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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, May 11, 2021
87th Legislature, Number 54
The House convenes at 10 a.m.
Part One

The bills and joint resolutions analyzed or digested in Part One of today's *Daily Floor Report* are listed on the following page.

The House will consider a Local, Consent, and Resolutions Calendar.

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

Alma Allen
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Tuesday, May 11, 2021
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Part 1

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SUBJECT: Continuing TCOLE; creating panel to review law enforcement regulation

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 7 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson

2 nays — Schaefer, Tinderholt

WITNESSES: For — Brian Hawthorne, Sheriffs' Association of Texas; (*Registered, but did not testify*: Elizabeth Nezda Orr, AT&T; Guadalupe Cuellar, City of El Paso; Ben Stratmann, Dallas Regional Chamber; David Sinclair, Game Warden Peace Officers Association; Austin Holder, Texas Instruments)

Against — Jennifer Szimanski, Combined Law Enforcement Associations of Texas; (*Registered, but did not testify*: Charley Wilkison, Combined Law Enforcement Associations of Texas; Jimmy Rodriguez, San Antonio Police Officers Association; Julie Gilberg; Linda Guy; Georgia Keysor; Gentry McClean; Vunderink)

On — Andrew McConnell, Sunset Commission; Kevin Lawrence, Texas Municipal Police Association; Jeff Garner and Brian Harvey, Texas Police Chiefs Association; (*Registered, but did not testify*: Kathy Mitchell, Just Liberty; James Smith, San Antonio Police Department; Steven Ogle, Senaida San Miguel, and Sadie Smeck, Sunset Commission; Kim Vickers, Texas Commission on Law Enforcement)

BACKGROUND: The 59th Legislature in 1965 created what is now the Texas Commission on Law Enforcement (TCOLE) to establish training and education standards for law enforcement personnel, which became mandatory for Texas peace officers in 1969. TCOLE began regulating county jailers in 1979 and began licensing telecommunicators and school marshals in 2013.

Functions. TCOLE performs certain key functions, including licensing and certifying personnel, registering new law enforcement agencies and auditing existing agencies, developing curriculum standards for basic

training and continuing education courses, and investigating complaints and taking disciplinary actions against licensees under certain circumstances for certain crimes and for violations of TCOLE statute and rules.

TCOLE licenses peace officers, county jailers, telecommunicators, and school marshals. Licenses are classified as active, appointed, or inactive. Active licensees are persons who have completed required training, passed the state licensing exam, and remain in compliance with continuing education requirements. An active licensee has to be appointed, or hired, by a law enforcement agency to perform law enforcement duties. If licensees are retired or no longer employed by an agency and do not maintain continuing education, their licenses are placed in inactive status. In fiscal 2019, TCOLE oversaw 154,659 active, 116, 071 appointed, and 356,226 inactive licenses. Individuals may hold multiple licenses or appointments, so the number of individuals who hold licenses is lower than these totals.

TCOLE oversees about 2,700 law enforcement agencies, the majority of which employ 10 or fewer officers. TCOLE audits agencies at least once every five years to ensure compliance with basic recordkeeping standards.

Governing structure. TCOLE is governed by a nine-member body that consists of three members who must be sheriffs, constables, or chiefs of police; three members who must be licensees, two of whom must be peace officers in non-supervisory positions; and three members representing the public. Members are appointed by the governor and confirmed by the Senate and serve staggered six-year terms.

Funding. TCOLE operated on a budget of about $4.2 million in fiscal 2019, with about $3.2 million coming from the Law Enforcement Officer Standards and Education Account, which is funded partially by court fees and supports activities at TCOLE, the Comptroller of Public Accounts, and the Department of Public Safety. TCOLE also receives appropriated receipts and state and federal grants administered through the Office of the Governor's Criminal Justice Division and can receive funds through the Texas Peace Officer Flag Account.

Staffing. In fiscal 2019, TCOLE employed 53 full-time staff, which included eight regional field service agents who audit law enforcement agencies and two evaluators who audit training providers.

TCOLE would be discontinued September 1, 2021, if not continued by the Legislature.

DIGEST:

HB 1550 would continue the Texas Commission on Law Enforcement (TCOLE) until September 1, 2023, and create a panel to study the regulation of law enforcement personnel and agencies. The bill also would require the Sunset Commission to conduct a limited-scope review of the commission for the 88th Legislature, require TCOLE to conduct criminal history record checks on license applicants, and establish a process for the emergency suspension of a license, among other provisions.

Panel to review law enforcement regulation. HB 1550 would create a panel to study the regulation of persons licensed by TCOLE and the entities authorized by law to employ them.

Members, advisory committees. The panel would consist of 17 members, including:

- nine members who were knowledgeable on criminal justice matters, including law enforcement personnel, representatives of victims' rights groups, educators, judges, and local elected officials;
- three members who represented the public, with one each appointed by the governor, the lieutenant governor, and the House speaker;
- the chairs of the Senate Committee on Criminal Justice and the House Committee on Homeland Security of Public Safety;
- the chair of the board of the Texas District and County Attorneys Association; and
- as nonvoting members, the TCOLE executive director and the attorney general.

The governor, lieutenant governor, and House speaker each would appoint three of the nine members with knowledge on criminal justice matters. In

appointing those members, each would have to appoint one representative of a rural county or small municipality and one representative of a law enforcement agency. Members would have to be appointed by September 1, 2021.

The panel could establish advisory committees to assist in its duties. Advisory committee members could include any person with knowledge or experience relevant to the study.

A member of the panel or an advisory committee would not be entitled to compensation but could be reimbursed for travel and other expenses incurred as provided by the general appropriations act.

Study. The panel would have to study and make recommendations on the regulation of persons licensed by TCOLE and entities authorized by law to employ them. In conducting the study, the panel would have to consider:

- the standards of conduct applicable to licensees;
- the education and training requirements for licensees;
- TCOLE's regulation of training programs and schools; and
- the accountability to the public of licensees and of entities authorized to employ them.

Report. By June 1, 2022, the panel would have to deliver a report on the study, including any legislative recommendations, to the governor, the lieutenant governor, the House speaker, the Legislature, and the Sunset Commission. The report could be issued only if it was adopted by a two-thirds vote of the panel's membership.

Subpoena. The panel could request and compel by a subpoena the production for inspection and copying of documents and other records relevant to the panel's duties and the attendance of a witness for examination under oath. A subpoena could be issued throughout the state and could be served by any person designated by the panel.

The panel, acting through the attorney general, could bring an action to enforce a subpoena. The venue for an action would be in a district court in

Travis County or any county in which TCOLE could conduct a hearing. The court would have to order compliance with the subpoena if it found that good cause existed to issue the subpoena.

Assistance. TCOLE would have to provide facilities and administrative support for the panel to carry out its duties.

Open government. The panel and any advisory committee would be subject to open meetings laws. The panel would have to hold a public hearing at least once a month to solicit testimony and provide information to the public on its work.

The panel and any advisory committee could meet by teleconference call, videoconference, or other similar telecommunication method. A meeting held by such a method would be subject to related requirements under open meetings laws.

Preliminary drafts of the final report and legislative recommendations, memoranda of panel members expressing opinions, formulations, or recommendations, and panel members' notes and correspondence with individuals who were not panel members would be confidential and not subject to public disclosure under the Texas Public Information Act.

Expiration. The panel would be abolished December 31, 2022.

Limited-scope review. The bill would require the Sunset Advisory Commission to conduct a limited-scope review of TCOLE for the 88th Legislature. The review would provide an update on the progress of TCOLE in implementing the bill and an evaluation of any legislative recommendations made by the panel.

Criminal history record information for license. TCOLE would have to require an applicant for a license to submit a complete and legible set of fingerprints to TCOLE or the Department of Public Safety (DPS) for the purposes of obtaining criminal history record information from DPS and the Federal Bureau of Investigation (FBI). TCOLE would be prohibited from issuing a license to a person who did not comply with the fingerprint requirement.

TCOLE would have to conduct a criminal history record information check of each license applicant using information provided by the individual and made available by DPS, the FBI, and any other criminal justice agency. The commission could enter into an agreement with DPS to administer the criminal history check and authorize DPS to collect related costs from each applicant.

TCOLE would have to conduct a criminal history check on each person who held a license on September 1, 2021. TCOLE could suspend the license of a person who did not comply with a request to provide information or fingerprints that would enable the commission to conduct such a check.

Examination of license holder. The bill would require TCOLE to adopt rules specifying the circumstances under which it could request that a license holder submit to a psychological or physical exam to determine whether the license holder continued to meet the standards related to psychological and emotional health and that the person did not show any trace of drug dependency or illegal drug use. If the results showed that the person did not meet the standards, TCOLE would have to suspend the person's license.

If the license holder refused to submit to the exam, TCOLE would have to issue an order requiring the person to show cause for the refusal at a hearing scheduled no later than 30 days after the notice was served.

At the hearing, the person could appear in person and by counsel and present evidence to justify the refusal to submit to an exam. After the hearing, TCOLE would have to issue an order requiring the person to submit to an exam or withdrawing the request for the exam. Unless the request was withdrawn, TCOLE could suspend the license of a person who refused the submit to the exam.

Related records, including the identity of the person notifying TCOLE that a license holder could not meet the standards, would be confidential and not subject to public disclosure under state public information laws.

Emergency suspension. TCOLE would have to adopt rules specifying the circumstances under which it could issue an emergency order, without a hearing, to suspend a person's license for no more than 90 days after determining the person constituted an imminent threat to the public health, safety, or welfare. An order would have to specify the length of the suspension.

If an emergency order was issued without a hearing, TCOLE would have to set the time and place for a hearing to be conducted within 10 days after the order was issued. A hearing to affirm, modify, or set aside the emergency order would be conducted by the State Office of Administrative Hearings (SOAH). The order would be affirmed to the extent that good cause existed to issue the order.

TCOLE by rule could prescribe procedures for the determination and appeal of an emergency orders, including a rule allowing TCOLE to affirm, modify, or set aside a decision made by SOAH.

A proceeding would be a contested case under laws governing administrative procedure.

Complaint process. As part of TCOLE's comprehensive procedure for its complaint enforcement process, a license holder would be entitled to obtain information regarding a complaint made against the license holder, except TCOLE would not be required to provide the identity of any nontestifying complainant.

The bill also would update TCOLE's complaint process with across-the-board recommendations on complaint tracking.

Subpoena. TCOLE could request and, if necessary, compel by subpoena the production for inspection or copying of records, documents, and other evidence relevant to the investigation of an alleged violation of applicable law or a commission rule, other than a document in connection with a disciplinary matter taken by a law enforcement agency.

TCOLE, acting through the attorney general, could bring an action to enforce a subpoena against a person who failed to comply. The venue for

an action would be in a district court in Travis County or any county in which TCOLE could conduct a hearing. The court would have to order compliance with the subpoena if it found that good cause existed to issue the subpoena.

Advisory committees. The bill would allow TCOLE to appoint committees to perform advisory functions as determined by the commission. A member of an advisory committee would serve at the will of TCOLE.

A member of an advisory committee who was not a member of TCOLE could not receive compensation for service on the committee but could receive reimbursement for expenses incurred in performing committee functions.

Board member training. The bill would revise board member training to adhere to across-the-board recommendations, including by expanding training program requirements and requiring the executive director to create a training manual and annually distribute it to members of the commission. Members would have to sign and submit a statement acknowledging that the member received and reviewed the manual.

The revisions to board member training would apply to a member appointed before, on, or after the bill's effective date. A member who had completed the current training program would be required to complete only the additional training subjects added by the bill and could not vote, deliberate, or be counted as a member in attendance at a meeting held on or after December 1, 2021, until the member completed the additional training.

Other provisions. The bill would remove the requirement that the minimum standards TCOLE could establish relating to competence and reliability include moral standards.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

HB 1550 would continue the Texas Commission on Law Enforcement's (TCOLE) role of setting and enforcing minimum licensing and training

standards for law enforcement personnel across the state. Texas has a continued need to regulate law enforcement; however, the regulatory model is fragmented, lacks statewide standards, and has not evolved with the changing landscape. As a result, state law enforcement regulation can no longer ensure the conduct, training, transparency, and accountability the public expects of law enforcement.

Since these gaps in regulation cannot be addressed through changes to TCOLE's operations, and rather than attempting to rush a repair of a fundamentally broken system, the bill would task a blue ribbon panel to take a comprehensive look at how the state regulates law enforcement and make recommendations to the Sunset Commission and Legislature on changes needed to protect the health, safety, and welfare of Texans and law enforcement personnel. Without addressing this fundamental misalignment, neither TCOLE nor the state as a whole can effectively license and regulate law enforcement personnel in Texas, which involves larger policy issues beyond the scope of a Sunset review.

The intent of the blue ribbon panel would be to consider many topics related to reforming public safety. Whether it is training, misconduct, investigative authority, model policies, or the agency separation process, known as the F-5 form, that need reforming, the blue ribbon panel would review policy changes over the interim to modernize TCOLE and propose changes to be discussed and enacted by the next Legislature. The bill also would require Sunset to complete a limited-scope review of TCOLE in the next review cycle. Taking time for such a review would ensure TCOLE had the tools necessary to professionalize law enforcement and ensure the public trusted the service provided by law enforcement.

The bill still would provide for certain changes TCOLE could implement before the next legislative session to improve its efficiency and effectiveness, regardless of the outcomes of the blue ribbon panel's review, including providing for emergency suspension of a license if the person constituted an imminent threat to the public health, safety, or welfare and requiring criminal history background checks on all license applicants.

CRITICS SAY:

By providing for a blue ribbon panel, HB 1550 in effect would delay meaningful reform until at least the next legislative session in 2023, possibly bypassing the current environment of support for public safety reforms. Texans should not have to wait two years for improved law enforcement oversight, transparency, and accountability. In addition, the panel could put additional responsibilities and burdens on TCOLE, which already suffers from insufficient funding and resources.

While the bill would provide a process for TCOLE to issue an emergency order suspending a license under certain circumstances, the bill should go a step further and expand TCOLE's authority to revoke or suspend licenses of peace officers who have committed serious acts of misconduct, rather than continuing the current practice of handling discipline at the local level.

NOTES:

The bill's author intends to offer floor amendments that would:

- include business leaders in the nine members of the panel with knowledge on criminal justice matters and revise the composition of the panel to include, as nonvoting members, the director of the Texas A&M Engineering Extension Service, the president of the Sheriffs' Association of Texas, and the president of the Texas Police Chiefs Association;
- revise TCOLE's authority to issue a subpoena under the bill and provide a new policy and process for investigations;
- revise the information provided to an accused license holder who was the subject of a complaint; and
- change the process for requesting a psychological or physical exam under the bill.

SUBJECT: Continuing the Texas Parks and Wildlife Department

COMMITTEE: Culture, Recreation and Tourism — favorable, without amendment

VOTE: 6 ayes — K. King, Gervin-Hawkins, Burns, Frullo, Krause, Martinez

0 nays

3 absent — Clardy, Israel, C. Morales

SENATE VOTE: On final passage, April 19 — 31-0

WITNESSES: *On House companion bill, HB 1615:*
For — Cyrus Reed, Lone Star Chapter Sierra Club; John Shepperd, Texas Foundation for Conservation; David Yeates, Texas Wildlife Association; (*Registered, but did not testify:* Kirby Brown, Ducks Unlimited; George Cofer, Annandale Ranch; Guadalupe Cuellar, City of El Paso; Ron Hinkle, Texas Travel Alliance; Joey Park, Coastal Conservation Association Texas and Texas Agriculture Land Trust; David Sinclair, Game Warden Peace Officers Association; Harold Stone, Texas Farm Bureau; and seven individuals)

Against — None

On — Danielle Nasr, Sunset Advisory Commission; John True, Texas Deer Association; Clayton Wolf, Texas Parks and Wildlife Department

BACKGROUND: The Texas Parks and Wildlife Department (TPWD) was created in 1963 when the State Parks Board was merged with the Texas Game and Fish Commission. The mission of TPWD is to manage and conserve the natural and cultural resources of Texas and to provide hunting, fishing, and outdoor recreation opportunities.

Functions. TPWD has a range of functions, including managing public lands; regulating fishing, hunting, and boating activities; enforcing game and wildlife laws; and managing the sustainability of wildlife and fish.

Governing structure. The department is governed by a commission made up of nine members appointed by the governor with the advice and consent of the Senate. Members serve staggered six-year terms and statute directs the governor to attempt to include individuals with certain expertise, such as outdoor recreation and conservation.

Funding. In fiscal 2019, TPWD received $404.2 million, most of which came from user fees and a portion of the state sporting goods sales tax. The department spent $441.3 million in fiscal 2019.

In 2019, voters approved a proposition to amend the Texas Constitution to fully dedicate a portion of sales tax revenue from certain sporting goods to TPWD and the Texas Historical Commission. The amount of additional funding the department will receive from these dedicated funds is expected to be significant, but is still unknown.

Staffing. TPWD employed 3,001 staff in fiscal 2019. About 27 percent of the staff works at the Austin headquarters while the rest work at one of the 199 regional offices, state parks, and other facilities across the state.

TPWD will be discontinued on September 1, 2021, if not continued in statute.

DIGEST:

SB 700 would continue the Texas Parks and Wildlife Department (TPWD) until September 1, 2033, and adopt certain Sunset Advisory Commission recommendations, including requiring risk-based inspections of certain license holders and measuring the effectiveness of the Land and Water Plan.

Risk-based inspections. The bill would provide for the adoption of policies regarding risk-based inspections of the holders of certain licenses or authorizations issued by TPWD.

The Texas Parks and Wildlife Commission would have to adopt policies to guide the prioritization of inspections of:

- nonrecreational authorization holders, based on risk to the state's natural resources;

- holders of a license to deal, distribute, or manufacture vessels, based on risk to water safety; and
- holders of a permit to disturb, take, or carry away marl, sand, gravel, shell, or mudshell, based on risk to the state's natural resources.

A "nonrecreational authorization holder" would mean a holder of a license, permit, or other authorization required by the Parks and Wildlife Code or related rule, but would not include a holder of a hunting license, hunting or fishing stamp, fishing license, or combination hunting and fishing license.

The policy would have to require TPWD to identify the nonrecreational authorization holders that required on-site inspections.

In general, the policies would have to require TPWD to:

- determine the conditions under which on-site inspections were appropriate;
- develop an assessment tool for determining the appropriate frequency and intensity of inspections based on key risk factors and indications of increased or decreased risk, such as repeated or remedied violations and failed or passed inspections; and
- document all inspections and results and make those documents available to employees whose jobs pertained to the regulation of the license holders.

Policies adopted for the different types of license holders could be combined.

Land and water plan. The bill would require TPWD's Land and Water Resources Conservation and Recreation Plan to include measures of the effectiveness of the department in meeting the goals and objectives of the plan, including quantifiable measures.
Every five years, TPWD would have to evaluate progress towards achieving the goals and objectives of the plan. The evaluation would have to include the effectiveness measures included in the plan and identify the

goals and objectives met and reasons for any unmet goals or objectives. On completion of an evaluation, TPWD would have to develop and implement practices designed to improve progress towards meeting the goals and objectives of the plan.

Other provisions. The bill also would adopt certain across-the-board Sunset recommendations regarding commission member training and maintaining a complaints system. The bill also would revise how certain individuals were described in statute.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

SB 700 would continue the Texas Parks and Wildlife Department (TPWD) so that the department could continue its essential functions of managing, conserving, and providing access to state lands and natural resources. The bill also would adopt Sunset recommendations aimed to improve license inspections, clarify the department's strategic planning process, and improve good governance through across-the-board standards.

After reviewing TPWD, the Sunset Advisory Commission found that some of the department's licensing and enforcement functions were inconsistent and lacked transparency. Accordingly, this bill would require TPWD to adopt policies to formally guide the prioritization of inspections of license holders based on the risk to the state's natural resources or, in the case of boat dealers, distributors, or manufacturers, risk to water safety. Such inspections would be intended for holders of a commercial license issued by TPWD, not those who had fishing or hunting licenses. This would ensure that the department efficiently allocated its resources to inspections with the highest risks and align TPWD with agency best practices.

The Sunset review also found that TPWD needed to improve its strategic management process to ensure it could meet the future needs of Texans. The review found that the Land and Water Plan, which guides TPWD's conservation and recreation efforts and activities, could be used more effectively. SB 700 would ensure this by requiring the plan to include metrics to measure progress toward its goals and objectives and by

requiring TPWD to evaluate the plan's progress every five years. By evaluating the plan every five years, the bill would allow TPWD enough time to measure benchmarks for program success and account for anomalies in annual changes in outdoor recreation and participation, as occurred during the COVID-19 pandemic when outdoor recreation was more common.

While some may be concerned that the bill would not revise additional TPWD programs, those issues are not within the scope of this bill and could be addressed in other legislation. Additionally, the Sunset report found that no benefit would result from transferring the management of disease control among deer populations to the Animal Health Commission, as TPWD and the commission coordinate well together.

CRITICS SAY:

SB 700 would not go far enough in revising certain processes of the Texas Parks and Wildlife Department (TPWD). There are concerns by different groups that various programs under TPWD should have received a more rigorous review and been revised under this bill, including the department's conservation efforts toward threatened species, the management of state parks and wildlife management areas, and other TPWD processes.

Additionally, the bill should remove TPWD's jurisdiction over deer breeding operations and disease management. The Texas Animal Health Commission should have sole jurisdiction over this program since its staff have the proper expertise. TPWD's oversight of this program is a duplicative effort that is not cost-effective.

SUBJECT: Amending the constitution to allow denial of bail in some circumstances

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 6 ayes — Collier, K. Bell, Cason, Cook, Murr, Vasut

3 nays — Crockett, Hinojosa, A. Johnson

WITNESSES: For — Andy Kahan, Crime Stoppers of Houston; Richard Jankovsky, DPS Officers Association; Rick Hill, Justices of the Peace and Constables Association of Texas; Derek Cohen, Texas Public Policy Foundation; Kasey Allen; Doug Deason; (*Registered, but did not testify*: Greg Glod, Americans For Prosperity; Nicholas Chu, Justices of the Peace and Constables Association; Justin Keener, Libre Initiative; Joseph Scaramucci, McLennan County Sheriffs Office; Tom Maddox, Sheriffs Association of Texas; Drew Lawson, Texans for Lawsuit Reform; Megan Herring, Texas Association of Business; Mia McCord, Texas Conservative Coalition; Cindi Castilla, Texas Eagle Forum; John Wilkerson, Texas Municipal Police Association; Jason Vaughn, Texas Young Republicans)p

Against — John A. Convery, David Gonzalez, and Michael Gross, Texas Criminal Defense Lawyers Association; (*Registered, but did not testify*: Nick Hudson, American Civil Liberties Union of Texas; Chas Moore, Austin Justice Coalition; Linda Nuno, Dem Party; Scott Miller, Financial Casualty & Surety; Rene Perez, Libertarian Party of Texas; Gage Gandy, Ken W. Good, and Glenn Meeker, PBT; Shea Place, Texas Criminal Defense Lawyers Association; Amelia Casas, Texas Fair Defense Project; Emily Gerrick, Texas Fair Defense Project; Mary Sue Molnar, Texas Voices for Reason and Justice; John Clark; Deana Johnston; Elias Lang Cortez; Zoe Russell)

On — David Slayton, Texas Judicial Council; Jonathan Copeland; Michael Fields

BACKGROUND: Texas Constitution Art. 1, sec. 11 and Code of Criminal Procedure (CCP) art. 1.07 state that all prisoners shall be bailable unless accused of a capital offense when proof is evident.

Other provisions in the Texas Constitution allow judges and magistrates to deny bail in certain situations. District judges have discretion, under Texas Constitution Art. 1, sec. 11a, to deny bail if a defendant is accused of:

- a felony and has been convicted of two prior felonies;
- a felony committed while on bail for a prior indicted felony;
- a felony involving a deadly weapon after a conviction for a previous felony; or
- a violent or sexual offense committed while on probation or parole for a previous felony.

Under Texas Constitution Art. 1, sec. 11b, judges or magistrates may deny bail to those accused of an offense involving family violence if the accused had been released on bail on those charges and the bond had been revoked or forfeited because the accused violated a condition of the bond related to the safety of the victim or community.

Texas Constitution Art. 1, sec. 11c allows bail to be denied if a judge or magistrate determined at a hearing that the arrestee had violated certain protective orders. Bail can be denied if a person:

- violates an emergency protective order issued after an arrest for family violence;
- violates an active protective order issued by a court in a family violence case, including a temporary ex parte order that had been served on the person; or
- engages in conduct that constituted an offense of violating any of these court orders.

Sec. 11a defines "violent offense" as: murder; aggravated assault, if the accused used or exhibited a deadly weapon during the commission of the assault; aggravated kidnapping; or aggravated robbery.

"Sexual offense" is defined as: aggravated sexual assault; sexual assault; or indecency with a child.

DIGEST:

CSHJR 4 would amend the Texas Constitution to expand the conditions under which judges and magistrates would be authorized to deny bail and would establish procedures for when bail is denied in the cases.

Authorized to deny for certain violent, sexual offenses. Individuals accused of committing a violent or sexual offense or of committing continuous trafficking of persons could be denied bail pending trial if a judge or magistrate determined that requiring bail and conditions of release were insufficient to reasonably ensure the person's appearance in court as required or the safety of the community, law enforcement, or the victim of the alleged offense.

A judge or magistrate who denied bail under these provisions would be required to prepare a written order that included findings of fact and a statement explaining the reason for the denial.

Required to deny for capital murder, certain sex offenses. Judges or magistrates would have to deny bail pending trial, unless certain conditions were met, for those accused of committing capital murder or of committing a sexual offense involving a victim younger than 17 years of age.

Bail would not have to be denied if a judge or magistrate determined by clear and convincing evidence that, based on the existence of extraordinary circumstances, the judge or magistrate was able to set bail and conditions of release sufficient to reasonably ensure the person's appearance in court and the safety of the community, law enforcement, and the victim of the alleged offense.

Judges and magistrates who denied bail in accordance with this section would be required to prepare a written order that included findings of fact and a statement explaining the reason for the denial.

Other provisions. In both the circumstances in which bail may be denied and those under which it would have to be denied, the provisions could not be construed to:

- limit any right a person had under other law to contest a denial of bail or to contest the amount of bail set by a judge or magistrate; or
- require any hearing or procedure, not otherwise required by the bill or by general law, before a judge or magistrate made a bail decision.

"Violent offense" and "sexual offense" would have the meanings established under Texas Constitution Art. 1, sec. 11a.

The proposed constitutional amendment would be submitted to the voters at an election on November 2, 2021. The ballot proposal would read: "The constitutional amendment authorizing the denial of bail under some circumstances to a person accused of a violent or sexual offense or of continuous trafficking of persons, and requiring the denial of bail to a person accused of capital murder or a sexual offense involving a victim younger than 17 years of age under most circumstances."

SUPPORTERS SAY:

CSHJR 4 would protect Texans, save lives, and result in fair bail decisions by expanding the circumstances under which judges and magistrates could deny bail. Currently, bail can be denied and defendants detained pre-trial in only very limited circumstances. Bail decisions under the current system have resulted in high-risk and dangerous defendants with financial means released out on the streets before their trial. This has resulted in tragedies such as the 2017 killing of Department of Public Safety trooper Damon Allen, who was shot during a traffic stop by someone who had been released on bail despite being a repeat offender with a violent past.

CSHJR 4 would address this situation by allowing bail to be denied in cases of violent offenses, sexual offenses, and offenses for continuous human trafficking and by requiring bail to be denied for capital murder and sex offenses involving someone younger than 17. Under current law, judges sometimes feel strongly that someone accused of these serious crimes is dangerous and should be kept in detention pretrial but have limited tools to address the situation. While judges might attempt to keep

those accused of these crimes in jail by setting high bail, defendants with resources can obtain release.

The Texas Constitution long has recognized that there are exceptions to the requirement that bail generally should be made available to criminal defendants. CSHJR 4 would be in line with current constitutional provisions by allowing bail denial in justifiable circumstances for the most heinous crimes, including violent and sexual offenses, continuous human trafficking, and sex offenses with child victims. The resolution also would be in line with other states that allow pre-trial detention for non capital crimes.

CSHJR 4 would give judges and magistrates a tool to use when they deemed necessary. Judicial discretion would remain because in both situations addressed by the resolution bail could be set under certain circumstances. Judges and magistrates would be able to make decisions that were fair while considering bail and conditions of release in the context of the safety of the public, victim, and law enforcement and the defendant's appearance in court. The bill would impose transparency when judges and magistrates denied bail by requiring written findings of fact about why bail was denied.

CSHJR 4 would work with other legislation on bail approved by the House this session to result in better qualified magistrates with more tools making informed, fair bail decisions.

CRITICS SAY:

CSHJR 4 would be too broad an expansion of when bail could be denied and would erode the tenet that bail is presumed and should not be denied except in the most limited cases. Pretrial detention should be a rare exception, not something available or mandated for multiple crimes that could be first-time offenses. While current law allows pretrial detention in some cases, it is generally focused on cases in which defendants have multiple felonies or there are other extraordinary circumstances.

CSHJR 4 could result in detention before trial for some defendants, regardless of the strength of the evidence in the case or the defendant's threat or flight risk. The purpose of requiring bail is to ensure public safety and a defendant’s appearance at trial, not to punish someone for an

alleged offense. These defendants are presumed innocent, and detaining them pretrial inverts that presumption.

The offenses for which bail could be denied under CSHJR 4 are too broad and include lower level felonies, some of which carry potential punishments of only a few years and could involve defendants with no criminal history. Under the resolution, those accused of a crime could be locked up years waiting for a trial that could result in a term of less time than they waited for trial. Allowing bail denial for a broad group of offenses could perpetuate or introduce unfair disparities for communities that have been historically disenfranchised or overly impacted by the criminal justice system.

The standards that CSHJR 4 would set for allowing bail for specific offenses would be vague and unfair to defendants. Determinations, even in cases in which bail denial is discretionary, should have to be made by a high burden of proof. Judges and magistrates have pretrial tools under current law for defendants accused of serious crimes, including electronic monitoring, house arrest, drug and alcohol testing, or other restrictive conditions on bonds. CSHJR 4 could infringe on judicial discretion as judges and magistrates could feel pressure to deny bail to defendants who fit certain circumstances. This could increase populations in county jails, straining their resources.

NOTES:

According to the Legislative Budget Board, the cost for publishing the resolution would be $178,333.

SUBJECT: Authorizing counties to use certain tax increment financing

COMMITTEE: Pensions, Investments and Financial Services — committee substitute recommended

VOTE: 9 ayes — Anchia, Parker, Capriglione, Muñoz, Perez, Rogers, Slawson, Stephenson, Vo

0 nays

WITNESSES: For — Brian Cassidy, Alamo RMA, Central Texas RMA, North East Texas RMA, Cameron County RMA, Camino Real RMA, Webb County-City of Laredo RMA, and Grayson County RMA; (*Registered, but did not testify*: Scott Stewart, American Council of Engineering Companies of Texas; Steven Albright, Associated General Contractors of Texas Highway Heavy Utility and Industrial Branch; Melissa Shannon, Bexar County Commissioners Court; Karen Rove, Central Texas Regional Mobility Authority; Adam Haynes, Conference of Urban Counties; Jim Allison, County Judges and Commissioners Association of Texas; Lillian Painter, Dallas County Commissioners Court; Daniel Collins, El Paso County; Thamara Narvaez, Harris County Commissioners Court; Chris Shields, San Antonio Mobility Coalition; Mackenna Wehmeyer, Texas Rail Advocates; Drew Campbell, Transportation Advocates of Texas; Julie Wheeler, Travis County Commissioners Court; Sarah Lacy, Trinity Metro; Dale Laine, VIA Transit; Vanessa MacDougal)

Against — None

BACKGROUND: Texas Constitution Art. 8, sec. 1-g(b) allows the Legislature to authorize an incorporated city or town to issue bonds or notes to finance development of an unproductive, underdeveloped, or blighted area and to pledge increases in property tax revenue in the area to repay the bonds.

DIGEST: CSHJR 99 would amend the Texas Constitution to add counties to the political entities authorized to issue bonds or notes to finance the development of an unproductive, underdeveloped, or blighted area within

the county and to pledge increases in property tax revenues for repayment of those bonds or notes.

The ballot proposal would be presented to voters at an election on November 2, 2021, and would read: "The constitutional amendment authorizing a county to finance the development or redevelopment of transportation infrastructure in unproductive, underdeveloped, or blighted areas in the county.

SUPPORTERS SAY:

CSHJR 99 would expand the use of a vital financing tool to counties to develop unproductive, underdeveloped, or blighted areas. Cities and towns already are able to use this tool, called tax increment financing, so the resolution would be a logical extension of this authority.

This innovative method of financing does not increase taxes, but allows local governments to redirect any additional property tax revenue to certain reinvestment zones to finance improvements within the zone, including transportation projects. As the financed transportation projects spur economic development, property values grow and the additional tax revenue can be captured and leveraged for further benefits to the zone. These transportation reinvestment zones (TRZs) are provided for under current law, and counties must hold a public hearing on the creation of any TRZ. However, since it is currently a legal question of to what extent counties may use TRZs, CSHJR 99 is needed to make it clear that counties could fully utilize this tool.

Texas is underinvesting in its transportation infrastructure by billions of dollars each year, and as the state's population continues to grow, so does the gap in funding. To close this gap and provide for future generations, the state needs tools to finance infrastructure projects. Concerns about the bill increasing taxes are unfounded, as the comptroller's office acknowledges that tax increment financing is not a new tax. Further, because counties can only designate a TRZ after a public hearing, taxpayers in blighted areas are able to become familiar with the county's financing plans. CSHJR 99 could even expand partnership opportunities for counties and cities to finance transportation projects.

CRITICS SAY:

CSHJR 99 would expand taxpayer-backed debt by allowing counties to use tax increment financing, which could raise local property taxes. Texas' local debt per capita already is too high, and by increasing debt further CSHJR 99 could invite higher taxes, tie up future funds for debt service payments, and risk local credit ratings. Cities and towns already can use this debt mechanism to finance infrastructure projects in blighted areas. County governments are not as close or well known to the taxpayers of these areas and should not be issuing this kind of debt for taxpayers to bear.

NOTES:

According to the Legislative Budget Board, the cost to the state for publication of the resolution would be $178,333.

SUBJECT: Authorizing the issuance of tuition revenue bonds

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 9 ayes — Murphy, Pacheco, Cortez, Frullo, Muñoz, Ortega, Parker, C. Turner, J. Turner

0 nays

2 absent — P. King, Raney

WITNESSES: For — (*Registered, but did not testify*: Scott Stewart, American Council of Engineering Companies of Texas; William Lynch, Coalition of East Tarrant Chambers of Commerce; Ben Stratmann, Dallas Regional Chambr; Patrick Brophey, North Texas Commission; Leticia Van de Putte, San Antonio Chamber of Commerce; Martin Gutierrez, San Antonio Hispanic Chamber of Commerce; J.D. Hale, Texas Association of Builders; Mike Meroney, Texas Association of Manufacturers; Gilbert Zavala, The Greater Austin Chamber of Commerce)

Against — (*Registered, but did not testify*: Calvin Tillman)

On — Emily Cormier, Texas Higher Education Coordinating Board; Greg Owens, Legislative Budget Board

BACKGROUND: Some have suggested that the need for public university systems to make capital improvements on their campuses could be addressed through the issuance of revenue bonds.

DIGEST: CSHB 1530 would authorize the boards of regents of public institutions of higher education specified in the bill to acquire, purchase, construct, improve, renovate, enlarge, or equip property and facilities for capital projects to be financed through the issuance of bonds and in accordance with an institution's system-wide revenue financing program, if applicable.

The bill would authorize the issuance of $4.3 billion in tuition revenue bonds for the following institutions and systems:

- The Texas A&M University System, excluding Texas A&M University-Central Texas, Texas A&M International University, Texas A&M University-Texarkana, and West Texas A&M University;
- The University of Texas System;
- the University of Houston System, excluding the University of Houston-Victoria;
- the Texas State University System, excluding Lamar University, Sul Ross State University, and Sul Ross State University Rio Grande College;
- the University of North Texas System;
- Texas Woman's University;
- Midwestern State University;
- Stephen F. Austin State University;
- the Texas Tech University System;
- Texas Southern University; and
- the Texas State Technical College System, excluding Texas State Technical College-Waco.

The bill would establish, for each institution, the specified projects that could be financed by the bonds and the maximum aggregate principal amounts that could be financed for each project.

The bill would take effect September 1, 2021.

NOTES:

According to the Legislative Budget Board, the bill would have an estimated negative impact of $685 million to general revenue through fiscal 2023.

SUBJECT: Requiring instruction on informed American patriotism in public schools

COMMITTEE: Public Education — committee substitute recommended

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

1 nay — Bernal

WITNESSES: For — Thomas Lindsay, Texas Public Policy Foundation, (*Registered, but did not testify*: Shelia Franklin, Charles Lewis, Fran Rhodes, Sheena Rodriguez, and Auburne Gallagher, True Texas Project; Deborah Avellano)

Against — (*Registered, but did not testify*: Ana Ramon, Texas Legislative Education Equity Coalition; and nine individuals)

On — Maggie Stern, Children's Defense Fund-Texas; Michael Baumgartner, Civics4Y'all; Stella Cunningham; (*Registered, but did not testify*: David Thomason and John Dolan, Civics4Y'all; Valerie DeBill, League of Women Voters of Texas; Eric Marin and Monica Martinez, Texas Education Agency)

BACKGROUND: Education Code sec. 4.001 states the mission and objectives of the Texas public education system. Sec. 28.002 establishes the required curriculum that schools must offer.

Interested observers contend that public schools should be required to teach additional information about the history and foundations of American government, including informed patriotism, to better develop students' civic knowledge and prevent an erosion of the American spirit.

DIGEST: CSHB 4509 would require the State Board of Education (SBOE) and each school district to require the teaching of informed American patriotism in the adoption of instructional materials for kindergarten through grade 12, including the founding documents of the United States.

The bill would revise a statement that a primary purpose of the public school curriculum is to prepare informed, rather than active, citizens who understand the importance of patriotism and can function productively in a free enterprise society with appreciation for the fundamental democratic principles, rather than the basic democratic values, of our state and national heritage.

In adopting the curriculum, SBOE would have to adopt essential knowledge and skills that developed each student's civic knowledge, including an understanding of:

- the fundamental moral, political, and intellectual foundations of the American experiment in self-government;
- the history, qualities, traditions, and features of civic engagement in the United States;
- the structure, function, and processes of government institutions at the federal, state, and local levels; and
- the founding documents of the United States, including the Declaration of Independence, the Constitution, the Federalist Papers, including Essays 10 and 51, excerpts from Alexis de Tocqueville's Democracy in America, the transcript of the first Lincoln-Douglas debate, and the writings of the founding fathers.

A school district or open-enrollment charter school would have to use those documents as part of the instructional materials.

The bill would add to the objectives of public education a requirement that educators cultivate in students an informed American patriotism and lead students in a close study of the founding documents of the United States and Texas. The purpose of the objective would be to:

- increase students' knowledge of the deepest and noblest purposes of the United States and Texas;
- enhance students' intellectual independence so that they may become thoughtful, informed citizens who have an appreciation for the fundamental democratic principles of our state and national heritage; and

- guide students toward understanding and productively functioning in a free enterprise society.

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.

SUBJECT: Revising certain campaign finance and state ethics laws

COMMITTEE: State Affairs — favorable, without amendment

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

0 nays

2 absent — Howard, Lucio

WITNESSES: For — None

Against — None

On — (*Registered, but did not testify*: JR Johnson, Texas Ethics Commission)

BACKGROUND: Some have suggested that statutory modifications based on certain Texas Ethics Commission recommendations would update the state's campaign finance and ethics laws and help resolve statutory conflicts.

DIGEST: HB 3906 would modify statutes pertaining to campaign finance reports submitted to the Texas Ethics Commission (TEC), political advertising, the dismissal of complaints by TEC, and required notices by the commission to individuals filing financial disclosures. The bill also would reenact and repeal certain portions of the Government Code and make conforming changes to implement the bill's provisions.

Campaign finance reports. The bill would remove language related to outdated technology from statute and specify that campaign finance reports filed with TEC that did not have to be filed electronically could be typed or written in black or blue ink.

Political advertising. The bill would specify that political advertising authorized by an agent of a political committee filing campaign finance reports would be deemed to contain express advocacy. This provision

would apply only to political advertising that was published, distributed, or broadcast on or after the bill's effective date.

Complaint dismissal by TEC. At any stage of a proceeding, TEC would have to dismiss a complaint to the extent the complaint alleged a statement, registration, or report violated a law or rule if the respondent filed an affidavit with a corrected or amended statement, registration, or report stating that any error or omission in the complaint as originally filed was made in good faith.

Required notices. The bill would specify that the required notice by TEC to each individual filing a personal financial statement would not have to be submitted by mail and would have to indicate the manner in which the individual could access instructions for filing statements and electronically file the statement on the commission's internet website.

Provisions requiring the commission to mail a copy of the financial statement forms and instructions to an individual on request and to state the fee for mailing these forms and instructions would be removed.

Reenactments, repeals, and conforming changes. The bill would reenact several portions of the Government Code, repeal corresponding duplicative and conflicting provisions, and make conforming changes to statute as specified in the bill.

The section of code relating to restrictions on certain expenditures as reenacted by the bill would apply only to a loan, gift, or expenditure offered, conferred or agreed to be conferred on or after the bill's effective date. The repeal of the statute relating to eligibility to file complaints with TEC would apply only to a complaint filed with the commission on or after the bill's effective date.

The bill would take effect September 1, 2021.

SUBJECT: Revising Texas Emissions Reduction Plan eligible projects, funding

COMMITTEE: Environmental Regulation — committee substitute recommended

VOTE: 9 ayes — Landgraf, Dominguez, Dean, Goodwin, Kacal, Kuempel, Morales Shaw, Morrison, Reynolds

0 nays

WITNESSES: For — Cyrus Reed, Lone Star Chapter Sierra Club; Michael Lozano, Permian Basin Petroleum Association; Sam Gammage, Texas Chemical Council; Kenneth Flippin, US Green Building Council Texas Chapter; (*Registered, but did not testify*: Marshall Kenderdine, Advanced Environmental Group LLC; Martha Landwehr, BASF; TJ Patterson, City of Fort Worth; Daniel Womack, Dow, Inc.; Tammy Narvaez, Harris County Commissioners Court; Mark Vane, Husch Blackwell Strategies; Buddy Garcia, LafargeHolcim; Jason Modglin, Texas Alliance of Energy Producers; Mark Vickery, Texas Association of Manufacturers; Shana Joyce, Texas Oil and Gas Association)

Against — None

On — Tom Smitty Smith, Texas Electric Transportation Resources Alliance; (*Registered, but did not testify*: Mike Wilson, Texas Commission on Environmental Quality)

BACKGROUND: In 2001, the 77th Legislature created the Texas Emissions Reduction Plan (TERP) to provide financial incentives to eligible individuals, businesses, and government entities to reduce emissions from vehicles and equipment and help the state achieve federal Environmental Protection Agency air quality standards, or "attainment." Health and Safety Code ch. 386 provides for the establishment of TERP, the programs that may receive funding under the plan, and the allocation of the TERP fund and account to different programs.

Interested parties have suggested making certain changes to TERP to better utilize funds, improve air quality, and protect the public health.

DIGEST:

CSHB 4472 would expand projects eligible for funding under the Texas Emissions Reduction Plan (TERP), revise allocations from the TERP fund and account, and make other changes to TERP programs.

Expanding TERP eligible projects. CSHB 4472 would expand the items receiving grants or funding under TERP to include:

- air monitoring equipment;
- fee-based contracts for the purchase of reductions in nitrogen oxides (NOx) emissions; and
- the energy efficiency loan guarantee program.

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

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

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

Energy efficiency loan guarantee program. The comptroller and the State Energy Conservation Office by rule would have to establish and administer a program that issued or guaranteed loans to be used for

improvements that increased the energy efficiency of residences that were not newly constructed.

The rule would have to establish eligibility requirements for receipt of a loan, including emissions reduction cost-effectiveness criteria with preference given to nonattainment areas or affected counties.

The office would have to submit to TCEQ and the Energy Systems Laboratory an annual report that evaluated program effectiveness and quantified the energy savings and emissions reductions for consideration in the state implementation plan for emissions reduction credit.

Revising TERP fund and account allocations. CSHB 4472 would revise the allocations from the TERP fund and account such that:

- $3 million, instead of 4 percent, could be used for the clean school bus program;
- $5 million, instead of 3 percent, could be used for the new technology implementation grant program;
- $4 million, instead of 5 percent, could be used for the Texas clean fleet program;
- $8 million, instead of 10 percent, could be used for the Texas natural gas vehicle grant program;
- $1 million, instead of $750,000, could be used to support research related to air quality;
- $5 million, instead of 6 percent, could be used for the seaport and rail yard areas emissions reduction program; and
- $4 million, instead of 5 percent, could be used for the light-duty motor vehicle purchase or lease incentive program.

The bill would expand the allocation from the TERP fund and account to include:

- up to $10 million for air monitoring equipment;
- up to $10 million could be used for fee-based contracts; and
- up to $5 million could be used for the energy efficiency loan guarantee program.

The bill would allow part of the balance of the fund to be used by TCEQ for funding research at the Texas A&M Transportation Institute to determine the cost effectiveness of existing emissions reduction programs and cost effective programs not currently authorized under TERP.

The bill would increase from $2.5 million to $5 million the amount that TCEQ could use to conduct research and other activities associated with making demonstrations to the Environmental Protection Agency to account for the impact of foreign emissions or an exceptional event.

Money allocated to one program could be used for another, as determined by TCEQ, regardless of whether TCEQ had solicited projects to award grants according to the initial allocation.

Redirecting fees to TERP fund. CSHB 4472 would redirect collected motor vehicle title fees from the Texas Mobility Fund to the TERP fund. The Texas Department of Transportation would remit an equal amount of funds from the State Highway Fund to the Texas Mobility Fund instead of the TERP fund.

The comptroller would have to deposit the fees to the Texas Mobility Fund instead if the fees were collected on or after the last day of the biennium during which TCEQ published the national ambient air quality standards for ozone in the Texas Register.

Marine vessel eligibility requirements. CSHB 4472 would amend eligibility requirements for a diesel emissions reduction incentive program grant such that a marine vessel or engine had to be operated in the intercoastal waterways or bays adjacent to a nonattainment area or affected county for a sufficient percentage of time, rather than a sufficient amount of time, as determined by TCEQ. The percentage determined by the commission could not be less than 55 percent.

Light-duty motor vehicle incentive program. CSHB 4472 would make a new motorcycle eligible for a $750 incentive under the light-duty motor vehicle incentive program if the motorcycle:

- had a maximum speed capability of at least 55 miles per hour;
- was propelled by a significant extent by an electric motor that drew electricity from a hydrogen fuel cell or rechargeable battery;
- was acquired on or after September 1, 2013, or a later date established by TCEQ;
- was not a motor-assisted scooter, pocket bike, or minimotorbike; and
- met certain other conditions listed in the bill.

The incentive would be limited to 500 vehicles each fiscal biennium.

New technology implementation grant program. The bill would expand the list of projects TCEQ would have to give preference to in awarding grants under the new technology implementation grant program to including projects that reduced flaring emissions and other site emissions.

A recipient of a grant under this program could use the grant to pay the costs of the lease of the project. The bill would allow recipients to use the grant for costs of operating and maintaining the emissions-reducing equipment.

Natural gas vehicle grant program. The bill would specify that a used natural gas vehicle was a qualifying vehicle that could be considered for a grant under the Texas natural gas vehicle grant program. A used natural gas vehicle that was proposed to replace an on-road heavy-duty of medium-duty motor vehicle would have to be of model year 2017 or later, provided that the model year could not be more than six years older than the current model year at the time of the grant application submission.

The bill would take effect September 1, 2021, and apply only to a TERP grant awarded or fee collected on or after that date.

NOTES: According to the Legislative Budget Board, the bill would have an estimated negative impact of $1.2 million to general revenue through fiscal 2023.

SUBJECT: Revising circumstances for law enforcement capturing images with drones

COMMITTEE: Homeland Security and Public Safety — favorable, without amendment

VOTE: 5 ayes — Bowers, Goodwin, Harless, Hefner, E. Morales

4 nays — White, Patterson, Schaefer, Tinderholt

WITNESSES: For — Brandon Karr, City of Pearland; David Dean, North Central Texas Emergency Communications District; (*Registered, but did not testify*: Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; James Parnell, Dallas Police Association; Dallas Reed, Texas Municipal Police Association; Bruce Wayne II)

Against — None

On — (*Registered, but did not testify*: Jason Day, Texas Department of Public Safety)

BACKGROUND: Government Code 423.003 makes it a crime for a person to use an unmanned aircraft to capture an image of an individual or privately owned property with the intent to conduct surveillance. An offense is a class C misdemeanor (maximum fine of $500).

Sec. 423.002 lists certain circumstances under which it is lawful to capture an image using an unmanned aircraft, including if the image was captured by a law enforcement authority:

- in immediate pursuit of a person officers have reasonable suspicion or probable cause to suspect has committed an offense, not including fine-only misdemeanors;
- for the purpose of documenting a crime scene where an offense has been committed, not including fine-only misdemeanors; or
- of private property that is generally open to the public where the property owner consents to law enforcement public safety responsibilities.

It also is lawful to capture an image using an unmanned aircraft from a height no more than eight feet above the ground in a public place, if the image was captured without using electronic, mechanical, or other means to amplify the image beyond normal human perception.

Sec. 423.008 requires each state law enforcement agency and each county or municipal law enforcement agency located in a county or municipality with a population greater than 150,000 that used or operated an unmanned aircraft during the preceding 24 months to report to the governor, lieutenant governor, and the Legislature on certain items, including:

- the number of times an unmanned aircraft was used and the types of incidents and justifications for the use;
- the number of criminal investigations aided; and
- the type of information collected on an individual, residence, property, or area that was not the subject of a law enforcement operation and the frequency of the collection of this information.

Some have called for more clarity regarding what would constitute "capture" and "surveillance" for the offense under Government Code sec. 423.003. Others have called for additional guidance surrounding the circumstances under which it is lawful for a law enforcement authority to capture an image using an unmanned aircraft.

DIGEST:

HB 3251 would define "capture" and "surveillance" for the purposes of law governing the use of unmanned aircraft. "Capture" would mean the actual care, custody, control, or management of any physical or electronic representation of an image that was capable of being copied or destroyed. "Surveillance" would mean the intentional and continuous close observation of an individual or property.

The bill would expand the circumstances under which a law enforcement agency could capture an image using an unmanned aircraft in immediate pursuit of a person suspected of committing an offense or for the purpose of documenting a crime scene to include fine-only misdemeanors.

The bill would revise the circumstances under which a law enforcement authority could capture an image of private property using an unmanned

aircraft to be only if the property owner consented to a search in connection with pursuing a suspect, documenting a crime scene, investigating certain scenes, searching for a missing person, or conducting a high-risk tactical operation.

The bill would remove provisions making it lawful to capture an image using an unmanned aircraft from a height no more than eight feet above the ground in a public place.

The report submitted by a law enforcement agency on its use of unmanned aircraft in the preceding 24 months would no longer have to be submitted to the Legislature but instead would have to be submitted to the House speaker and the Legislative Reference Library.

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

SUBJECT: Requiring certain features in displays and exhibits at the Alamo complex

COMMITTEE: Culture, Recreation and Tourism — committee substitute recommended

VOTE: 7 ayes — K. King, Gervin-Hawkins, Burns, Clardy, Frullo, Krause, C. Morales

2 nays — Israel, Martinez

WITNESSES: For — Lee White, Alamo Defenders Descendants Association; Brandon Burkhart, Ramon Garza, Jo Ann Henry, Christopher Henry, Lamar Henry, Tracie Kelley, and Randy Beale, This Is Texas Freedom Force; and eight individuals; (*Registered, but did not testify*: David Wylie and Tom Nobis, Republican Party of Texas; Shelby Little and Michael Hurley, Sons of Confederate Veterans; Eliazar Cisneros, Teri Mordica, and Dave Ryan, This Is Texas Freedom Force; and 10 individuals)

Against — Bryan Register; (*Registered, but did not testify*: Chas Moore, Austin Justice Coalition; and seven individuals)

On — (*Registered, but did not testify*: Jeff Gordon, General Land Office)

BACKGROUND: Some have suggested the need to ensure that the Alamo complex includes features that focus on the 1836 battle, including those who fought in it and their reasons for fighting as expressed in the Texas Declaration of Independence.

DIGEST: CSHB 3013 would require the General Land Office to ensure that the displays and exhibits located on the grounds of the Alamo complex, including those located in a museum prominently feature the story of the 1836 Battle of the Alamo, the history of the Texians and Tejanos who fought in the battle, and the grievances to the Mexican federal government listed in the Declaration of Independence of the Republic of Texas dated March 2, 1836.

The bill would take effect September 1, 2021.

SUBJECT: Requiring the issuance of student ID cards to high school students

COMMITTEE: Public Education — favorable, without amendment

VOTE: 9 ayes — Dutton, Allen, Allison, Bernal, M. González, Huberty, Meza, Talarico, VanDeaver

3 nays — K. Bell, Buckley, K. King

1 absent — Lozano

WITNESSES: For — Kendall Smith; Giulia Walker; (*Registered, but did not testify*: Louann Martinez, Dallas ISD; Fatima Menendez, MALDEF; Josette Saxton, Texans Care for Children; Molly Weiner, United Ways of Texas; Ash Hall; Thomas Parkinson)

Against — (*Registered, but did not testify*: Grover Campbell, TASB)

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

BACKGROUND: Concerns have been raised that high school students may not have equal access to state-issued identification cards that can be necessary to access important resources and services, and it has been noted that there is no requirement for public schools or open-enrollment charter schools to issue identification cards to enrolled students.

DIGEST: HB 2874 would require that a school district or open-enrollment charter school issue a student identification card to each high school student enrolled in the district or school that included that student's name, photograph, and date of birth.

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, and would apply beginning with the 2021-2022 school year.

SUBJECT: Prohibiting discrimination due to political affiliation by certain insurers

COMMITTEE: Insurance — committee substitute recommended

VOTE: 7 ayes — Oliverson, Vo, Hull, Israel, Middleton, Romero, Sanford

1 nay — J. González

1 absent — Paul

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

Against — (*Registered, but did not testify*: John Marlow, Chubb)

On — Jon Schnautz, National Association of Mutual Insurance Companies; (*Registered, but did not testify*: Kimberly Donovan, Office of Public Insurance Counsel; Luke Bellsnyder, Texas Department of Insurance)

BACKGROUND: Insurance Code ch. 544 establishes general prohibitions against discrimination by certain insurers or a health maintenance organization.

Some have raised concerns that some insurers review policyholders' social media accounts to gather information about individuals and that this information could become part of underwriting in the future.

DIGEST: CSHB 3433 would prohibit an insurer or health maintenance organization (HMO) from refusing to insure or provide coverage to an individual because of the individual's political affiliation or expression.

The bill also would prohibit a person from refusing to continue to insure or provide coverage to an individual; limit the amount, extent, or kind of coverage available for an individual; or charge an individual a rate that was different from the rate charged to other individuals for the same coverage because of the individual's political affiliation or expression.

Applicability. The bill would apply to an HMO and to specified legal entities engaged in the business of insurance in the state, including:

- a capital stock insurance company;
- a mutual insurance company;
- a title insurance company;
- a Lloyd's plan;
- a reciprocal or interinsurance exchange;
- a farm mutual insurance company; and
- an agent, broker, adjuster, or life and health insurance counselor.

Exceptions. A person would not violate the bill's prohibitions if the refusal, limitation, or charge was based on sound underwriting or actuarial principles reasonably related to actual or anticipated loss experience, or required or authorized by law or a regulatory mandate.

Enforcement. An HMO or legal entity engaged in the business of insurance that violated or failed to comply with the bill's provisions would be subject to certain sanctions or administrative penalties under current law. The commissioner of the Texas Department of Insurance could use the cease and desist procedures authorized under current law.

The bill would take effect September 1, 2021, and would not apply to an insurance policy that was issued or renewed before the bill's effective date.

SUBJECT: Requiring coverage for living expenses under certain insurance policies

COMMITTEE: Insurance — committee substitute recommended

VOTE: 8 ayes — Oliverson, Vo, J. González, Israel, Middleton, Paul, Romero, Sanford

1 nay — Hull

WITNESSES: For — None

Against — Jon Schnautz, National Association of Mutual Insurance Companies; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions; (*Registered, but did not testify*: Jay Thompson, AFACT; Joe Woods, American Property and Casualty Insurance Association; Anne O'Ryan, Auto Club Indemnity)

On — (*Registered, but did not testify*: Kimberly Donovan, Office of Public Insurance Counsel; Luke Bellsnyder, Texas Department of Insurance)

BACKGROUND: Insurance Code sec. 2301.002 defines "residential property insurance" to mean insurance coverage against loss to real or tangible personal property at a fixed location that is provided through a homeowners insurance policy, including a tenants insurance policy, a condominium owners insurance policy, or a residential fire and allied lines insurance policy.

Concerns have been raised that some residential property insurance policies that offer additional living expense coverage are denying claims, particularly following natural disasters, for additional living expenses by insured persons whose homes are uninhabitable due to lack of basic utility service.

DIGEST: CSHB 3250 would require a residential property insurance policy that included coverage for additional living expenses to cover the additional living expenses incurred by an insured because the insured property was uninhabitable due to a stoppage beyond the insured's control of water,

electricity, sewer, or natural gas services for at least 24 hours. The coverage required by the bill would begin not later than 24 hours after the stoppage of service.

The bill would apply to each insurer authorized to engage in the business of residential property insurance in the state, including a mutual insurance company, farm mutual insurance company, Lloyd's plan, and reciprocal or interinsurance exchange.

The commissioner of insurance would be authorized to adopt rules to implement the bill's provisions.

The bill would take effect September 1, 2021, and would apply only to an insurance policy delivered, issued for delivery, or renewed on or after January 1, 2022.

SUBJECT: Extending an existing comprehensive development agreement

COMMITTEE: Transportation — committee substitute recommended

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

0 nays

2 absent — Harris, Landgraf

WITNESSES: For — Patrick Rose, Greater San Marcos Partnership; Deirdre Delisi and Brian Cassidy, SH 130 Concession Company LLC; (*Registered, but did not testify*: Hoppy Haden, Caldwell County; Jessica Inacio, Greater San Marcos Partnership; Dana Harris, The Greater Austin Chamber of Commerce)

Against — Terri Hall, Texas TURF, Texans for Toll-free Highway, Campaign for Liberty, True Texas Project; Don Dixon; Jack M. Finger; McKenna Hall; (*Registered, but did not testify*: Tracy Schieffer, A.L. Helmcamp, Inc.; Steven Albright, Associated General Contractors of Texas-Highway Heavy Utility and Industrial Branch; Gerald Welty, Convention of States; Charles Lewis, Fran Rhodes, and Sheena Rodriguez, True Texas Project; Auburne Gallagher, TTP; and seven individuals)

On — (*Registered, but did not testify*: James Bass, Texas Department of Transportation)

BACKGROUND: It has been suggested that extending a comprehensive development agreement to build Segments 5 and 6 of State Highway 130 entered into by the Texas Department of Transportation in 2007 for an additional 20 years would provide the department an opportunity to secure additional funding for transportation and air quality projects without having to raise taxes or impose new fees or tolls.

DIGEST:

CSHB 3467 would require the Texas Department of Transportation (TxDOT) to amend a comprehensive agreement entered into on or before March 22, 2007, for State Highway 130 from U.S. Highway 183 to Interstate Highway 10 (Segments 5 and 6) to extend the term of the agreement for an additional 20 years if the amendment outlined the benefit the state would derive from extending the term and required the private participant to provide funds to TxDOT in an amount agreed between the parties.

The amount of such funds would have to take into account a traffic and revenue study using toll escalation rates consistent with the comprehensive development agreement and calculated based on the most recent gross state product forecasts published by the comptroller and third-party market-based inflation forecasts produced by a nationally recognized government agency or financial institution. The study would also have to use transaction growth rates based only on:

- transaction growth rates since 2015 for the project under the comprehensive development agreement;
- population growth forecasts for the counties in which that project was located, prepared by the appropriate metropolitan planning organization; and
- long-term demographic forecasts based on the most recent state population forecasts published by the Texas Water Development Board.

Funds provided to TxDOT under the comprehensive development agreement would have to be used by the Texas Transportation Commission or TxDOT to finance transportation or air quality projects in the department districts located in the boundaries of the metropolitan planning organization in which the project under the agreement was located. TxDOT would have to allocate funds to the department districts based on the percentage of toll revenue from users from each district.

The bill would take effect September 1, 2021.

NOTES:

According to the Legislative Budget Board, because the amount of funds that would be provided to TxDOT by the private participant under the

agreement required by the bill would be unknown, the fiscal implications of the bill could not be determined.

SUBJECT: Adding notice of a land depreciation form to a landowner's bill of rights

COMMITTEE: Land and Resource Management — favorable, without amendment

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

1 nay — Craddick

1 absent — Thierry

WITNESSES: For — (*Registered, but did not testify*: Adrian Shelley, Public Citizen; Eric Opiela, South Texans' Property Rights Association; Jeremy Fuchs, Texas and Southwestern Cattle Raisers Association; Josh Winegarner, Texas Cattle Feeders Association; Brian Adamek, Russell Boening, Mark Daniel, John Griffith, J. Walt Hagood, Charlie Leal, Pat McDowell, and Kevin Wikerson, Texas Farm Bureau; Jennifer Bremer, Texas Land and Mineral Owners Association; Julia Parenteau, Texas Realtors; James Foster; Calvin Tillman; Walter Werlla; Bill Wight)

Against — None

BACKGROUND: Government Code sec 402.031 requires the attorney general to prepare a written statement that includes a bill of rights for a property owner whose real property may be acquired by a governmental or private entity through the use of eminent domain authority.

Interested parties have noted that while a property owner who believes the appraised value of the owner's property decreased due to any cause other than normal depreciation may submit a form indicating such a belief to an appraisal district office, few property owners are aware that this form exists. Some have called for notice of this form to be included in the landowner's bill of rights statement prepared by the attorney general.

DIGEST: HB 3385 would require that the landowner's bill of rights under Government Code sec. 402.031 notify each property owner that the owner had a right to submit to the appraisal district office in the county in which

the property is taxable a report of decreased value for the owner's remaining property after the eminent domain taking. The statement of the bill of rights also would have to include a copy of the form for such a report as issued by the comptroller.

The Office of the Attorney General would have to make the landowner's bill of rights as amended by the bill available on the attorney general's website no later than January 1, 2022. This provision of the bill would take effect September 1, 2021.

The bill would take effect January 1, 2022.

SUBJECT: Specifying the civil liability for businesses allowing concealed handguns

COMMITTEE: Judiciary and Civil Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Leach, Krause, Middleton, Schofield, Smith

3 nays — Davis, Julie Johnson, Moody

1 absent — Dutton

WITNESSES: For — (*Registered, but did not testify*: Annie Spilman, NFIB; Larry Gonzales, Texas Credit Union Association; Mark Borskey, Texas State Rifle Association; Don Spraggins; Doris Spraggins; Calvin Tillman)

Against — (*Registered, but did not testify*: Maggie Luna, Statewide Leadership Council; Idona Griffith; Ash Hall; Vanessa MacDougal)

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

BACKGROUND: Government Code sec. 411.172 establishes the eligibility requirements for a license to carry a handgun.

Under Penal Code sec. 30.06, an individual licensed to carry a handgun commits an offense if the license holder carries a concealed handgun with the applicable legal authority on the property of another without effective consent and received notice that entry on the property by a license holder with a concealed handgun was forbidden. Under this section, a person receives notice if the owner of the property or someone with apparent authority to act for the owner provides notice to the person by oral or written communication.

Concerns have been raised that state law does not currently address the liability of businesses for possible damages that could arise from allowing licensed handgun holders to lawfully carry a concealed handgun on the business's property.

DIGEST:

HB 1548 would establish that a person with control over the premises of a business who allowed entry on the premises by a license holder with a concealed handgun would not be liable based solely on that permission for damages arising from the lawful carrying of a concealed handgun on the premises.

The lack of an oral or written communication constituting notice under Penal Code sec. 30.06 would be sufficient to constitute allowing entry on the premises by a license holder with a concealed handgun.

The bill would take effect September 1, 2021, and would apply only to a cause of action that accrued after that date.

SUBJECT: Increasing criminal penalty for offense of use of laser pointers

COMMITTEE: Homeland Security and Public Safety — committee substitute recommended

VOTE: 9 ayes — White, Bowers, Goodwin, Harless, Hefner, E. Morales, Patterson, Schaefer, Tinderholt

0 nays

WITNESSES: For — Justin Berry, Austin Police Department; (*Registered, but did not testify*: Jennifer Szimanski and Charley Wilkison, Combined Law Enforcment Associations of Texas; Frederick Frazier, Dallas Police Association/FOP716 State FOP Director; David Sinclair, Game Warden Peace Officers Association; Ray Hunt, HPOU; James Smith, San Antonio Police Department; Jimmy Rodriguez, San Antonio Police Officers Association; Brian Hawthorne, Sheriffs' Association of Texas; Mitch Landry, Texas Municipal Police Association; Julie Campbell; Dee Chambless; Detrese Harkey; Jason Vaughn)

Against — (*Registered, but did not testify*: Sarah Murphy)

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

BACKGROUND: Penal Code sec. 42.13 makes it a class C misdemeanor to knowingly direct a light from a laser pointer at a uniformed safety officer, including a peace officer, security guard, firefighter, emergency medical service worker, or other uniformed municipal, state, or federal officer.

Some have called for state law to better protect law enforcement officers from the potential danger of laser pointers.

DIGEST: CSHB 2746 would enhance the criminal penalty of an offense of directing a laser pointer at a uniformed safety officer to a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) if the conduct caused serious bodily injury to the officer.

If conduct that constituted an offense under Penal Code sec. 42.13 also constituted an offense under any other law, the actor could be prosecuted under either law or both.

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

SUBJECT: Requiring external auditor to conduct efficiency audit of TANF program

COMMITTEE: Human Services — committee substitute recommended

VOTE: 5 ayes — Frank, Hull, Klick, Noble, Shaheen

3 nays — Hinojosa, Meza, Rose

1 absent — Neave

WITNESSES: For — Vance Ginn, Texas Public Policy Foundation; (*Registered, but did not testify*: Carrie Simmons, Opportunity Solutions Project)

Against — (*Registered, but did not testify*: Stacey Pogue, Every Texan; Rene Lara, Texas AFL-CIO; Tyler Sheldon, Texas State Employees Union)

On — Hilary Davis, Texas Health and Human Services Commission; (*Registered, but did not testify*: Courtney Arbour, Texas Workforce Commission)

BACKGROUND: Human Resources Code ch. 31 governs the Temporary Assistance for Needy Families (TANF) program, and ch. 34 governs the state temporary assistance and support services program.

Some have suggested the need to conduct regular efficiency audits of the TANF program to determine whether the state and federal government's financial investments in this program are ensuring the best outcomes for recipients of TANF benefits.

DIGEST: CSHB 1516 would require an external auditor to conduct an efficiency audit of the federal Temporary Assistance for Needy Families (TANF) program and the state temporary assistance and support services program. An external auditor would have to conduct an efficiency audit in 2022 and every sixth year after that year.

Under the bill, an "efficiency audit" would mean an investigation of the implementation and administration of the programs to examine fiscal management, efficiency of the use of resources, and the effectiveness of state efforts in achieving the goals of the TANF program.

External auditor. By March 1 of the year in which an efficiency audit was required, the state auditor would have to select an external auditor to conduct the efficiency audit.

The external auditor would have to be independent and not subject to direction from the Health and Human Services Commission (HHSC) or any other state agency subject to evaluation by the auditor or that received or spent money under the programs to be audited.

Efficiency audit; costs. The bill would require the external auditor to complete the audit by the 90th day after the date the auditor was selected.

The bill would require HHSC to pay the costs associated with the efficiency audit using existing resources and require the state auditor to ensure the external auditor conducted the audit in accordance with the bill's requirements.

Legislative Budget Board. The bill would require the Legislative Budget Board (LBB) to establish the scope of the efficiency audit and determine the areas of investigation for the audit, including:

- reviewing a program's resources to determine whether those resources were being used effectively and efficiently and whether those resources were not being used for the programs' intended goals;
- identifying cost savings or reallocations of resources; and
- identifying opportunities for improving services through consolidation of essential functions, outsourcing, and elimination of duplicative efforts.

Report. By November 1 of the year an efficiency audit was conducted, the external auditor would have to prepare and submit a report of the audit and recommendations for efficiency improvements to the governor, the

Legislative Budget Board, the state auditor, the executive commissioner of HHSC, and the chairs of the House Human Services Committee and the Senate Health and Human Services Committee.

The bill would require the executive commissioner of HHSC and the state auditor to publish the report, recommendations, and full audit on the commission's and the state auditor's website.

The bill would take effect September 1, 2021.

SUBJECT: Allowing motor vehicle title, registration application in any willing county

COMMITTEE: Transportation — committee substitute recommended

VOTE: 10 ayes — Canales, E. Thompson, Ashby, Bucy, Davis, Harris, Lozano, Martinez, Ortega, Perez

2 nays — Rogers, Smithee

1 absent — Landgraf

WITNESSES: For — April Ancira, Texas Automobile Dealers Association; (*Registered, but did not testify*: Wyatt Wainwright, Houston Automobile Dealers Association; Morris Wilkes, New Car Dealers of West Texas; Pamela Crail, SA Auto Dealers; Robert Braziel, Texas Automobile Dealers Association; Mario Martinez, Texas Independent Automobile Dealers Association; Royce Poinsett, Texas Motorcycle Dealers Association; Mark Borskey, Texas Recreational Vehicle Association)

Against — Shay Luedeke, Tax Assessor-Collector Association of Texas; (*Registered, but did not testify*: Melissa Shannon, Bexar County Commissioners Court; Jim Allison, County Judges and Commissioners Association of Texas; Daniel Collins and Ruben Gonzalez, El Paso County; Thamara Narvaez, Harris County Commissioners Court; Julie Wheeler, Travis County Commissioners Court)

On — (*Registered, but did not testify*: Clint Thompson, Texas Department of Motor Vehicles)

BACKGROUND: Some have called for the Legislature to make permanent certain temporary waivers related to the titling and registration of motor vehicles issued during the COVID-19 pandemic to address the significant backlog of transactions facing counties and motor vehicle dealers.

DIGEST: CSHB 3113 would specify that an owner of a motor vehicle, including an owner of a motor vehicle brought into Texas by a person other than a manufacturer or importer, could apply to obtain a title to any county

assessor-collector who was willing to accept the application. A seller who applied for a motor vehicle registration or title could apply to the county assessor-collector of the county in which the owner was domiciled or the motor vehicle was purchased or encumbered or to any county assessor-collector who was willing to accept the application.

A system of extended registration would have to allow the owner of a commercial fleet to register the entire fleet in any county in which the county assessor-collector was willing to accept the registration.

A registration application also could be made through any county assessor-collector willing to accept the application. A vehicle owner could concurrently apply for a title and registration through any such county assessor-collector.

A county assessor-collector collecting certain vehicle titling and registration fees on behalf of another assessor-collector would have to collect all taxes, fees, and other revenue based on the vehicle owner's county of residence. The owner's county of residence would be the recipient of all revenue collected as a result of the transaction, except that the county processing the application could retain the portion of the title application fee and the processing and handling fee that the tax assessor-collector was authorized to retain.

CSHB 3113 would make several conforming changes to current law and would repeal the requirement for applications submitted electronically to the Texas Department of Motor Vehicles to request the purchaser's choice of county as the recipient of all revenue collected as a result of the transaction. The bill also would repeal the requirement for the department to develop a form or electronic process for designating a purchaser's choice of county.

The bill would take effect September 1, 2021.

SUBJECT: Establishing appraisal procedures for certain disputed auto losses

COMMITTEE: Insurance — favorable, without amendment

VOTE: 5 ayes — Oliverson, Vo, J. González, Israel, Romero

4 nays — Hull, Middleton, Paul, Sanford

WITNESSES: For — Robert McDorman, Auto Claim Specialists; Gary Vucekovich, ForeSight Services Group, Inc.; Ware Wendell, Texas Watch; (*Registered, but did not testify*: Wyatt Wainwright, Houston Auto Dealers Association; Morris Wilkes, New Car Dealers of West Texas; C. Brent Franks, North Texas Automobile Dealers; Pamela Crail, SA Auto Dealers; Robert Braziel, Texas Automobile Dealers Association)

Against — Joe Woods, American Property and Casualty Insurance Association; Jon Schnautz, National Association of Mutual Insurance Companies; (*Registered, but did not testify*: Jay Thompson, AFACT; Beaman Floyd, Texas Coalition for Affordable Insurance Solutions)

On — (*Registered, but did not testify*: Kimberly Donovan, Office of Public Insurance Counsel; Luke Bellsnyder, Texas Department of Insurance)

BACKGROUND: Concerns have been raised that an automobile insurance policy with limited or restricted appraisal rights can leave a policy holder with an unsafe vehicle and expensive losses.

DIGEST: HB 2534 would establish required appraisal procedures for personal automobile insurance policies. The bill would authorize an insurer or the named insured to demand an appraisal not later than the 90th day after the date a proof of loss was filed with the insurer if the two parties did not agree on the amount of the loss.

Appointment of appraisers. Each party would be required to appoint a competent appraiser and notify the other party of the appraiser's identity by the 15th day after the date an appraisal was demanded. The appraisers

appointed by the parties would have to determine the amount of loss. If the appraisers failed to agree on the amount of the loss, they would be required to select a qualified umpire with whom they would be required to determine the amount of the loss. The determination of the loss amount agreed to by both appraisers or by one appraiser and the umpire would be binding on both parties.

If the parties were unable to agree on an umpire on or before the 15th day after the date the appraisers determined an umpire was needed, the insurer or the named insured could request that a court in the county in which the named insured resided select the umpire.

Appraisal fees and expenses. Each party would be responsible for their own appraiser's fees and expenses. If at the end of the appraisal process the amount of loss was determined to be more than $1 greater than the amount of the insurer's proposed undisputed loss statement, the insurer would be required to refund the named insured's reasonable out-of-pocket expenses for the insured's appraiser's fees and expenses. If the insurer's proposed undisputed loss statement was determined to be just, the named insured would have to refund the insurer the insurer's appraiser's fees and expenses. All other appraisal expenses, including the expense of the umpire, would be shared evenly between the parties.

Neither party would waive any rights under the policy that was the subject of the appraisal by demanding an appraisal.

The bill would apply to an insurer writing automobile insurance in Texas, including an insurance company, corporation, reciprocal or interinsurance exchange, mutual insurance company, Lloyd's plan, or any other insurer.

The bill would take effect September 1, 2021, and would apply only to an insurance policy that was delivered, issued for delivery, or renewed on or after January 1, 2022.

SUBJECT: Providing a vocational education program to eligible high school students

COMMITTEE: Public Education — committee substitute recommended

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

0 nays

1 absent — M. González

WITNESSES: For — Mike Meroney, Texas Association of Manufacturers (TAM); Dr. Larry Wallace Jr., Texas Municipal League-Region 10; Chris Harvey; (*Registered, but did not testify*: Shannon Meroney, BASF Corporation; Daniel Womack, Dow, Inc.; John McCord, NFIB; Galt Graydon, Southwest Airlines Co.; J.D. Hale, Texas Association of Builders; Chris Noonan, Texas Chemical Council; Mia McCord, Texas Conservative Coalition; Jennifer Fagan, Texas Construction Association; Adam Burklund, Texas Masonry Council; Starlee Coleman, Texas Public Charter School Association; Chad Cantella)

Against — Robin Painovich, Career and Technical Association of Texas; (*Registered, but did not testify*: Andrea Chevalier, Association of Texas Professional Educators; Chloe Latham Sikes, Intercultural Development Research Association; Grover Campbell, TASB; Dena Donaldson, Texas AFT; Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Carrie Griffith, Texas State Teachers Association)

On — Greg Vaughn, Texas Association of Workforce Boards; (*Registered, but did not testify*: Eric Marin, Jeff Cottrill, Leonardo Lopez, Monica Martinez, and Heather Mauze, Texas Education Agency; Jamey Harrison, UIL)

BACKGROUND: Under Education Code ch. 12, subch. C, school district boards of trustees may authorize and oversee campus or campus program charter schools.

Interested parties contend that a campus or campus program charter school with a focused course of study in vocational education could enable interested high school students to gain skills and credentials they need to enter technical professions like plumbing, welding, construction, and electrical work.

DIGEST:

CSHB 2554 would establish a process by which a school district could establish a vocational education program to high school students whose educational needs would be better served by focused vocational education and training. A vocational education program granted a charter under the bill's provisions would have to offer students who resided in the district a program that was aligned with industry-recognized credentials and certificates or industry-defined and industry-recognized skill standards.

The State Board of Education (SBOE) would have to establish minimum curriculum requirements for a vocational education program, including the successful completion of not more than 24 credits for graduation. At least 10 credits of the minimum curriculum requirements would have to be earned in vocational education courses. A program could require the completion of additional credits that were not included in the minimum curriculum requirements established by SBOE.

The bill would specify certain required credits in the minimum curriculum requirements.

Partnerships. CSHB 2554 would authorize school districts to form partnerships with public community, technical, and state colleges in Texas offering academic or technical education or vocational training under a certificate or associate degree program. A district could use state funding to pay tuition costs for students receiving academic or technical education or vocational training from an institution of higher education under a partnership.

A district could partner with private sector businesses to ensure students had sufficient opportunities to participate in apprenticeship training and workplace-based education.

Enrollment. A student who had completed 10th grade in a high school campus in the school district would be eligible to enroll in the district's vocational education program if the student and parent completed a required informed consent form. A school counselor would have to advise the student and parent about the benefits of graduating under the foundation high school program and under a vocational education program, including specific foundation high school program courses that would be replaced by vocational education program courses.

Assessments. A school district could adopt and administer exams necessary for a student in the vocational education program to earn an industry-recognized license, credential, or certificate. A student would be entitled to a subsidy for such an exam.

The commissioner of education could not require that a student in the vocational education program be administered a state exam that was not required under federal law.

Achievement indicators. The commissioner would have to adopt a set of achievement indicators for students enrolled in a district's vocational education program based on recommendations from the Texas Workforce Investment Council and other requirements specified in the bill. The commissioner would be required to publish an annual report on the performance of vocational education programs based on the achievement indicators.

Instructor qualifications. CSHB 2554 would establish minimum qualifications for a person employed by a school district as a vocational education instructor that demonstrated subject matter expertise. An instructor would be required to receive at least 20 hours of classroom management training.

A school district employee who provided services under a vocational education program and qualified for membership in the Teacher Retirement System would have to be covered to the same extent as another qualified employee.

Funding. The bill would limit funding under the career and technology education allotment to the first 10 hours of instructional hours provided to students in a vocational education program. The amount of the entitlement would be proportionately reduced using a method adopted by the commissioner.

Outcomes bonus. For purposes of the college, career, or military readiness outcomes bonus, a graduate of a vocational education program would be considered to demonstrate career readiness if the graduate earned an industry-related license, credential, or certificate.

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.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of about $37.8 million to general revenue through fiscal 2023.

SUBJECT: Expanding eligibility for educational, vocational training pilot program

COMMITTEE: Corrections — committee substitute recommended

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

1 nay — Slaton

2 absent — Bailes, Martinez Fischer

WITNESSES: For — Jennifer Tucker, Goodwill Central Texas; Douglas Smith, Texas Criminal Justice Coalition; (*Registered, but did not testify*: Terra Tucker, Alliance for Safety and Justice; Nick Hudson, American Civil Liberties Union of Texas; Warren Burkley, Austin Justice Coalition; James Parnell, Dallas Police Association; Kathy Mitchell, Just Liberty; Karen Munoz and Jorge Renaud, LatinoJustice; Maggie Luna, Statewide Leadership Council; J.D. Hale, Texas Association of Builders; Lori Henning, Texas Association of Goodwills; Rachana Chhin, Texas Catholic Conference of Bishops; Nikki Pressley, Texas Public Policy Foundation; Frederick Frazier, Texas State Fraternal Order of Police and Dallas Police Association; Traci Berry, The Goodwill Excel Center for Adults; Veronica Morales; Thomas Parkinson; Arasely Reyes; Jason Vaughn)

Against — None

On — (*Registered, but did not testify*: Tim McDonnell, Board of Pardons and Paroles; April Zamora, Texas Department of Criminal Justice)

BACKGROUND: Government Code sec. 507.007 authorizes the Texas Department of Criminal Justice to establish a pilot program to provide educational and vocational training, employment and reentry services to defendants placed on community supervision and required to serve a term of confinement in a state jail as part of community supervision.

Code of Criminal Procedure art. 42A.562 authorizes judges assessing punishment in a state-jail felony case to suspend the imposition of the sentence and place the defendant on community supervision with the

conditions that the defendant submit at the beginning of the term of community supervision to confinement in a state-jail felony facility for up to 90 days.

Some have proposed that eligibility for the state's pilot program for education and vocational training for some defendants placed on community supervision for a state-jail felony be expanded so that certain drug offenders may get help in finding employment after a prison term.

DIGEST:

CSHB 2352 would expand the Texas Department of Criminal Justice's (TDCJ) educational and vocational training pilot program to include inmates released on early parole as authorized by the bill. At least two sites would have to be identified for the program while the program cap of four sites would remain.

The bill would authorize parole panels to release from confinement on parole certain inmates about 180 days before the date the inmate would be eligible for release on parole. This would apply to those:

- serving a sentence for an offense under the Texas Controlled Substance Act for a third-degree felony;
- who had not previously been convicted of a felony offense against a person or for public indecency or organized crime; and
- whose eligibility for parole was computed under the general provisions for eligibility which make individuals eligible for release on parole when their actual calendar time served plus good conduct time equals one-fourth of the sentence or 15 years, whichever is less.

Parole panels releasing an inmate on parole under these provisions would have to require as a condition of release that the person participate in the educational and vocational training pilot program, beginning immediately after release.

TDCJ would have to annually identify at least 100 inmates who were suitable candidates for participation in the program. Those who were considered for but not granted early release on parole would have to be

considered for release on parole on the date that the inmate otherwise would have been considered.

The Office of Court Administration would have to develop an annually provide training to educate and inform judges about the educational and vocational training pilot program.

CSHB 2352 would remove authorization for judges to require those being convicted of a state-jail felony and placed on community supervision to serve a term in a state-jail for up to 90 days a the beginning of the term of community supervision.

The bill would take effect September 1, 2021, and would apply to any inmate confined in any TDCJ facility on or after that date.

NOTES: According to the Legislative Budget Board, the bill would have a negative impact of about $3.9 million to general revenue through fiscal 2023.

SUBJECT: Using weighted lotteries in public schools admissions processes

COMMITTEE: Public Education — committee substitute recommended

VOTE: 11 ayes — Dutton, Allen, Allison, K. Bell, Bernal, Buckley, M. González, K. King, Meza, Talarico, VanDeaver

1 nay — Huberty

1 absent — Lozano

WITNESSES: For — Asia Klekowicz, The Gathering Place; (*Registered, but did not testify*: Aaron Gregg, Texas Association of the Deaf; Justin Yancy, Texas Business Leadership Council; Starlee Coleman, Texas Public Charter Schools Association; Knox Kimberly, Upbring)

Against — (*Registered, but did not testify*: Grover Campbell, Texas Association of School Boards; Barry Haenisch, Texas Association of Community Schools; Mark Terry, Texas Elementary Principals and Supervisors Association)

On — Ellen Williams, Texas Association of School Administrators and Texas Association of School Boards; (*Registered, but did not testify*: Eric Marin and Heather Mauze, Texas Education Agency)

BACKGROUND: Education Code sec. 12.117 governs admission into open-enrollment charter schools. If a school receives more acceptable applications than available positions, the governing body of the school has to fill the positions by lottery or, if a specific notice was published, fill the positions in the order in which applications were received.

Sec. 25.001(b) establishes the criteria under which the board of trustees of a school district must admit certain persons into the district's public schools free of tuition.

Some have noted that federal law allows charter schools to use weighted lotteries instead of blind lotteries to give students from historically disadvantaged backgrounds an advantage in admissions lotteries.

DIGEST:

CSHB 2391 would allow an open-enrollment charter school that filled available positions by lottery to use a weighted lottery so that an applicant's probability of admission increased if the applicant was:

- eligible to participate in a special education program;
- a student of limited English proficiency; or
- a student at risk of dropping out of school.

An open-enrollment charter school would have to post in a prominent location on its website notice of the method by which the school filled available positions and, if the school used a weighted lottery, the weight assigned to applicants.

The common admission form for use by open-enrollment charter school applicants would have to provide for the submission of information necessary for a school to implement a weighted lottery.

If a school district elected to admit certain students not described by Education Code sec. 25.001(b), the district would have to post in a prominent location on its website notice of the method by which the district admitted those students. If the district used a weighted lottery, the district also would have to include on its website the weights assigned to applicants, including assigned to an applicant who was:

- eligible to participate in the school's special education program;
- a student of limited English proficiency; or
- a student at risk of dropping out of school.

The bill would take effect September 1, 2021. Provisions related to the weighted lottery would apply beginning with admissions for the 2022-2023 school year.

SUBJECT: Student eligibility for special education services for dyslexia

COMMITTEE: Public Education — committee substitute recommended

VOTE: 8 ayes — Dutton, Allen, K. Bell, Buckley, M. González, Meza, Talarico, VanDeaver

0 nays

5 absent — Lozano, Allison, Bernal, Huberty, K. King

WITNESSES: For — Scott Moore, Conroe Independent School District; Robbi Cooper, Decoding Dyslexia Texas; Steven Aleman, Disability Rights Texas; Amy Traynor, National Center for Learning Disabilities; Kristin McGuire, TCASE; Ashley Roberts, The Dyslexia Initiative; and 12 individuals; (*Registered, but did not testify*: Julia Grizzard, Bexar County Education Coalition; Eddie Conger, International Leadership of Texas Public Charter Schools; Charles Johnson, Pastors for Texas Children; Starlee Coleman, Texas Public Charter Schools Association; and 12 individuals)

Against — Mike Meroney, Academic Language Therapy Association; Shannon Meroney, Impact Dyslexia

On — Audrey Young, State Board of Education Committee on Instruction; Justin Porter, Texas Education Agency; (*Registered, but did not testify*: Carrie Griffith, Texas State Teachers Association)

BACKGROUND: Education Code sec. 29.004 contains requirements for a full individual and initial evaluation of a student for purposes of special education services.

Interested parties contend that Texas students who are suspected of struggling with dyslexia may be denied a full evaluation, which can lead to denial of services and protections required by state and federal law.

DIGEST: CSHB 3880 would revise and add requirements related to school district screening of students for dyslexia and related disorders.

Screening and programs. CSHB 3880 would require a school district to:

- screen students for dyslexia and related disorders;
- notify the parent of or person standing in parental relation to each student who was determined to be at risk for dyslexia or a related disorder; and
- make a good faith effort to ensure that the notice was clear and easy to understand, in the recipient's native language, and included information about the student's data and measurements that led to the determination.

On determining that a student was at risk for dyslexia, a district would have to implement an evidence-based reading instruction program as an intervention as part of the district's multi-tiered systems of support that, to the extent possible, incorporated training provided to teachers. A district would have to determine the form, content, and timing of the program, subject to requirements established by the education commissioner. The instruction program could not be used to delay an evaluation for special education services.

The commissioner would have to require a universal screening for each student for dyslexia and related disorders at the end of the school year in kindergarten and before the end of the school year in first grade. The commissioner would have to establish the screening requirements and reading instruction program requirements in coordination with experts and educators in the field of reading and dyslexia and related disorders from across the state, and establish the personnel required to administer dyslexia intervention and specialized instruction support.

CSHB 3880 would remove a requirement that the State Board of Education (SBOE) approve a program for testing students with dyslexia and related orders. Instead, the SBOE would have to develop and update, as necessary, guidance information for school districts on evidence-based practices for intervention and instruction of those students that incorporated input from a broad-based dialogue with educators and experts in the field of reading and dyslexia and related disorders from across the state. The guidance could not address the evaluation and

identification of students with dyslexia or a related disorder or how intervention and instruction were to be accessed by a student.

Service providers. The bill would permit a school district to employ a person without a certificate or permit in special education to provide services to students with dyslexia, including a therapist, practitioner, specialist, or interventionist if the person:

- held the appropriate license;
- held a certification issued by the appropriate association or had received training from an appropriate training provider, including an academic language practitioner or therapist certified by the Academic Language Therapy Association; or
- met the applicable training requirements for the position adopted by education commissioner rule.

Statewide plan. CSHB 3880 would add requirements to the statewide plan for delivering special education services to children with disabilities. The plan would have to ensure the integration of technology to accommodate students with dyslexia and related disorders. The Texas Education Agency would have to develop a list of training opportunities regarding dyslexia that complied with the knowledge and practice standards of an international organization on dyslexia and assist an educator or service provider in understanding and recognizing dyslexia and providing instruction that was systematic, explicit, and evidence-based to meet students educational needs.

Definitions. The bill would remove the term "special services" for purposes of the special education program and replace it with "special education," defined as specially designed instruction provided at no cost to the parent or person standing in parental relation to meet the unique needs of a student with a disability. The bill would define "student with a disability" as a student evaluated in accordance with the federal Individuals with Disabilities Education Act who had any of the following:

- an intellectual disability, a hearing impairment including deafness, a visual impairment including blindness, a serious emotional disturbance, an orthopedic impairment, autism, a traumatic brain

injury, a speech or language impairment, deaf-blindness, multiple disabilities, any other health impairment, or a specific learning disability and who, as a result of the disability, needs special education;

- non-categorical early childhood developmental delays that prevented the student from being adequately or safely educated in a public school without receiving special education; or
- dyslexia or a related disorder and who, as a result, needs special education.

Funding. For purposes of the Foundation School Program allotment for a student with dyslexia, the bill would require a school district to allocate money to the district's special education budget and prioritize its use for the employment and retention of district employees who were specially trained to evaluate, identify, and provide services for dyslexia and related disorders. A district could use funding from the allotment only to supplement and not to offset its special education budget.

Other provisions. CSHB 3880 would repeal Education Code provisions related to classroom technology plans for dyslexia and dyslexia training opportunities.

The bill would apply beginning with the 2021-2022 school year. As soon as practicable after the effective date of the bill, the commissioner would have to adopt the necessary rules, and districts would have to notify parents of students who had received intervention and instructional support in accordance with Section 504 of the federal Rehabilitation Act of 1973 during the 2020-2021 school year of the parent's right to request a full individual evaluation under Education Code sec. 29.004.

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.