays

WITNESSES: For — Richard L. Schilling, Association of Soil and Water Conservation Districts; Colin Mitchell, National Center for Appropriate Technology; (*Registered, but did not testify*: Judith McGeary, Farm and Ranch Freedom Alliance; John Pitts Jr., Farm&City; Cyrus Reed, Lone Star Chapter Sierra Club; Sarah Floerke Gouak, Lower Colorado River Authority; Simone Benz, Sustainable Food Center; Peyton Schumann, Texas and Southwestern Cattle Raisers Association; Darren Turley, Texas Association of Dairymen; Todd Kercheval, Texas Conservation Association for Water and Soil; Harold Stone, Texas Farm Bureau)

Against — None

On — John Foster and Rex Isom, State Soil and Water Conservation Board

BACKGROUND: Interested parties have suggested that greater support could be provided to the State Soil and Water Conservation Board to promote on-the-ground conservation methods, which in turn would help support farmers and landowners and improve the state's soil and water resources.

DIGEST: HB 2619 would require the State Soil and Water Conservation Board to develop and administer the On-The-Ground Conservation Program to facilitate conservation measures and other conservation land improvement measures by landowners and operators in the state.

Functions, administration. Through the program, the state board would have to provide technical assistance, cost-share assistance, direct grants, and help in obtaining such assistance from other public or private sources.

The board would have to create rules, forms, and procedures necessary for the program's administration, and could:

- obtain grants, cost-sharing assistance, or other forms of funding from other governmental entities;
- coordinate, receive, and use gifts, grants, and donations from private sources;
- work with qualified nonprofit organizations and universities to provide technical assistance; and
- designate one or more conservation districts to administer the program locally.

The board would be required to establish cost-share rates for eligible soil and water land improvement measures under the program.

Priority conservation measures. The board would be required to designate and give priority under the On-The-Ground Conservation Program to conservation measures that maximized public benefits to the state. Priority conservation measures would include measures that:

- improved soil health characteristics;
- conserved and managed water resources;
- prevented and managed flooding;
- controlled invasive and nuisance species;
- improved resilience to weather extremes, climate variability, and natural disasters;
- protected and enhanced native habitats, including the protection of endangered species;
- mitigated and reduced soil erosion;
- restored land damaged by development; and
- sequestered carbon to provide environmental benefits.

The board would have to establish standards and specifications for each priority conservation measure designated under the bill and could consider local priorities and needs when designating a priority measure.

Other provisions. Information regarding the program's activities would have to be included in the board's annual report to the governor, lieutenant governor, and House speaker.

The State Soil and Water Conservation Board would be required to implement the On-The-Ground Conservation Program under the bill only if the Legislature appropriated money for that purpose. If money was not appropriated for this purpose, the board could, but would not be required to, create and implement the program.

The bill would take effect September 1, 2021.

SUBJECT: Developing information on inclusion of pets in protective orders

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

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

0 nays

1 absent — Dutton

WITNESSES: For — Stacy Sutton Kerby, Texas Humane Legislation Network; (*Registered, but did not testify*: M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Ken Shetter, One Safe Place; Kristen Lenau, Texas Association Against Sexual Assault)

Against — None

On — Amanda Oder, Texas Advocacy Project; (*Registered, but did not testify*: Thomas Parkinson)

BACKGROUND: Family Code ch. 81 requires that a court render a protective order as specified under statute if the court finds that family violence has occurred and is likely to occur in the future.

Concerns have been raised that insufficient public information about the options available to a court when rendering a protective order, including the option to include provisions prohibiting a party from removing a pet or other animal, could be a factor in reports of some domestic violence victims refusing to leave an unsafe environment out of concern for a pet.

DIGEST: HB 674 would require the attorney general and the State Bar of Texas to jointly develop information to provide to the public about the provisions that could be included in a protective order in cases of family violence, including the ability of a court to render a protective order prohibiting a party from removing a pet, companion animal, or assistance animal from the possession or care of a person named in the order.

The office of a prosecuting attorney would be required to make the developed information readily available at the attorney's office to people wishing to apply for protective orders.

The bill would take effect September 1, 2021.

SUBJECT: Standardizing the date of runoff elections

COMMITTEE: Elections — favorable, without amendment

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

0 nays

WITNESSES: For — (*Registered, but did not testify*: Joanne Richards, Common Ground for Texans; Gerald Welty, Convention of States; Heather Hawthorne, County and District Clerks Association of Texas; Daniel Collins, El Paso County; Glen Maxey, Texas Democratic Party; and 13 individuals)

Against — Ed Johnson; (*Registered, but did not testify*: Alan Vera, Harris County Republican Party Ballot Security Committee; and seven individuals)

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

BACKGROUND: Under Election Code sec. 2.025(a), runoff elections shall be held between 20 and 45 days after the date the final canvass of the main election is completed, unless otherwise specified.

DIGEST: HB 2059 would specify that runoff elections were to be held on the first Saturday after the 27th day after the date of the main election.

The bill also would repeal the statute authorizing a home-rule city charter to prescribe a later runoff date.

The bill would take effect September 1, 2021.

SUPPORTERS SAY: HB 2059 would provide clarity to voters and reduce election costs for counties by standardizing the date of runoff elections. Current law provides for a range of dates on which runoff elections may be conducted. This creates the possibility of multiple runoff elections being held on

different dates within the same geographical area, which is confusing for voters and increases election administration costs for counties. The bill would resolve this by creating an unambiguous, standardized date for runoff elections.

Concerns that the bill could result in an overlap between runoff early voting and certain holidays or school breaks could be addressed by a floor amendment.

CRITICS SAY:

HB 2059 could require early voting for November runoff elections to overlap with the Thanksgiving holiday or certain school breaks. This would create breaks in early voting and inconvenience voters.

NOTES:

The author intends to offer a floor amendment that would require runoffs to be held on the sixth Saturday after the date of the main election.

SUBJECT: Requiring a study on alternative therapies for treating PTSD

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Klick, Guerra, Allison, Coleman, Collier, Jetton, Oliverson, Price, Smith, Zwiener

0 nays

1 absent — Campos

WITNESSES: For — Marcus Capone and Amber Capone, VETS: Veterans Exploring Treatment Solutions, Inc.; James Marr, Warrior Angels Foundation; Lynnette Averill; Morgan Luttrell; (*Registered, but did not testify*: Jim Brennan, Texas Coalition of Veterans Organizations; Kevin Stewart, Texas Psychological Association; Graham Ginn; Thomas Parkinson)

Against — None

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

BACKGROUND: Health and Safety Code ch. 481 governs the Texas Controlled Substances Act and defines "controlled substance" as a substance, including a drug, an adulterant, and a dilutant, listed in Schedules I through V or Penalty Group 1, 1-A, 2, 2-A, 3, or 4. The term includes the aggregate weight of any mixture, solution, or other substance containing a controlled substance. The term does not include hemp, as defined by Agriculture Code sec. 121.001, or the tetrahydrocannabinols in hemp.

Sec. 481.103 includes 3,4-methylenedioxymethamphetamine (MDMA) in Penalty Group 2. This penalty group includes any quantity of certain hallucinogenic substances, their salts, isomers, and salts of isomers, unless specifically excepted, if the existence of these salts, isomers, and salts of isomers is possible within a specific chemical designation.

Interested parties have noted that certain alternative medical therapies may have the potential to help aid veterans suffering from post-traumatic stress disorder, and that the state should conduct a study to determine the efficacy of such treatments.

DIGEST:

CSHB 1802 would require the Health and Human Services Commission (HHSC), in collaboration with Baylor College of Medicine and in partnership with a military veterans hospital or a medical center that provides medical care to veterans, to conduct a study on the efficacy of using certain alternative therapies, including the use of 3,4-methylenedioxymethamphetamine (MDMA), psilocybin, and ketamine, in the treatment of veterans who suffer from post-traumatic stress disorder.

In conducting the study, HHSC in collaboration with the Baylor College of Medicine would be required to perform a clinical trial on the therapeutic efficacy of using psilocybin in the treatment of treatment-resistant post-traumatic stress disorder in veterans. HHSC also would be required to review current literature regarding:

- the safety and efficacy of MDMA, psilocybin, and ketamine in the treatment of post-traumatic stress disorder; and
- the access veterans have to MDMA, psilocybin, and ketamine for treatment of post-traumatic stress disorder in the United States.

HHSC would have to submit to the governor, lieutenant governor, House speaker, and each member of the Legislature quarterly reports on the progress of the study. No later than December 1, 2024, a written report would have to be provided to the same parties containing the results of the study and any recommendations for legislative or other action.

HHSC would be required to ensure that any protected health information collected during a clinical trial conducted or contained in the report would not personally identify an individual.

The bill's provisions would expire September 1, 2025.

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.

NOTES:

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

SUBJECT: Shortening the time frame that property omitted from roll can be appraised

COMMITTEE: Ways and Means — committee substitute recommended

VOTE: 11 ayes — Meyer, Thierry, Button, Cole, Guerra, Martinez Fischer, Murphy, Noble, Rodriguez, Sanford, Shine

0 nays

WITNESSES: For — (*Registered, but did not testify*: Jeff LeBlanc)

Against — (*Registered, but did not testify*: Julie Wheeler, Travis County Commissioners Court)

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

BACKGROUND: Under Tax Code sec. 25.21, if the chief appraiser discovers that real property was omitted from an appraisal roll in any of the five preceding years, the appraiser must appraise the property for each year that it was omitted and enter its value in the appraisal records.

Interested parties have suggested shortening the time frame in which the chief appraiser can look back on prior appraisal rolls to appraise erroneously omitted properties to ease the financial burden of back taxes, penalties, and interest on taxpayers.

DIGEST: CSHB 1090 would shorten the time frame during which the chief appraiser could discover that real property was omitted from an appraisal roll and appraise such property to the three preceding tax years.

The bill would take effect September 1, 2021.

NOTES: According to the Legislative Budget Board, the bill would reduce taxable value and increase costs to the Foundation School Fund through the operation of the school funding formulas. However, the value of appraisal omissions is unknown so the fiscal impact cannot be determined.

SUBJECT: Exempting property leased to a charter school from property taxes

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 7 ayes — Meyer, Button, Cole, Murphy, Noble, Sanford, Shine

3 nays — Thierry, Guerra, Rodriguez

1 absent — Martinez Fischer

WITNESSES: For — Bruce Tabor, Goddwater Montessori School; Verena Chaudoir, Great Hearts - Texas; Jospeh Hoffer, Schulman, Lopez, Hoffer and Adelstein, LLP; (*Registered, but did not testify*: Celeste Brown, Compass Rose Public Schools; Eddie Conger, International Leadership of Texas Public Charter Schools; Harold Oliver, New Frontiers Public Charter School; Frank Corte Jr., Schulman, Lopez, Hoffer and Adelstein; Amy Beard, Yes. Every Kid.; Tom Sage)

Against — (*Registered, but did not testify*: Monty Exter, ATPE; Dick Lavine, Every Texan; Charles Luke, Pastors for Texas Children; Grover Campbell, TASB; Mark Terry, TEPSA; Rene Lara, Texas AFL-CIO; Dena Donaldson, Texas AFT; Barry Haenisch, Texas Association of Community Schools; Paige Williams, Texas Classroom Teachers Association; Carrie Griffith, Texas State Teachers Association)

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

DIGEST: HB 3610 would exempt from taxation any property leased or purchased by a charter holder with funds received from the state after September 1, 2001, for open-enrollment charter school funding.

Under the bill, an open-enrollment charter school would be considered a political subdivision for purposes of:

- state law exempting political subdivisions from property taxation if the property was used for public purposes; and

- with respect to property purchased, leased, constructed, renovated, or improved with state funds after September 1, 2001, state law providing certain rights of action of a subdivision.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 3610 would create property tax parity for all schools by allowing property leased by an open-enrollment charter school to be exempt from taxes. Currently, school districts, private nonprofit schools, and charter schools that own their facilities are exempt from property taxes. However, public charter schools that lease their facilities, which often include new or growing schools, must use state funds to cover both operations and facility costs. These schools do not have the ability to levy taxes and work with limited funds. By providing this tax exemption, HB 3610 would keep state education funds where they are best spent: in the classroom and on teacher salaries.

Concerns that the bill would decrease property tax revenues are unfounded. Public charter schools should receive all the funds allocated by the state to the school for their enrolled students, and this bill would ensure those revenues were not sent to other local taxing authorities or school districts as property tax. While the Legislature provides some funding for facilities, charter schools cannot levy taxes like school districts and remain at a disadvantage. Further, tax exemptions for facilities owned by charter schools are not guaranteed, and schools have to work with each taxing unit to be granted such exemptions. While some may be concerned that the bill would benefit landlords, the cost of property taxes is typically passed down to the renter, so charter schools, not landlords, would benefit from the exemption. There are also strong laws in place to prevent any landlords from self-dealing.

A joint resolution would not be necessary to enact this bill because the Texas Constitution already provides authority to the Legislature to grant a property tax exemption for school property and for political subdivisions using property for public purposes. If this was an issue, it could be addressed.

CRITICS SAY:

HB 3610 could reduce local property tax revenue, resulting in less funding for school districts, which serve more than 90 percent of students. This could add to the growing costs of running parallel systems of education for public district and charter schools. Charter schools already are allocated funds by Legislature for their leased facilities and may receive tax exemptions for facilities they own, so they do not need this exemption.

The bill also could allow the landlord leasing a facility to a charter school to benefit from the exemption, even though the landlord, not the state, would retain ownership of the property. In addition, because there are no transparency requirements in the bill, a person affiliated with a charter school could rent their building out to the school in a self-serving manner.

OTHER CRITICS SAY:

HB 3610 likely could not take effect without a joint resolution amending the Texas Constitution to allow for a property tax exemption of the leased facilities of a charter school.

NOTES:

According to the fiscal note, the bill could reduce taxable property values, which could reduce property tax revenue for local governments and increase costs to the Foundation School Fund through the operation of the school finance formulas. However, the value of property that would be exempt is unknown, so the cost cannot be estimated.

SUBJECT: Requiring a system related to certain vehicle registration information

COMMITTEE: Transportation — committee substitute recommended

VOTE: 12 ayes — Canales, E. Thompson, Ashby, Davis, Harris, Landgraf, Lozano, Martinez, Ortega, Perez, Rogers, Smithee

1 nay — Bucy

WITNESSES: For — Ruben Gonzalez, El Paso County; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Adam Haynes, Conference of Urban Counties; Daniel Collins, El Paso County; Thamara Narvaez, Harris County Commissioners Court; Julie Wheeler, Travis County Commissioners Court; Susana Carranza; Samantha Chang; Idona Griffith; Linda Guy; Gregg Vunderink)

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

On — Shay Luedeke, Tax Assessor-Collector Association of Texas; (*Registered, but did not testify*: Stefan Krisch, Texas Department of Motor Vehicles)

BACKGROUND: Under Transportation Code sec. 502.010, a county assessor-collector or the Texas Department of Motor Vehicles (TxDMV) may refuse to register a vehicle if the assessor-collector or TxDMV receives information that the owner of the vehicle owes the county money for a fine, fee, or tax that is past due or failed to appear in connection with a complaint, citation, information, or indictment in a court in the county in which a criminal proceeding is pending against the owner.

It has been noted that while both county tax assessor-collectors and TxDMV can refuse to register or renew the registration of a vehicle for money owed or failure to appear in court, TxDMV does not have the resources to enforce payment for past due matters and those individuals owing money are still able to renew their registration online. Some have called for TxDMV to create a real-time online database.

DIGEST:

CSHB 2306 would require that if the Texas Department of Motor Vehicles (TxDMV) determined that a county assessor-collector was authorized to refuse to register a vehicle, the vehicle could not be registered through an online system designated by TxDMV for use by county assessor-collectors or an online system available to the public.

The bill would require TxDMV to develop and implement a system through which counties could provide to the department information needed to make the determination. The system would have to verify in real time whether a vehicle owner owed the county money or had failed to appear in court by searching against the owner's driver's license number, date of birth, or other information. The system also would have to be used for vehicle registrations conducted through TxDMV's website. TxDMV would be required to implement the system no later than September 1, 2022.

TxDMV would be authorized to collect information necessary to implement the bill's provisions, and would not be able to disclose any personal identifying information it collected.

Provisions of the bill requiring implementation by September 1, 2022, would take effect September 1, 2021.

The bill would take effect September 1, 2022, and would apply only to an application for vehicle registration or registration renewal received by TxDMV on or after that date.

NOTES:

According to the Legislative Budget Board, the bill would make no appropriation but could provide the legal basis for an appropriation of funds to implement the bill's provisions.

SUBJECT: Removing $3 per meal spending cap for jurors in civil cases

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

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

0 nays

1 absent — Dutton

WITNESSES: For — Judith Snively, Harris County District Clerk; (*Registered, but did not testify*: Thamara Narvaez, Harris County Commissioners Court; Lee Parsley, Texans for Lawsuit Reform; Thomas Parkinson)

Against — None

BACKGROUND: Under Government Code sec. 62.202, a district judge in applicable counties may keep the jurors together for deliberation to expedite the final disposition of a civil case in the district court instead of dismissing the jurors for meals. The district judge may draw a warrant on the jury fund or other appropriate fund of the county in which the civil case is tried to cover the cost of buying and transporting the meals to the jury room. No more than $3 per meal may be spent for each juror.

Interested parties have called for removing the $3 per meal cap and instead allow a judge to authorize an amount the judge considers appropriate for each meal.

DIGEST: HB 2375 would remove the $3 per meal cap and instead authorize a judge to spend out of county funds an amount the judge considered appropriate to provide food to jurors in a civil case.

The bill would take effect September 1, 2021.