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HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, May 20, 2021
87th Legislature, Number 61
The House convenes at 10 a.m.

Three bills are on the Major State Calendar and 20 bills are on the General State Calendar for second reading consideration today. The bills analyzed or digested in today's *Daily Floor Report* are listed on the following page.

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



Alma Allen
Chairman
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HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Thursday, May 20, 2021
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SUBJECT: Continuing, adopting Sunset recommendations for TDA, other agencies

COMMITTEE: Agriculture and Livestock — favorable, without amendment

VOTE: 7 ayes — Burns, Anderson, Cole, Cyrier, Herrero, Rosenthal, Toth

1 nay — Bailes

1 absent — Guillen

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

WITNESSES: For — (*Registered, but did not testify*: J Pete Laney, Texas Association of Dairymen, Texas Citrus Mutual, and Texas Conservation Association for Soil and Water; Joy Davis, Texas Farm Bureau; Patrick Wade, Texas Grain Sorghum Association; JC Essler, Texas Poultry Federation; Shayne Woodard, Wonderful Citrus)

Against — None

On — Dan Hunter, Texas Department of Agriculture; (*Registered, but did not testify*: Robert Romig, Sunset Advisory Commission)

BACKGROUND: **Texas Department of Agriculture.** The Texas Department of Agriculture (TDA) was created by the Legislature in 1907. The mission of TDA is in part to partner with Texans to make the state the national leader in agriculture, fortify the state's economy, promote healthy lifestyles, and empower rural communities.

Functions. TDA performs a variety of functions relating to regulation, nutrition, economic development, and marketing for the state's agricultural products. The department also administers state and federal nutrition assistance programs and provides financial assistance for young farmers, rural healthcare facilities, and community infrastructure projects to promote rural economic development.

Governing structure. TDA is led by the commissioner of agriculture, who is a statewide elected official. With the exception of certain boards that have limited rulemaking authority, the commissioner retains final decision-making authority for the department.

Funding. TDA received $707.5 million in funding in fiscal 2019, most of which came from federal funds for use in administering federal nutrition programs. That year the department also spent $707.5 million, mostly for nutrition assistance programs. In fiscal 2019, TDA generated nearly $32 million in license and fee revenue and deposited $2.5 million that was in excess of the amount appropriated for expenditures to general revenue.

Staffing. In fiscal year 2019, TDA employed 614 full-time positions. About half of these positions are located in the department's Austin headquarters and the remainder are spread across the department's regional offices, livestock export facilities, and testing laboratories.

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

Texas Boll Weevil Eradication Foundation. The Texas Boll Weevil Eradication Foundation was created by the Legislature in 1993 to eliminate the boll weevil from Texas cotton fields in the most efficient, cost-effective, and environmentally sensitive manner possible.

Functions. The foundation's functions include detecting and monitoring boll weevil infestations, treating infested areas with pesticides, maintaining areas of eradication, and treating instances of re-infestation.

Governing structure. The foundation is a quasi-governmental entity led by a board of directors that is made up of 21 members who serve four-year terms. TDA conducts board member elections, appoints certain members, and provides oversight of the board and foundation, including by exercising rulemaking and enforcement authority.

Funding. The foundation's budget is approved by TDA. The foundation spent $29.7 million in calendar year 2019, with chemical and treatment costs and staff salaries and wages accounting for more than three-quarters of spending. The foundation received $24.8 million in revenue in that

year, including $12.1 million in cotton grower assessments and $5.5 million in state funding.

Staffing. The foundation employed 106 full-time and 146 seasonal employees in 2019. Employees work at 21 offices across the state, and a majority are located in the Lower Rio Grande Valley area.

Unless continued, the foundation's board will be abolished September 1, 2021.

Prescribed Burning Board. The Prescribed Burning Board was created by the Legislature in 1999 to develop standards for prescribed burning and appropriate standards for the training, certification, and insuring of prescribed burn managers. The board is composed of 13 members who serve two-year terms, and members represent university systems, related state agencies, and private landowners. The board's operations are overseen by TDA.

Early Childhood Health and Nutrition Interagency Council. The Early Childhood Health and Nutrition Interagency Council was established in 2009 to review best practices and develop recommendations related to early childhood nutrition and physical activity. The council issued its final report in 2018 and voluntarily disbanded.

DIGEST:

SB 703 would adopt certain Sunset Advisory Commission recommendations for the Texas Department of Agriculture (TDA), the Texas Boll Weevil Eradication Foundation, the Prescribed Burning Board, and the Early Childhood Health and Nutrition Interagency Council.

The bill would continue TDA and the Boll Weevil Eradication Foundation until September 1, 2023.

Go-Texan Program. SB 703 would require TDA to establish the Go-Texan program to promote and encourage the development and expansion of markets for Texas agricultural products. TDA would have to adopt rules necessary to administer the program, including rules:

- governing the use of TDA's registered logo;

- providing membership eligibility requirements and grounds for denial of membership;
- establishing membership categories or tiers; and
- specifying membership benefits.

A "Texas agricultural product" would include products that had been produced or processed in the state, including feed for livestock or poultry; fish or aquatic species; livestock, a livestock product, or a livestock by-product; planting seed; poultry, a poultry product, or a poultry by-product; or wildlife processed for food or by-products.

Advisory committees. SB 703 would allow TDA to establish advisory committees to make recommendations on programs, rules, and policies. In establishing an advisory committee, TDA would have to adopt rules regarding:

- the committee's purpose, role, responsibility, goals, and duration;
- the size of and quorum requirement for the committee;
- qualifications, appointment procedures, terms of service, and training requirements for committee members;
- policies to avoid conflicts of interest;
- a periodic review process to evaluate the continuing need of the committee; and
- policies to ensure the committee did not violate open meetings laws.

Consumer protection enforcement. TDA and the Office of the Attorney General would have to enter into a memorandum of understanding to coordinate the enforcement of consumer protection programs. The memo would have to require TDA to communicate with the consumer protection division of the attorney general's office to identify and avoid potential duplication of efforts before taking final disciplinary or enforcement action related to consumer protection.

Farmer mental health and suicide prevention program. SB 703 would require TDA to establish a program to raise awareness among farmers of

issues relating to mental health and suicide prevention. As part of the program, TDA would have to:

- promote suicide prevention among farmers through a public awareness campaign;
- provide a toll-free telephone hotline for farmer mental health assistance;
- develop a mental wellness plan for farmers affected by a disaster; and
- coordinate suicide prevention activities with other agencies, including the Department of State Health Services.

Inspection and enforcement strategic plan. TDA would have to develop and publish an annual plan for each fiscal year to use the inspection and enforcement resources of the department strategically to ensure public safety and protect agriculture and consumers in the state. TDA would have to seek input from stakeholders when developing each annual plan.

TDA would have to collect and maintain information that accurately showed its inspection and enforcement activities. Each annual plan would have to include a report of the information collected by TDA that showed the department's activities over time. Such information would have to include data regarding violations of statutes or rules, including:

- the number, type, and severity of certain violations;
- the number of major violations for which TDA imposed a penalty or took other enforcement actions; and
- the number of repeat major violations, categorized by license type, if applicable.

TDA would have to publish each annual plan on its website by July 1 of the year preceding the fiscal year in which it would implement the plan.

Criminal history evaluation. TDA would have to perform the duties of a licensing authority under Occupations Code ch. 53, which governs consequences of criminal conviction, for each license issued by TDA.

Citrus Budwood Advisory Council. SB 703 would reenact statutes requiring the commissioner of agriculture to appoint an advisory council composed of members representing TDA, the Texas A&M University-Kingsville Citrus Center at Weslaco, the citrus nursery industry, and citrus growers and a member with specialized knowledge in citrus diseases and pests.

Current law governing state agency advisory committees, including provisions providing for automatic abolishment of committees, would not apply to the duration of the Citrus Budwood Advisory Council.

The commissioner of agriculture would have to appoint members of the council by January 1, 2022. The council would be recreated on the date the commissioner made the appointments.

Aquaculture license eliminated. SB 703 would eliminate the aquaculture and fish farm vehicle licenses issued by TDA.

On the bill's effective date, a license issued by TDA for aquaculture or fish farm vehicles would expire. As soon as practicable after the bill's effective date, TDA would have to repeal all rules related to such licenses.

Prescribed Burning Board. SB 703 would specify that the Prescribed Burning Board had rulemaking ability in establishing its duties.

The bill also would allow the board to waive any prerequisites to obtaining certification for an applicant after reviewing the applicant's credentials and determining that the applicant held a valid certification from another state that had requirements substantially equivalent to those of Texas.

Criminal history evaluation. The board would have to perform the duties of a licensing authority under current law related to consequences of criminal convictions for each certification issued by the board.

Early Childhood Health and Nutrition Interagency Council. SB 703 would repeal laws governing the Early Childhood Health and Nutrition Interagency Council.

Abolished entities, removal of other provisions. SB 703 would repeal the Texas Rural Foundation and certain other entities. The bill would make certain conforming changes in statute to reflect certain committees, boards, councils, and reports that were previously abolished by law.

The bill also would remove:

- a notary requirement for applications for the home-delivered meal grant program;
- a requirement that the Beef Promotion and Research Council's annual report be sent to certain legislative committees;
- the head of the seed division of TDA from the State Seed and Plant Board; and
- requirements that an applicant to be a licensed seed producer be of good character and have a reputation for honesty.

Other provisions. SB 703 would adopt certain across-the-board Sunset recommendations for TDA and the Texas Boll Weevil Eradication Foundation, including recommendations related to complaints.

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

SUPPORTERS SAY:

SB 703 would continue the Texas Department of Agriculture (TDA) as Texas, the third-largest agricultural producer in the country, has a continuing need for the agency to regulate and promote its agricultural industry. The bill also would adopt certain Sunset Advisory Commission recommendations for TDA to ensure good governance. Additionally, the bill would continue the Texas Boll Weevil Foundation due to the state's continuing need to suppress and eradicate the boll weevil.

The bill would re-establish the Go-Texan product promotion program in statute and clearly state the purpose of the program to ensure its effectiveness, efficiency, fairness, and accountability. TDA enforcement and licensing practices also would be updated in the bill, and the department would have to communicate with the Office of the Attorney

General to facilitate better coordination on overlapping consumer protection programs and avoid the duplication of enforcement actions.

SB 703 would clarify the rulemaking authority of the Prescribed Burning Board to better allow the board to govern the safe and responsible use of fire to clear vegetation and reduce the impact of wildfires. The bill also would reenact the Citrus Budwood Advisory Council due to the continuing need for the council to advise on pests and diseases in the citrus industry, and it would allow TDA to establish advisory committees and remove certain outdated committees, councils, and boards that are no longer operational.

The TDA aquaculture program, which licenses individuals who produce and sell fish and shellfish raised in private facilities, does not perform any meaningful enforcement activities nor does it add value to the industry or the public. Because other agencies regulate this industry, the program is unnecessary and should be abolished. SB 703 would address this by removing requirements for aquaculture facilities to obtain a license from TDA while maintaining all licenses, reporting requirements, and other regulation of aquaculture activities by the Texas Commission on Environmental Quality and Texas Parks and Wildlife Department.

While some may want SB 703 to revise other TDA programs, the scope of the bill was limited to Sunset Advisory Commission recommendations and good governance practices. Revisions to other programs could be addressed in separate legislation.

CRITICS SAY:

SB 703 would not go far enough in reviewing, addressing concerns with, or improving upon certain TDA programs to further the department's mission. Some programs, such as school nutritional programs or the department's agricultural research and promotion activities, could be revised to improve efficiency. Others, such as the seed certification program or implementation of the federal Food Safety Modernization Act, should be further reviewed or revised.

SUBJECT: Continuing the Texas Animal Health Commission

COMMITTEE: Agriculture and Livestock — committee substitute recommended

VOTE: 8 ayes — Burns, Anderson, Bailes, Cole, Cyrier, Herrero, Rosenthal, Toth

0 nays

1 absent — Guillen

SENATE VOTE: On final passage, March 25 — 30-0

WITNESSES: For — (*Registered, but did not testify*: David Sinclair, Game Warden Peace Officers Association; J Pete Laney, Texas Association of Dairymen and Texas Quarter Horse Association; Joy Davis, Texas Farm Bureau; JC Essler, Texas Poultry Federation; Joey Park, Texas Wildlife Association)

Against — None

On — Judith McGeary, Farm and Ranch Freedom Alliance; Andy Schwartz, Texas Animal Health Commission; (*Registered, but did not testify*: Darren McDivitt, Sunset Advisory Commission; Bruce Akey and Vic Siedel, Texas A&M Veterinary Medical Diagnostic Laboratory)

BACKGROUND: The Legislature created the Texas Livestock Sanitary Commission in 1893 and in 1959 renamed the agency the Texas Animal Health Commission (TAHC). The commission works to protect the health of all native and exotic livestock and fowl in the state and to protect the animal agriculture industry from diseases, mitigate the effects of such disease, increase the marketability of Texas livestock commodities, and protect human health from transmissible animal diseases, among other duties.

Functions. TAHC seeks to accomplish its mission and duties by regulating the movement of certain animals into and within the state and monitoring animals for diseases and pests. The commission may respond to animal disease outbreaks by issuing quarantines and conducting investigations, and the commission is charged with preparing for and

responding to emergencies that affect animals in the state. TAHC is also authorized to enforce compliance with animal health regulations and investigates complaints of violations of such regulations.

Governance. TAHC is governed by a 13-member commission, and members serve staggered six-year terms. Commission members are appointed by the governor with the advice and consent of the Senate. Statute requires commission membership to include three public members and a member from each of 10 specific industries related to agriculture and animal health. The governor names the commission chair and must make appointments to TAHC in proportionate representation to geographic regions of the state.

Funding. The agency receives a combination of state and federal funds, and it collects revenue from appropriated receipts. For fiscal 2019, the agency's operating budget was about $16 million, of which almost $14.5 million came from the state's general revenue.

Staffing. In fiscal year 2019, TAHC employed over 200 employees, mostly inspectors working in one of the agency's six regional offices. About 77 staff are based at TAHC's central office and lab in Austin.

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

DIGEST:

CSSB 705 would continue the Texas Animal Health Commission (TAHC) until September 1, 2033, and adopt certain Sunset Advisory Commission recommendations for the commission. The bill would replace the TAHC lab and name the Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) as the state's regulatory animal health lab, require certain rule-making and the regular trend analysis of compliance data, and authorize the establishment of advisory committees.

Laboratory. The bill would establish TVMDL as the state's regulatory animal health laboratory. TAHC and the laboratory would be required to enter into a memorandum of understanding to:

- establish the laboratory services to be performed by TVMDL;

- provide reporting requirements for TVMDL on all test requests received from the commission; and
- set fees associated with laboratory services.

The memorandum would have to be adopted by January 1, 2022, and would be annually reviewed by TAHC and TVMDL. TAHC would not be prevented from using a laboratory other than TVMDL for a test as needed or from collecting specimens and performing field tests to diagnose animal diseases.

Compliance data analysis. TAHC would be required to periodically analyze violations under its regulatory jurisdiction and would have to consider violation types and disposition, persons who were repeat offenders, and person who committed the most serious offenses. The commission would have to use such analysis to compare enforcement practices across regions and determine training needs, gaps in enforcement authority, and effective enforcement activities. TAHC would have to share compliance and enforcement information on a statewide and regional basis and in a timely manner.

Disease lists and rules. The bill would eliminate statutory lists specifying the animal diseases from which TAHC is required to protect livestock and fowl and which must be reported to the commission as specified under current law. Instead, the commission would be required to determine the animal diseases that required control or eradication or reporting, as applicable, and to adopt and update rules listing those diseases. The bill also would repeal the automatic expiration of rules regarding the duty to report certain animal diseases.

Quarantine authority. The bill would allow TAHC to establish a quarantine against or in an area affected by a disease listed in its rules, rather than requiring the establishment of a quarantine for areas affected by a disease listed in statute. The commission could delegate its authority to establish a quarantine to its executive director, who would be required to promptly notify commission members when a quarantine was established.

TAHC also would be authorized, rather than required, to establish a quarantine against all or the portion of a state, territory, or country in which it was determined that the scabies disease existed.

Treatment methods. TAHC would be required to adopt rules for the testing, treatment, or vaccination of animals under its authority. The bill would revise statutory provisions prescribing the specific method for treating scabies. The commission also would be required to prescribe methods of treatment for scabies by rule.

The term "dipping" would be replaced by the generic term "treatment," and the bill would make related conforming changes. The bill also would repeal provisions related to specific dip treatment formulas, hog cholera treatment, and fever tick treatment intervals.

Other rules and provisions. The bill would authorize TAHC to adopt rules more stringent than the rules related to federal minimum standards for eradicating swine diseases if approved by a two-thirds vote of the commission.

The bill would eliminate the requirement that a certificate of each animal tuberculosis test or hog vaccination be sent to TAHC within 48 hours of completion. Instead TAHC would establish the deadline by rule.

The bill also would authorize TAHC to require the reporting within 24 hours of diagnosis of a disease recognized by the U.S. Department of Agriculture as a reportable disease. The commission also could require the slaughter or sale for slaughter of an animal infected with or exposed to such a disease.

Advisory committees. TAHC could by rule establish advisory committees to make recommendations to the commission on programs, rules, and policies. In establishing such a committee, TAHC would have to adopt rules regarding:

- the purpose, role, responsibility, goals, and duration of the committee;
- the size of and quorum requirement for the committee;

- qualifications, appointment procedures, terms of service, and training requirements for committee members;
- policies to avoid conflicts of interest by members;
- a periodic review process to evaluate the continuing need for the committee; and
- policies to ensure the committee did not violate any applicable provision of the Open Meetings Act.

The bill also would add standard Sunset across-the-board provisions related to commission member training, grounds for member removal, and complaint notification procedures to statute governing TAHC. The bill would provide for the transition to the new training requirements for commission members appointed before the bill's effective date.

No later than March 1, 2022, TAHC would have to adopt rules necessary to implement the bill's provisions and complete the initial analysis of violations required by the bill.

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

SUPPORTERS SAY:

CSSB 705 would continue the Texas Animal Health Commission (TAHC) for another 12 years as the state still needs an independent agency dedicated to protecting the economically vital animal agriculture industry against animal diseases and pests. Animal diseases can disrupt food supply, interrupt trade, cost millions of dollars, and in some cases affect human health, and no other state agency currently has the staff or expertise needed to perform the regulatory functions of TAHC. The bill would adopt Sunset recommendations to address ways in which the commission's regulatory authority has not kept up with changes in the state's disease environment as well as other areas in which improvement is needed.

Laboratory. CSSB 705 appropriately would make the Texas A&M Veterinary Medical Diagnostic Laboratory (TVMDL) the designated regulatory animal health laboratory in the state. The laboratory is better qualified and has more resources, including satellite labs in various

locations, to perform regulatory animal disease tests than the current TAHC lab. In addition, TAHC lab's workload drastically decreased when federal funding for cattle brucellocis testing stopped, while the lab's average operating expenses per test specimen have tripled over the past few years. Closing TAHC's lab and moving its functions to TVMDL would save the state significant costs and would not slow down the processing time industry tests. The bill also would allow TAHC to contract with other labs if it was more efficient and cost-effective to do so.

Compliance data analysis. The Sunset Advisory Commission found TAHC's enforcement efforts have been too limited and inconsistent, which could result in less effective disease prevention. Gaps in TAHC's compliance database and the lack of compliance information access for many commission employees made it difficult for staff to ensure compliance, check for repeat offenders, or understand how other regions have handled similar violations. The bill would address these concerns by requiring TAHC to conduct regular trend analysis of compliance data and share such analysis throughout the commission to inform rulemaking, enhance stakeholder education, and strengthen enforcement.

Outdated statutory provisions. CSSB 705 would eliminate multiple statutory provisions governing TAHC that are overly prescriptive, restrictive, outdated, or confusing, and would grant TAHC more flexibility to address the state's current animal health needs, including the ability to adopt rules as needed and use modernized practices.

Advisory committees. TAHC's ability to appoint advisory committees is currently limited, so it relies on informal working groups to help develop and alter rules. Such groups lack the transparency and public input of advisory committees, and TAHC's working groups have tended to lack a sufficient diversity of perspectives and over-represent certain interests at the expense of others. CSSB 705 would give TAHC the ability to form advisory committees, which would benefit the commission's rulemaking and policy development and lead to greater transparency, more balanced representation, more public input, and fresh perspectives.

Powers and jurisdiction. While some have suggested that TAHC should assume sole regulatory authority over captive deer and other cervids, the

current coordinated regulation between TAHC and the Texas Parks and Wildlife Department, particularly in the management of chronic wasting disease, works well, so there is no need to alter that arrangement at this time.

Likewise, proper communication and coordination between TAHC and the Texas Department of Agriculture should ensure sufficient oversight of livestock animals that are rejected at animal export facilities. The Sunset Advisory Commission's non-statutory recommendation that TAHC and TDA enter a memorandum of understanding on this issue would address this concern.

CRITICS SAY:

CSSB 705 could negatively impact the processing time of livestock and poultry industry tests by transferring TAHC's regulatory testing function from its own lab to TVMDL. These industries are too important to be jeopardized by delayed results due to consolidation and diminished testing capacity.

The bill also should grant sole regulatory authority over captive deer and other cervids to TAHC, which is a more suitable entity than the Texas Parks and Wildlife Department to manage deer in a captive breeding facility and respond to relevant diseases, including chronic wasting disease. Consolidation would result in significant financial savings for the state and eliminate duplicative efforts between the two agencies.

Both TAHC and the Texas Department of Agriculture need clear direction, oversight, and rulemaking authority to determine what happens to livestock animals rejected at state animal export facilities, and the bill should address this need.

OTHER CRITICS SAY:

CSSB 705 would not go far enough to ensure that the agency adequately represented all stakeholders, especially with the makeup of the commission itself. While it currently must include three members that represent the public interest, the specific statutory language would allow anyone who is not regulated or sponsored by the commission to qualify as a member of the public. Since TAHC technically regulates animals, not individuals or businesses, these public interest members may actually be closely tied to agriculture industry interests. The commission also does

not reserve any seats for small-scale, organic, or sustainable producers, who are affected by TAHC regulations. Statute governing TAHC should tighten and clarify the "public interest" member requirements and provide representation for small-scale producers and other interest groups typically excluded from the agency's decision-making.

NOTES:

According to the Legislative Budget Board, CSSB 705 would have an estimated positive impact to general revenue related funds of $261,022 through fiscal 2023.

SUBJECT: Adjusting Sunset dates for certain entities; providing disaster exemption

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

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

BACKGROUND: Government Code ch. 325 requires the Sunset Advisory Commission and the Legislature to evaluate certain state agencies periodically to determine whether a public need exists for their continuation or their functions. A state agency is subject to the act if a date is set in statute for it to be reviewed or abolished.

DIGEST: SB 713 would revise the review cycle for certain entities subject to the Texas Sunset Act, remove certain entities from the review process, and provide an exemption from review during a declared disaster.

Entities given 2023 Sunset date. The following entities' statutory Sunset dates would be postponed from 2021 to 2023:

- the Texas Economic Development and Tourism Office;
- the Office of State-Federal Relations; and
- the San Jacinto River Authority.

The bill would move forward from 2025 to 2023 the statutory Sunset dates of the Public Utility Commission and the Office of Public Utility Counsel.

Entities given 2025 Sunset date. The following entities' statutory Sunset dates would be postponed from 2023 to 2025:

- the Texas Department of Insurance and the department's Division of Workers' Compensation;
- the Office of Public Insurance Counsel; and
- the Office of Injured Employee Counsel.

Entities given 2027 Sunset date. The following entities' statutory Sunset dates would be postponed from 2023 to 2027:

- the Texas Public Finance Authority;
- the Texas State Affordable Housing Corporation; and
- the Commission on State Emergency Communications.

Entities given 2029 Sunset date. The bill would postpone the statutory Sunset date of the Cancer Prevention and Research Institute of Texas from 2023 to 2029.

State Board of Veterinary Medical Examiners. The State Board of Veterinary Medical Examiners' statutory Sunset date would be postponed from 2021 to 2029.

The Sunset Advisory Commission would be required to conduct a special-purpose review of the State Board of Veterinary Medical Examiners for the 88th Legislature. In conducting the review, the Sunset Advisory Commission staff evaluation and report would be limited to the implementation of the board's database system and processes and procedures for collecting and analyzing data, as recommended by the commission to the 87th Legislature. The commission's recommendations to the 88th Legislature could include any recommendation considered appropriate based on the special-purpose review.

The state auditor would have to conduct an effectiveness audit of the board to evaluate its implementation of the data-related recommendations submitted by the commission to the 85th Legislature and identified as not fully implemented in the report submitted by the commission to the 87th

Legislature. The audit also would have to evaluate any additional recommendations made in the report of the special-purpose review. The audit could not begin before December 1, 2023, and the auditor would have to submit a report to the chair and executive director of the Sunset Advisory Commission by December 1, 2024.

Entities given 2031 Sunset date. The bill would postpone from 2025 to 2031 the statutory Sunset dates of the Texas Real Estate Commission and the Texas Appraiser Licensing and Certification Board.

Entities removed from Sunset review. The bill would remove the requirement that the Texas A&M Forest Service be subject to Sunset review.

The bill would remove a requirement that the Sunset Advisory Commission conduct a limited-scope review of the Health and Human Services Commission during fiscal 2023.

The Sunset Advisory Commission would no longer be required to conduct a special-purpose review of the Health and Human Services Commission's Office of Inspector General during the 2022-23 review cycle.

Procedures during declared disaster. The Sunset Advisory Commission could exempt agencies from certain requirements of the Texas Sunset Act that the commission determined were unable to participate in the review due to a declared disaster.

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

SUPPORTERS SAY:

SB 713 is the Sunset schedule bill, which is used to balance the Sunset Advisory Commission's workload and better align agencies set for review in upcoming biennia to ensure Sunset staff would have the resources to provide comprehensive reviews in future cycles. The bill also would amend provisions in the Texas Sunset Act to allow the commission to effectively operate during declared disasters or emergencies, such as the COVID-19 pandemic.

In response to Winter Storm Uri in February, the bill would move up the reviews of the Public Utility Commission, the Electric Reliability Council of Texas, and Office of Public Utility Counsel to next biennium instead of 2025. This change also would align these reviews with that of the Texas Commission on Environmental Quality.

The bill would move the review of the Economic Development and Tourism Office and the Office of State-Federal Relations within the governor's office from 2023 to 2025. These reviews, which originally were scheduled for 2021, were postponed due to the offices' roles in the state's response to the COVID-19 pandemic.

The bill would change the reviews of the Texas Department of Insurance and the department's Division of Workers' Compensation, the Office of Public Insurance Counsel, and the Office of Injured Employee Counsel to provide these agencies time to respond to changing insurance market conditions.

The bill would require a special-purpose review of the State Board of Veterinary Medical Examiners and a limited-scope state audit, while setting the board's next full Sunset review to align with other agencies that regulate the prescribing and dispensing of controlled substances.

The bill could be amended to remove the requirement that the Texas Low-Level Radioactive Waste Disposal Compact Commission be subject to Sunset review.

CRITICS SAY:

SB 713 should remove the Texas Low-Level Radioactive Waste Disposal Compact Commission from Sunset review. Because it is not a state agency and instead an independent entity established under federal law and governed by the Texas Low-Level Radioactive Waste Disposal Compact, the Sunset Advisory Commission has little ability to conduct a meaningful review or recommend significant changes.

NOTES:

According to the Legislative Budget Board, the bill would cost $139,907 in appropriated receipts through fiscal 2023 for the Sunset reviews of the San Jacinto River Authority and the Low-Level Radioactive Waste

Disposal Compact Commission. Some entities, such as river authorities and self-directed, semi-independent agencies, are required to pay for the cost of their reviews.

The bill's sponsor intends to offer a floor amendment that would:

- remove the requirement that the Texas Low-Level Radioactive Waste Disposal Compact Commission be subject to Sunset review; and
- postpone the statutory Sunset date of the Texas State Affordable Housing Corporation from 2023 to 2025.

The House companion bill, HB 1860 by Cyrier, was considered by the House State Affairs Committee in a public hearing on April 1 and was left pending.

SUBJECT: Revising state authority for school accountability interventions

COMMITTEE: Public Education — favorable, with amendment

VOTE: 7 ayes — Dutton, Allison, K. Bell, Buckley, Huberty, K. King, VanDeaver

5 nays — Allen, Bernal, M. González, Meza, Talarico

0 absent

1 present not voting — Lozano

SENATE VOTE: On final passage, May 5 — 20-11 (Alvarado, Blanco, Eckhardt, Gutierrez, Johnson, Menéndez, Miles, Powell, West, Whitmire, Zaffirini)

WITNESSES: No public hearing.

BACKGROUND: Education Code sec. 39.102 requires the commissioner of education to undertake certain interventions and sanctions involving a school district that does not satisfy accreditation criteria, academic performance standards, or any financial accountability standard. Actions can include appointment of a conservator to oversee operations of the district, appointment of a board of managers to exercise the powers and duties of the board of trustees, or closure of the district and annexation to one or adjoining districts.

DIGEST: SB 1365 would revise and add provisions relating to public school performance ratings and state interventions for districts with unacceptable performance ratings. The bill would specify the education commissioner's authority to appoint a board of managers for certain districts, charter schools, or district or charter schools campuses that had received consecutive years of unacceptable performance ratings.

Commissioner's authority. SB 1365 would establish that if an order, decision, or determination of the education commissioner was described in the Education Code as final and unappealable, an interlocutory or

intermediate order, decision, or determination made or reached before the final order, decision, or determination could be appealed only if specifically authorized by the code or a rule adopted under the code.

Review of action. A district or charter school that intended to challenge a decision by the commissioner for closure or appointment of a board of managers would have to appeal to the State Office of Administrative Hearings. The administrative law judge would have to uphold a decision by the commissioner unless the judge found the decision was arbitrary and capricious or clearly erroneous, and could not substitute the judge's judgment for that of the commissioner.

The bill would establish that the education commissioner's power to delegate ministerial and executive functions to Texas Education Agency (TEA) staff and to employ division heads and any other employees and clerks to perform TEA duties were valid delegations of authority, notwithstanding any other law.

Special investigations. SB 1365 would replace Education Code references to special accreditation investigations with revised provisions for special investigations. Based on the results of a special investigation, the commissioner could take any interventions and sanctions for school districts provided under Chapter 39A, regardless of any requirements applicable to the action that are provided by that chapter. The commissioner's action related to a special investigation would be subject to review by the State Office of Administrative Hearings.

At any time before issuing a report with the Texas Education Agency's final findings, the commissioner could defer taking an action until:

- a third party, selected by the commissioner, had reviewed programs or other subjects of a special investigation and submitted a report identifying problems and proposing solutions;
- a district completed a corrective action plan developed by the commissioner; or
- both the third party report and corrective action plan had been completed.

Confidential witnesses. During a special investigation, TEA would be authorized to classify the identity of a witness as confidential if TEA determined it was necessary to protect the welfare of the witness.

Campus and district performance ratings. SB 1365 would revise provisions under which a performance rating of D was considered an acceptable or unacceptable performance rating, and specify when the commissioner could assign a rating of "Not Rated."

Effect of D rating. The bill would stipulate that a reference in law to an acceptable performance rating for a school district, charter school, or district or charter school campus included an overall performance rating of D if, since previously receiving an overall performance rating of C or higher, the district, charter school, or district or charter school campus:

- had not previously received more than one overall performance rating of D; or
- had not received an overall performance rating of F.

Otherwise, a performance rating of D would be considered unacceptable in Education Code references.

SB 1365 would expand information that would have to be made publicly available by August 15 of each year to include, if applicable, the number of consecutive school years of unacceptable performance ratings for each district and campus. If the bill took effect later than August 15, 2021, the commissioner would have to publish the consecutive school years of unacceptable performance as soon as practicable after the effective date.

Not rated. The commissioner could assign a school district or campus an overall performance rating of "Not Rated" if the commissioner determined that the assignment of a performance rating of A, B, C, D, or F would be inappropriate because:

- the district or campus was located in an area subject to a declared disaster, and performance indicators would be difficult to measure or evaluate and would not accurately reflect quality of learning and achievement;

- the district or campus had experienced breaches or failures in data integrity to the extent that accurate analysis of data regarding performance indicators was not possible;
- the number of students enrolled in the district or campus was insufficient to accurately evaluate the performance of the district or campus; or
- for other reasons outside the control of the district or campus, the performance indicators would not accurately reflect quality of learning and achievement.

An overall performance rating of "Not Rated" would not be included in calculating consecutive school years of unacceptable performance and would be not considered a break in consecutive school years of unacceptable performance.

Alternative evaluations. The commissioner would have to adopt rules to develop and implement alternative methods and standards for evaluating the performance for the 2020-2021 school year of a campus that:

- met the participation requirements for all students and all subject areas for the annual measurement of achievement under the federal Every Student Succeeds Act;
- was most recently rated D, F, or needs improvement; and
- was not subject to the appointment of a board of managers.

An acceptable performance rating assigned under the commissioner's alternative methods and standards would be considered a break in consecutive school years of unacceptable performance rating. The alternative evaluation would not apply to an intervention ordered on the basis of consecutive years of unacceptable performance ratings accrued before the bill became effective.

The requirement for alternative evaluations would expire September 1, 2027.

Interventions and sanctions. SB 1365 would make revisions and additions to state interventions and sanctions related to certain performance ratings.

Local improvement plan. A school district, charter school, or district or charter school campus that was assigned a rating of D that qualified as acceptable performance under the bill would have to develop and implement a local improvement plan. The plan would have to be presented to the district board of trustees or charter school governing board. The commissioner would have to adopt rules to establish requirements for a local improvement plan components and training but could not require a district or charter school to submit the plan to TEA.

Campus turnaround plan. The statutory requirement for a campus identified as unacceptable for two consecutive years to prepare and submit a campus turnaround plan to the commissioner would be expanded to require the commissioner to appoint a conservator to a school district unless and until:

- each campus in the district for which a campus turnaround plan had been ordered received an acceptable performance rating for the school year; or
- the commissioner determined a conservator was not necessary.

A conservator or management team could exercise the statutory powers and duties defined by the commissioner regardless of whether the conservator or management team was appointed to oversee the operations of a school district in its entirety or the operations of a certain campus within the district.

Continued unacceptable performance. The bill would change the period of consecutive unacceptable campus performance ratings after which the commissioner had to intervene by closing the campus or appointing a board of managers to the district from three consecutive school years to five consecutive school years.

Intervention for certain districts or campuses. In temporary provisions that would expire September 1, 2027, the commissioner would have to:

- determine the number of school years of unacceptable performances ratings as defined in the bill occurring after the 2012-2013 school year for each school district, charter school, or district or charter school campus;
- use the number of school years of unacceptable performance ratings as the base number of consecutive years of unacceptable performance for which the performance rating in the 2021-2022 school year would be added; and
- order the appointment of a board of managers to the district or charter school for each campus that was determined to have been assigned an unacceptable performance rating for five or more school years.

This requirement could not be construed to:

- provide a district or charter school additional remedies or appellate or other review for previous interventions, sanctions, or performance ratings ordered or assigned; or
- prohibit the commissioner from taking any action or ordering any intervention or sanction otherwise authorized by law.

Intervention pause. The bill would require a pause in certain interventions for a district, charter school, or district or charter school campus that received a first or second overall performance rating of D, since previously being rated C or higher, until another performance rating was issued.

Fiscal management. The bill would prohibit the use of state funds not designated for a specific purpose or local school funds to initiate or maintain any action or proceeding against the state or against an agency or officer of the state arising out of a decision that was final and unappealable, except that funds could be used for an action or proceeding specifically authorized by a provision of the Education Code or a rule adopted under the code and that resulted in a final and unappealable decision, order, or determination.

The bill would expand the conduct that constituted the class C misdemeanor offense of failure to comply with school budget requirements to include a district trustee's vote to approve any expenditure of school funds in violation of a provision of the Education Code for a purpose for which those funds may not be spent.

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

SUPPORTERS SAY:

SB 1365 would allow the commissioner of education to address the problem of chronically failing schools by clarifying the state's authority to intervene when a campus receives a series of D performance ratings. The school accountability system plays a crucial role in ensuring that a quality education is available to all Texas students, especially when local school officials allow multiyear school failures to leave thousands of students behind.

By specifying that a D rating is considered unacceptable performance under the school accountability system, SB 1365 would allow the commissioner to use statutory sanctions and interventions, including the appointment of a conservator or board of managers to focus on campus improvement. This would ensure that state and local school officials understand the impact of D ratings going forward.

While local control of school districts and charter schools is important, state intervention becomes necessary when a school board is unwilling or unable to improve chronically failing schools. The bill would protect local school board authority by allowing the results of investigations by the Texas Education Agency (TEA) in a board of managers case to be appealed to the State Office of Administrative Hearings while limiting a district's ability to use litigation to thwart state intervention. Allowing TEA to consider confidential witness testimony would protect teachers and others who came forward with allegations of wrongdoing by a district or charter school.

CRITICS SAY:

SB 1365 would inappropriately allow more state control of locally governed school districts and give too much power to the appointed state

commissioner. The bill would allow the education commissioner to take over more school districts than allowed under current law by treating a D rating as an F rating signifying unacceptable academic performance. This would heighten the pressure on students taking STAAR exams by increasing the stakes attached to test results under the school rating system.

The bill states that the commissioner's power under certain circumstances is "final and unappealable," providing school districts limited recourse to challenge the legality of some decisions by the commissioner. A provision to allow the Texas Education Agency to consider anonymous testimony could deprive districts of meaningful due process.

NOTES:

A committee amendment would change the school year for which the commissioner would determine the number of school years of unacceptable performance ratings that had occurred by replacing "after the 2012-2013 school year" with "the 2018-2019 school year, including that school year."

The House companion bill, HB 3270 by Dutton, was considered by the House Public Education Committee in a public hearing on March 30, reported favorably as substituted on April 7, placed on the general state calendar for May 6, then was returned to committee.

SUBJECT: Allowing student athletes to be compensated for name, image, likeness

COMMITTEE: Higher Education — favorable, without amendment

VOTE: 8 ayes — Murphy, Pacheco, Frullo, Muñoz, Ortega, Parker, C. Turner, J. Turner

0 nays

3 absent — Cortez, P. King, Raney

SENATE VOTE: On final passage, April 22 — 28-2-1 (Hughes, Perry; Kolkhorst)

WITNESSES: For — None

Against — None

On — Janell Fitzgerald, Texas State University; Chris Del Conte, UT Athletics; (*Registered, but did not testify*: Ross Bjork, Texas A&M University)

DIGEST: SB 1385 would prohibit institutions of higher education from prohibiting student athletes from earning compensation from their name, image, or likeness, restrict schools' policies relating to student athletes, place restrictions on the type of contracts athletes could enter into, and establish requirements for a financial literacy and life skills workshop for student athletes.

The bill would apply to a general academic teaching institution or a private or independent institution of higher education.

Restrictions on institutions. Institutions could not adopt or enforce a policy, requirement, standard, or limitation that prohibited or prevented a student athlete participating in an intercollegiate athletic program from:

- earning compensation for the use of the student athlete's name, image, or likeness when not engaged in official team activities; or

- obtaining professional representation, including representation by an athlete agent or attorney, for contracts or other legal matters relating to the use of the student athlete's name, image, or likeness.

Institutions also could not provide or solicit a prospective student athlete with compensation in relation to the prospective student athlete's name, image, or likeness.

A scholarship, grant, or similar financial assistance that covered the student athlete's cost of attendance at the institution would not be considered compensation under these provisions. Student athletes could not be disqualified from eligibility for a scholarship, grant, or similar financial assistance awarded by the institution because the student athlete:

- earned compensation from the use of their name, image, or likeness when not engaged in official team activities; or
- obtained professional representation for contracts or other legal matters relating to use of their name, image, or likeness.

An institution could not prescribe a team contract for an intercollegiate athletic program that prohibited or prevented a student athlete from using their name, image, or likeness for a commercial purpose when the student athlete was not engaged in official team activities.

Restrictions on contracts. A student athlete would be required, before entering into a contract, to disclose to the institution any proposed contract for use of the student athlete's name, image, or likeness.

Student athletes could not enter into a contract for the use of their name, image, or likeness if the contract conflicted with a provision of the student athlete's team contract, a contract of the institution, an athletic department policy, or the institution's honor code.

Athletes also could not enter into a contract if the compensation for the use of the student athlete's name, image, or likeness was provided:

- in exchange for athletic performance or attendance at the institution;

- by the institution;
- in exchange for property owned by the institution or for providing an endorsement while using intellectual property or other property owned by the institution; or
- in exchange for an endorsement of alcohol, tobacco products, e-cigarettes or any other type of nicotine delivery device, anabolic steroids, sports betting, casino gambling, a firearm the student athlete could not legally purchase, or a sexually oriented business.

Students could not enter into contracts that extended beyond their participation in the athletic program and could not enter into a contract for representation by an athlete agent unless the athlete agent held a certificate of registration under the Occupations Code. Students would not be considered employees of the institution based on their participation in the intercollegiate athletic program.

Student athletes could sell their autographs in a manner that did not otherwise conflict with a provision of the bill.

The bill would establish procedures for when a student athlete's contract conflicted with contracts of the team or institution, an athletic department policy, or a school honor code and would require the student athlete to resolve the conflict with 10 days of disclosure.

Financial literacy, life skills workshop. Institutions would have to require student athletes to attend a financial literacy and life skills workshop at the beginning of the student's first and third academic years. The workshop would have to be at least five hours long and include information on financial aid, debt management, time management, budgeting, and available academic resources.

The institution would be prohibited during the workshop from allowing providers of financial products or services to market, advertise, or refer the provider's services to a student athlete or to solicit a student athlete to use the provider's services.

Individuals, corporations, and other organizations would be prohibited from entering into any arrangement with a prospective student athlete

about their name, image, or likeness prior to their enrollment in the school. Individuals, corporations, and organizations also would be prohibited from using inducements of future compensation arrangements to recruit a prospective student athlete to any institution of higher education.

Legislative findings, effective date. SB 1385 includes as legislative findings that the U.S. Congress has failed to act to provide uniform guidance to the states on the matter of intercollegiate athletes receiving compensation in exchange for the use of the athlete's name, image, or likeness, and that the U.S. Congress must act on this matter to ensure the competitive integrity of intercollegiate athletics.

The bill would take effect September 1, 2021, and would apply only to team contracts entered into, modified, or renewed on or after that date.

SUPPORTERS SAY:

SB 1385 would put college athletes in Texas and the state's higher education institutions on competitive footing with those in other states by allowing student athletes to earn compensation based on their name, image, and likeness. Current NCAA rules prevent this, but a wave of state legislation allowing it, discussions on the federal level, and proposals to change the NCAA's rules have brought the issue to the forefront. While the NCAA or the federal government consider action, it would be best for Texas to have legislation in place.

SB 1385 would help put Texas schools on equal footing with other universities in the approximately 10 other states that have passed similar legislation and the 30 or so considering legislation. If Texas waits to enact such legislation, it could be the only state in the SEC or Big 12 conferences whose athletes could not take advantage of these financial opportunities. Without the bill, Texas could lose student athletes to colleges and universities in other states and could lose other students as well.

Student athletes in Texas deserve the opportunities that SB 1385 would allow. Universities profit from the presence of these athletes, but the athletes are restricted from profiting from their own name, image, and likeness. Not all student athletes have scholarships, and for those that do,

the scholarships may not cover all expenses or even necessities like computers. The numerous hours these athletes devote to their sport for their schools and their academics can leave little time for jobs.

Other students can profit from their name, image, and likeness, and SB 1385 would treat student athletes like other students with skills or a marketable name. Under the bill, student athletes could obtain endorsement or marketing deals, get paid for autographs, or earn money by leveraging social media. For some, college might be the only time to profit from their athletic endeavors as most student athletes do not become professional athletes.

SB 1385 would open opportunities for all student athletes, not just those in popular sports or at large universities. The bill would apply to private as well as public institutions so that all Texas athletes would be treated fairly and because private schools compete within the NCAA and against public schools.

SB 1385 would establish a framework with numerous guardrails to protect athletes, schools, and amateur sports. Institutions would have to offer athletes a financial literacy and life skills workshop that would give athletes the tools to understand the business and financial side of their endorsements. The bill would prohibit inducements from being used as a recruitment tool, and endorsements could not be in exchange for athletic performance. SB 1385 would help protect schools by requiring contracts to be disclosed and monitored for potential conflicts with university contracts and by prohibiting endorsements that used property owned by the institution. The bill would impose reasonable restrictions on endorsements, including on endorsements for alcohol, tobacco, and gambling.

SB 1385 would not change the amateur nature of college athletes or college sports but instead would recognize the changing landscape of college athletics to keep Texas competitive. Those competing in sports at an institution of higher education would be treated like other students regarding using their name and likeness and would continue their roles as both amateur athletes and students.

CRITICS SAY:

SB 1385 could erase the critical distinction that student-athletes on the college level are amateurs and should not be paid except for scholarships. Education should be the focus of all students at institutions of higher education. In addition, the bill could set up a system that resulted in discrepancies between earnings from names, images, and likenesses among Texas teammates and athletes at the same school and among those at larger, high profile schools and those at smaller schools.

OTHER CRITICS SAY:

Some provisions in SB 1385 would go too far, such as restricting the type of endorsements that student athletes can make and placing requirements on private institutions.

SUBJECT: Increasing PUC membership, requiring state residency, revising eligibility

COMMITTEE: State Affairs — favorable, without amendment

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

0 nays

2 absent — Lucio, Raymond

1 present not voting — Smithee

SENATE VOTE: On final passage, March 25 — 30-0

WITNESSES: For — (*Registered, but did not testify*: Jeffrey Clark, Advanced Power Alliance; Carrie Simmons, Conservative Texans for Energy Innovation; Cyrus Reed, Lone Star Chapter Sierra Club; Linda Durnin)

Against — None

On — Kenneth Flippin, US Green Building Council Texas Chapter; (*Registered, but did not testify*: Thomas Gleeson, Public Utility Commission of Texas)

BACKGROUND: Utilities Code ch. 12 governs the organization of the Public Utility Commission (PUC). The PUC is composed of three governor-appointed commissioners who serve staggered, six-year terms. To be eligible for appointment, a commissioner must:

- be a qualified voter;
- be a U.S. citizen;
- be a competent and experienced administrator;
- be well informed and qualified in the field of public utilities and utility regulation; and

- have at least five years of experience in the administration of business or government or as a practicing attorney or certified public accountant.

A person is not eligible for appointment if the person at any time during the two years preceding appointment:

- personally served as an officer, director, owner, employee, partner, or legal representative of a public utility regulated by the PUC or of an affiliate or direct competitor of a regulated public utility; or
- owned or controlled, directly or indirectly, more than a 10 percent interest in a regulated public utility or in an affiliate or direct competitor of a regulated public utility.

Other persons not eligible for appointment are certain registered lobbyists, employees of trade associations or their spouses, or persons serving, employed, or financially in certain positions that pose conflicts of interest.

DIGEST:

SB 2154 would increase the membership of the Public Utility Commission (PUC) from three to five governor-appointed commissioners.

To be eligible for appointment, a commissioner would have to be a Texas resident. The bill would expand eligibility to include a person who had at least five years of experience as a professional engineer.

Under the bill, only a minimum of two commissioners would have to be well informed and qualified in the field of public utilities and utility regulation.

The bill also would amend eligibility requirements so that a person would not be eligible for appointment as a commissioner if at any time during the previous year, rather than the previous two years, the person was affiliated with certain public utilities.

Under the bill, a member of the Legislature or a person who served as governor, lieutenant governor, comptroller, commissioner of the General Land Office, or attorney general within one year preceding appointment would not be eligible for appointment as a PUC commissioner.

No later than 30 days after the bill's effective date, the governor would have to appoint a person to PUC to serve as the presiding officer.

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

SUPPORTERS SAY:

SB 2154 would take the necessary steps to reform the governance of the Public Utility Commission (PUC) in the wake of Winter Storm Uri, which left millions of Texans without power in February. Following the storm, concerns were raised about PUC's actions, and after the resignation of all three PUC commissioners, there have been calls to reform the makeup of PUC and the requirements for appointment as a commissioner.

The bill would address those calls by increasing the number of PUC commissioners from three to five and revising the eligibility requirements for appointment as a commissioner, including by expanding eligibility to allow professional engineers to serve as commissioners. By requiring only two commissioners to meet the current standard of being well informed and qualified in the field of public utilities, the bill would guarantee that at least three of the five members were not from the public utility industry, leaving room for finance and legal experts. This change would ensure that more viewpoints were incorporated during decision-making processes.

Additionally, SB 2154 would create a system Texans could trust by balancing expertise with the needs of consumers, who were the most harmed during and after the winter storm. By requiring Texas residency of all PUC commissioners, the bill would ensure members had a personal stake in Texas' public utilities.

CRITICS SAY:

SB 2154 should revise PUC to ensure it is more accountable to Texans by requiring some commissioners to represent consumers. This could be achieved by requiring commissioners to represent designated zones in the ERCOT power region, by requiring the lieutenant governor and House speaker to have a role in commissioner selection to instill more legislative oversight, or by requiring at least one commissioner to be elected in the same manner as other state officers. The bill also could reduce the PUC

membership from three commissioners to one to ensure better accountability to the public, the governor, and the Legislature.

NOTES:

According to the Legislative Budget Board, the bill would cost general revenue about $2.2 million through fiscal 2023 for two commissioners' salaries, two advisers' salaries, two support staff's salaries, two new office suites, and other related operating expenses.

SUBJECT: Modifying requirements for establishing historic landmarks and districts

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

VOTE: 5 ayes — K. King, Frullo, Krause, Martinez, C. Morales

0 nays

4 absent — Gervin-Hawkins, Burns, Clardy, Israel

SENATE VOTE: On final passage, April 21 — 26-5 (Eckhardt, Gutierrez, Menéndez, Whitmire, Zaffirini)

WITNESSES: No public hearing.

BACKGROUND: Local Government Code sec. 211.0165 establishes that a municipality may designate a property as a local historical landmark without the consent of the owner only if the designation is approved by a three-fourths vote of the municipality's governing body and zoning, planning, or historical commission, if any. The municipality must provide the owner with an impact statement containing certain specified information no later than the 15th day before the initial hearing on the proposed designation. A property owner may withdraw consent at any point in the designation process. A property owned by a religious organization cannot be designated a historical landmark by a municipality without the organization's consent.

DIGEST: SB 1585 would extend the provisions governing the designation of local historic landmarks under Local Government Code sec. 211.0165 to the inclusion by a municipality of a property in a local historic district.

The bill also would require a municipality that had more than one zoning, planning, or historical commission to designate one of those commissions as the entity with exclusive authority to approve the designations of properties as local historic landmarks and the inclusion of properties in a local historic district.

The bill would take effect September 1, 2021, and would apply only to a proposal to include property in a local historic district or designate a property as a local historic landmark made on or after that date.

SUPPORTERS SAY:

SB 1585 would enhance the rights of property owners by requiring a supermajority vote by a municipal governing body and, if applicable, its zoning, planning, or historical commission in order to include a property in a local historical district without the owner's consent. The bill also would provide a clear, uniform, and predictable process for all parties by preventing municipalities that have multiple relevant commissions from "shopping around" for the commission most likely to provide the required vote in each case of landmark designation or inclusion of property in a historic district or taking up votes on multiple committees to achieve the city's desired result.

Local historic districts as created by many municipalities regulate use in ways that can impose burdens on property owners, so a higher approval threshold for including property in a historic district would be justified. The extension of this exemption to religious organizations conforms to current provisions for landmark designations, and religious organizations need flexibility to expand and adapt the single-use building that is usually their only major asset.

The bill would not prevent the creation of historical districts or even the inclusion of property against an owner's wishes but simply would set a higher threshold to ensure that such inclusion has ample community support. SB 1585 still would allow local governments considerable flexibility in creating historic districts, including the ability to negotiate with individual property owners on specific aspects of district requirements.

CRITICS SAY:

By requiring a supermajority vote of a city governing body and commission to include a property in a local historic district without the owner's consent, SB 1585 would place a higher burden on historic district designations, which do not regulate use, than is required for other types of zoning, including those that restrict use. Allowing individual property owners to opt out of inclusion in a historic district would defeat the

purpose, which is to preserve the historical character and integrity of an entire area.

The bill would extend provisions on designation of local historic landmarks to allow religious organizations to prevent property they own from being included in a historic district without owner consent. However, churches and other sacred spaces often are among the buildings most appropriate for a historical designation, and local communities should be able to decide if a church should be considered historic. State law should not make it more difficult to create cohesive historical districts that enhance community identity and contribute to local economies through tourism and increased property values.

Local governments already provide means for public input on district designations, including specific provisions for property owners to object to their inclusion in a district. SB 1585 could undermine local control by restricting the ability of cities to determine for themselves the procedures needed to create a district.

NOTES:

The House companion bill, HB 1474 by Cyrier, was considered by the House Culture, Recreation, and Tourism Committee in a public hearing on March 22, reported favorably on March 29, and sent to the Calendars Committee.

SUBJECT: Prohibiting use of state money to settle certain sexual harassment claims

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 13 ayes — Paddie, Hernandez, Deshotel, Harless, Howard, Hunter, P. King, Lucio, Metcalf, Raymond, Shaheen, Slawson, Smithee

0 nays

SENATE VOTE: On final passage, April 29 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

DIGEST: SB 282 would prohibit the Legislature from appropriating money and a state agency from using appropriations to settle or pay a sexual harassment claim made against:

- an elected member of the executive, legislative, or judicial branch of state government; or
- a person appointed by the governor to serve as a member of a department, commission, board, or other public office within the executive, legislative, or judicial branch of state government.

The bill would take effect September 1, 2021.

SUPPORTERS SAY: SB 282 would send a strong message to elected and appointed state officials that certain types of misconduct would not be tolerated by prohibiting the use of state funds for sexual harassment settlements.

Current state law does not prohibit the use of appropriated funds to settle sexual harassment claims against elected or appointed officials. In recent years, the U.S. Congress has restricted the use of federal taxpayer dollars to pay for federal sexual harassment claims after settlements for sexual harassment allegations cost federal taxpayers thousands of dollars. Without such prohibitions in state law, Texas taxpayers could be forced to pay similar settlements. The bill would protect Texas taxpayers from an inappropriate use of taxpayer dollars and ensure elected and appointed

officials were personally financially responsible for any such claim that resulted from their misconduct.

CRITICS SAY:

By reducing access to a source of compensation, SB 282 could limit, if not completely preclude, the payment of settlements to sexual harassment victims in claims against state elected and appointed officials. Victims should have more access to compensation, not less.

NOTES:

The House companion bill, HB 1804 by Meyer, was considered by the House State Affairs Committee in a public hearing on March 25, reported favorably on April 1, and approved by the House on April 28.

SUBJECT: Allowing districts to adopt uniform conditions for school construction

COMMITTEE: Public Education — favorable, without amendment

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

1 nay — VanDeaver

1 absent — Meza

SENATE VOTE: On final passage, April 7 — 30-0

WITNESSES: For — Corbin Van Arsdale, AGC-Texas Building Branch; (*Registered, but did not testify*: Wade Long, Associated Builders and Contractors of Texas; Barry Haenisch, Texas Association of Community Schools; Amy Beneski, Texas Association of School Administrators; Hugo Gonzalez, Texas Association of School Boards)

Against — None

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

BACKGROUND: Government Code sec. 2166.302 requires the Texas Facilities Commission to adopt uniform general conditions to be incorporated into all building construction contracts made by the state. Sec. 2166.305 requires the commission to require a review of the uniform general conditions of state building construction contracts whenever the commission considers review worthwhile, but not less frequently than once every five years. The facilities commission appoints a committee to perform the review.

Interested parties have noted that school districts could benefit from adopting uniform general conditions to be incorporated in their building construction contracts, which could help reduce their construction costs.

DIGEST:

SB 338 would allow a school district, after reviewing the uniform general conditions adopted by the Texas Facilities Commission for building construction contracts, to adopt uniform general conditions to be incorporated in all district building construction contracts.

The bill would add two members to the committee appointed by the Texas Facilities Commission to perform regular reviews of the uniform general conditions of state building construction contracts. The commission would have to appoint one individual representing the Texas Association of School Boards and one individual representing the Texas Association of School Administrators. The two additional members would have to be appointed by December 1, 2021.

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

SUBJECT: Modifying city building inspection requirements during declared disasters

COMMITTEE: Urban Affairs — committee substitute recommended

VOTE: 9 ayes — Cortez, Holland, Bernal, Campos, Gates, Jarvis Johnson, Minjarez, Morales Shaw, Slaton

0 nays

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing.

DIGEST: CSSB 877 would establish the requirements for a person eligible to conduct municipal building inspections in an area of a municipality subject to a declaration of disaster by the governor or a local declaration of disaster. The owner of the building and any person whose work was the subject of the inspection would not be eligible. Otherwise, the inspection could be performed by a person who was:

- certified to inspect buildings by the International Code Council;
- employed as a building inspector by the municipality in which the building was located;
- employed as a building inspector by any political subdivision, if the municipality in which the building was located had approved the person to perform inspections during a disaster; or
- an engineer licensed with the state.

CSSB 877 would prohibit a municipality from collecting an inspection fee for inspections under the bill's provisions. A person who performed such an inspection would have to:

- to the extent practicable, comply with the municipality’s building inspection regulations and policies; and
- no later than 30 days after the inspection, provide notice to the municipality of the inspection in a format prescribed by the municipality.

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

SUPPORTERS SAY:

CSSB 877 would help to avoid inspection delays that can slow economic development by allowing certain third-party inspectors to conduct municipal building inspections during a state of disaster.

During the recent pandemic, multiple city inspection departments were shut down for extended periods, but cities did not use third-party inspectors to carry on the inspection and permitting process, which stalled ongoing commercial and residential real estate projects. CSSB 877 would ensure that these important projects could continue even during a declared disaster, which would lessen the negative economic impacts of such events on communities. The bill would ease the financial and emotional burden on property owners waiting for inspections and permits so they could begin much-needed repairs to property damage.

CSSB 877 would not increase risks to city residents in an area under a declared disaster because the bill would establish strict requirements to ensure that only qualified professionals without conflicts of interest could serve as third-party inspectors, and these individuals would be required to follow city inspection policies to the extent feasible under disaster conditions.

Concerns about the inability of cities to charge fees could be addressed by a floor amendment.

CRITICS SAY:

CSSB 877 could increase safety risks for city residents by allowing non-city inspectors to conduct building inspections during a state of disaster. Cities centralize the inspection process to ensure construction is up to code as necessary to protect the life, health, and safety of residents, which is no less important in a time of stress such as a state of disaster.

The bill would prevent cities from charging a fee for an inspection by a third-party inspector in an area declared to be in a state of disaster,

including for buildings not damaged due to the disaster. Such fees help fund essential work inspectors do to protect the welfare of city residents.

NOTES:

The bill sponsor plans to offer a floor amendment specifying that a municipality could not charge an additional fee under the bill's provisions and that a municipality could, but would not have to, prescribe a reasonable format for the notice that would be required by the bill.

The House companion bill, HB 2548 by Morrison, was considered by the House Urban Affairs Committee in a public hearing on April 7 and left pending.

SUBJECT: Extending the deadline to provide resale and exemption certificates

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — Meyer, Thierry, Button, Cole, Guerra, Murphy, Noble, Rodriguez, Shine

0 nays

2 absent — Martinez Fischer, Sanford

SENATE VOTE: On final passage, April 29 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — Dino Marcaccio, Texas Tax Group, LLC; (*Registered, but did not testify*: James LeBas, Texas Association of Manufacturers; Ron Hinkle, Texas Tax Group LLC; Carl Walker, Texas Taxpayers and Research Association)

Against — None

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

BACKGROUND: Under Tax Code secs. 151.054 and 151.104, a seller's gross receipts and sales of taxable items for delivery in the state are presumed to have been subject to sales and use taxes unless a properly completed resale or exemption certificate is accepted by the seller. Such certificates should be in the possession of the seller at the time the nontaxable transaction occurs. If the seller is not in possession of the certificates within 60 days from the date written notice requiring their possession is given to the seller by the comptroller, deductions claimed by the seller are disallowed.

DIGEST: SB 296 would extend the deadline by which a seller had to possess a resale or exemption certificate to claim a deduction on the sale or use of a taxable item from 60 to 90 days after the comptroller sent notice. The bill also would provide that the comptroller and seller could agree to a later date.

The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2021. The bill would apply only to an audit of a seller's sales transaction that was pending on or commenced on or after the effective date.

SUPPORTERS SAY:

SB 296 would provide more flexibility to sellers by extending the deadline by which a seller had to provide resale and exemption certificates to the comptroller in connection with a sales and use tax audit. This bill would extend the deadline from 60 to 90 days after the comptroller issued a notice that such a certificate was required to the seller, ensuring sellers had a reasonable amount of time to provide such certificates and claim the sales and use tax deduction.

CRITICS SAY:

No concerns identified.

SUBJECT: Prohibiting child removals based solely on certain medical determinations

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

VOTE: 8 ayes — Neave, Swanson, Cook, Frank, Leach, Ramos, Vasut, Wu

0 nays

1 absent — Talarico

SENATE VOTE: On final passage, April 19 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing.

DIGEST: SB 1578 would amend Family Code provisions that govern court determinations in certain child abuse and neglect cases. The bill also would require the Department of Family and Protective Services (DFPS) to evaluate the Forensic Assessment Center Network and report its finding and recommendations to the Legislature.

Court determinations. The bill would authorize the court, when making a determination on whether a child was or had been a victim of abuse or neglect at the close of a hearing on a protective order application for a child, to consider the opinion of a medical professional obtained by an individual against whom the protective order was sought.

The bill would prohibit a court from making a determination that there was an immediate danger to a child's physical health or safety or that the child had been a victim of neglect or sexual abuse based solely on the opinion of a medical professional under contract with DFPS who had not conducted a physical examination of the child. An authorized representative of DFPS, a law enforcement officer, or a juvenile probation officer could not take possession of a child based solely on the opinion of such a medical professional.

In determining whether there was an immediate danger to the physical health or safety of a child, the court could consider the opinion of a

medical professional obtained by the child's parent, managing conservator, possessory conservator, guardian, caretaker, or custodian.

Network evaluation, report. The bill would require DFPS, with the assistance of the Supreme Court of Texas Children's Commission, to evaluate the department's use of the Forensic Assessment Center Network. The department and commission also would have to develop joint recommendations to improve:

- the evaluation of agreements between the department and the network; and
- the best practices for using assessments provided by the network in connection with abuse and neglect investigations conducted by the department.

By September 1, 2022, DFPS would be required to prepare and submit to the Legislature a written report that contained the department's findings and recommendations and any recommendations for legislative or other action. This provision would expire September 1, 2023.

The bill would take effect September 1, 2021, and would apply only to a suit affecting the parent-child relationship filed on or after the effective date.

SUPPORTERS SAY:

SB 1578 would protect the rights of parents and guard against unnecessary removals of children from their homes by requiring an evaluation of the Forensic Assessment Center Network and by amending provisions governing court determinations in certain child abuse and neglect cases.

The Forensic Assessment Center Network (FACN) is a network of physicians who provide the Department of Family and Protective Services (DFPS) with medical determinations and consultation in cases of suspected child abuse and neglect. While the network's mission to protect children is noble, important, and likely has saved the lives of Texas children, in recent years there have been a number of high-profile cases involving unnecessary removals based on FACN testimony, including some by pediatricians who haven't physically examined or seen the child.

A mistaken child abuse diagnosis can devastate a family if child welfare workers are too deferential to FACN doctors and fail to thoroughly investigate the reason for a child's injury or illness before ordering removal from the home. By requiring DFPS, in consultation with the Texas Children's Commission, to evaluate how caseworkers use the network and to provide recommendations to improve interactions with the FACN, SB 1578 would help ensure that the network serves its purposes but did not lead to children being removed from their homes unnecessarily.

The bill also would address concerns about the unnecessary removal of children from their homes by prohibiting the removal of a child for an allegation of abuse or neglect based solely on the opinion of a medical professional under contract with DFPS who had not conducted a physical examination of the child. In addition, SB 1578 would authorize courts making certain determinations to consider a second medical opinion provided by a physician chosen by the child's parent or guardian. In this way, the bill would help prevent unnecessary removals and the accompanying trauma to children and families.

CRITICS SAY:

SB 1578's prohibition on removing a child based solely on the opinion of a network physician under contract with DFPS who had not conducted a physical examination of the child could cause the court to overlook warning signs identified by FACN doctors and could risk a child being left in a potentially dangerous home.

SUBJECT: Requiring inclusion of certain information with statement of student's IEP

COMMITTEE: Public Education — favorable, without amendment

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

0 nays

1 absent — Meza

SENATE VOTE: On final passage, April 13 — 31-0

WITNESSES: No public hearing.

BACKGROUND: Education Code sec. 29.005 requires a school district, before a child is enrolled in the district's special education program, to establish a committee to develop the child's individualized education program (IEP).

Sec. 29.005(b) requires the committee to develop the program by agreement of the committee members or, if those persons cannot agree, by an alternate method provided by the Texas Education Agency. Under sec. 29.005(b-1), the written statement of the individualized education program must document the committee's decisions and include certain information, such as whether the child's parents, the adult student, if applicable, and the administrator agreed or disagreed with the committee's decisions.

DIGEST: SB 89 would establish the COVID-19 Special Education Recovery Act, which would require a school district to prepare a supplement to include with the written statement of the individualized education program developed for the child.

The bill would apply to each child enrolled in a district's special education program during the 2019-2020 school year or the 2020-2021 school year.

Under the bill, the supplement would have to include information

indicating:

- if applicable, whether the written report of the child's full individual and initial evaluation was completed during the 2019-2020 or the 2020-2021 school year and, if so, whether the report was completed by the required date;
- if applicable, whether the child's initial individualized education program was developed during the 2019-2020 or 2020-2021 school year and, if so, whether the program was developed by the required date;
- whether the provision of special services to the child under the individualized education program during the 2019-2020 or 2020-2021 school year was interrupted, reduced, delayed, suspended, or discontinued; and
- whether compensatory educational services were appropriate for the child based on the above information or any other factors.

By May 1, 2022, school district would have to complete each required supplement to a written statement of an individualized education program.

The required supplement would not apply if during the 2020-2021 school year the written statement of the child's individualized education program documented that information. The bill also would provide other specified exceptions.

The commissioner of education could adopt rules to implement the bill's provisions.

The bill's provisions would expire September 1, 2023.

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

SUPPORTERS SAY:

SB 89 would establish the COVID-19 Special Education Recovery Act, which would help school districts identify interruptions in the provision of

special services for a student in an individualized education program during the COVID-19 pandemic.

The pandemic disrupted special education services for students with disabilities, which for some students stalled learning progress and caused a regression in skills. The bill would ensure detailed information is documented for affected students in special education programs and would help determine whether compensatory education is appropriate for the 2021-2022 school year.

CRITICS SAY:

No concerns identified.

NOTES:

The House companion bill, HB 144 by M. González, was considered by the House Public Education Committee in a public hearing on March 23, reported favorably as substituted on April 23, and finally passed by the House on May 13.

SUBJECT: Reimbursing Medicaid providers for certain behavioral health services

COMMITTEE: Human Services — favorable, without amendment

VOTE: 7 ayes — Frank, Hinojosa, Klick, Meza, Neave, Noble, Shaheen

1 nay — Hull

1 absent — Rose

SENATE VOTE: On final passage, March 25 — 30-0

WITNESSES: No public hearing.

DIGEST: SB 672 would require the Health and Human Services Commission to reimburse a treating health care provider participating in Medicaid who provided behavioral health services classified as collaborative care management services.

The bill would take effect September 1, 2021.

SUPPORTERS SAY: SB 672 would increase access to behavioral health services by requiring the Health and Human Services Commission to reimburse Medicaid providers for services provided through a collaborative care model (CoCM), which involves coordination among primary care and behavioral health providers to detect and treat a patient's health issues. The bill would help improve outcomes for those struggling with mental health issues by providing a more efficient and effective patient care model in the Medicaid program.

CoCM uses a team-based interdisciplinary approach to deliver evidence-based diagnoses, treatment, and follow-up care. It integrates physical and mental health care under the supervision of a primary care provider with an emphasis on early intervention and measuring progress, just as is done for physical health conditions. Integration of behavioral health and general medical services has been shown to improve patient outcomes, save money, and reduce stigma related to mental health.

The bill has no fiscal note and would help save taxpayer dollars through early detection and access to behavioral health services in the Medicaid program. More than 15 states provide a collaborative care model for behavioral health services in their Medicaid programs with positive outcomes, such as decreased emergency room costs. Additionally, Medicare and many commercial payers already have begun reimbursing providers for services provided in a collaborative care model. Providing Medicaid reimbursement in Texas for services in a CoCM would help improve patients' access and outcomes to quality behavioral health services.

CRITICS SAY:

SB 672 could increase costs in the Medicaid program by requiring reimbursement for health care practitioners providing behavioral health services in a collaborative care model.

NOTES:

The House companion, HB 2834 by Bonnen, was considered by the House Human Services Committee in a public hearing on April 20 and left pending.

SUBJECT: Raising age to work at sexually oriented business; requiring E-verify

COMMITTEE: Licensing and Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — S. Thompson, Kuempel, Darby, Ellzey, Fierro, Goldman, Hernandez, Huberty

0 nays

3 absent — Geren, Guillen, Pacheco

SENATE VOTE: On final passage, April 20 — 31-0

WITNESSES: For —Jennifer Hohman, Fight For Us; Nissi Hamilton; Jessica Wesley; (*Registered, but did not testify*: Jamaal Smith, City of Houston, Office of the Mayor Sylvester Turner; Ray Hunt, HPOU; Jo Cassandra Cuevas, Operation Texas Shield; Tom Maddox, Sheriffs' Association of Texas; Nikki Pressley, Texas Public Policy Foundation)

Against — (*Registered, but did not testify*: Rene Perez, Libertarian Party of Texas)

On — (*Registered, but did not testify*: Cara Pierce, Office of the Attorney General; Chuck Ross, Texas Workforce Commission)

DIGEST: SB 766 would raise the age to be employed at a sexually oriented business, restrict the premises of such businesses to those 18 years old and older, require sexually oriented businesses to use the E-verify program to verify information of employees, expand the records at the businesses that could be inspected by certain authorities, and expand common nuisance provisions relating to such businesses.

Employment, presence at businesses. SB 766 would raise from 18 to 21 years of age the minimum age to be employed by or enter into a contract for the performance of work or the provision of a service with a sexually oriented business. A violation would be a class A misdemeanor.

The bill would prohibit a sexually oriented business from allowing an individual younger than 18 years of age to enter the premises. The business would commit a class A misdemeanor (up to one year in jail and/or a maximum fine of $4,000) and the attorney general could bring an action for an injunction or other process against a business or person who violated or threatened to violate this prohibition.

SB 766 would prohibit an individual younger than 18 years old from being on the premises of an establishment that held an alcoholic beverage license or permit if a sexually oriented business operated on the premises.

The bill would prohibit a license or permit holder from knowingly or recklessly allowing an individual younger than 18 years of age old on the premises. If a licensee or permittee violated this provision, the Texas Alcoholic Beverage Commission would have to:

- suspend the permit or license for 30 days for the first violation;
- suspend the permit or license for 60 days for the second violation; and
- cancel the permit or license for the third violation.

Use of E-verify. Sexually oriented businesses would be required to register and participate in the E-verify program to verify information of all employees and independent contractors. The requirement would apply to employees who began employment with the sexually oriented business on or after the bill's effective date.

It would be a class B misdemeanor (up to 180 days in jail and/or a maximum fine of $2,000) to fail to register and participate in E-verify as required.

Record inspection. The bill would expand the current authorization of local law enforcement agencies to inspect certain employment records of sexually oriented businesses so that any law enforcement agency could inspect the records.

The current authority of the Workforce Commission, the attorney general, or law enforcement agencies to inspect records if there was good reason to believe an underage worker had been employed within the past two years would be revised to apply to the five years preceding the inspection. The authority also would be expanded to include requests of proof of E-verify information.

Common nuisance. Under the bill, a person would maintain a common nuisance if the person maintained a place to which people went for the purpose of or knowingly tolerated:

- the employing or entering into a contract for the performance of work or the provision of a service with an individual younger than 21 years old for work or services performed at a sexually oriented business; or
- permitting an individual younger than 18 years old to enter the premises of a sexually oriented business.

Other provisions. The bill would revise the statutory definition of "child" to mean a person younger than 21 years of age, rather than 18 years, as it related to the Penal Code felony offense of employment harmful to children.

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

SUPPORTERS SAY:

SB 766 would address concerns that sexually oriented businesses can be high-risk grounds for human trafficking recruitment and sexual exploitation by creating specific and enforceable barriers to deter individuals younger than 18 from being on the premises of and individuals younger than 21 from being employed by these businesses. The state has the authority and the obligation to do what it can to protect young people statewide from trafficking and exploitation.

The bill would protect youth and younger adults, who often are the target of human traffickers and recruiters. The current minimum age of 18 to work at these establishments leaves the door open to the exploitation of

vulnerable young people and makes it harder to identify those even younger than 18 who might be a victim or potential victim of a trafficker.

Human traffickers have been known to give fake IDs to underage victims so they can get jobs at these businesses. Requiring the business to use E-verify, which allows employers to verify the identity and employment eligibility of employees, will help sexually oriented businesses more easily detect false identities and prevent victims from being employed by these businesses. The electronic E-verify system would allow employers more timely information so they could identify fake documents and refrain from keeping an employee on and would be a better way to enforce age limits on hiring than inspections of an establishment's books.

SB 766 would make it easier to hold establishments that do not follow the law accountable with penalties for violating the bill's provisions and allowing increased record inspection.

CRITICS SAY:

SB 766, while aimed at entertainers, could negatively affect 18- to 20-year-olds employed in traditional food industry roles, such as waitresses, cooks, and bussers. Sexually oriented businesses are legal and permitted to operate, and adults, including 18- to 20-year-olds, should be able to decide whether to work there. One type of private business should not be singled out by mandating it use E-verify. Current law requires these businesses to keep records and identification on file for employees and independent contractors.

SUBJECT: Providing for payment of driver's education costs for vulnerable youths

COMMITTEE: Human Services — favorable, without amendment

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

0 nays

1 absent — Meza

SENATE VOTE: On final passage, April 29 — 31-0, on Local and Uncontested Calendar

WITNESSES: None

BACKGROUND: Transportation Code sec. 521.1811 exempts a person from the payment of any fee for the issuance of a driver's license if that person is:

- younger than 18 and in the managing conservatorship of the Department of Family and Protective Services (DFPS);
- at least 18, but younger than 21, and resides in a foster care placement, the cost of which is paid by DFPS; or
- a homeless child or youth as defined by federal law.

Sec. 521.4265 governs the identification fee exemption account, which is an account in the General Revenue Fund consisting of grants and donations made to the Department of Transportation (TxDOT) to cover the costs of fee waivers for the issuance of driver's licenses or personal identification certificates for certain foster and homeless children and youths.

For such fee waivers, TxDOT is required to deposit to the credit of the Texas Mobility Fund an amount from the identification fee exemption account that is equal to the amount of the waived fee that would otherwise be deposited to the mobility fund. TxDOT may not grant an exemption for a fee if money is not available in the identification fee exemption account to meet the requirements regarding the deposit of credit to the mobility fund.

DIGEST:

SB 2054 would provide a process by which the fees and costs associated with obtaining a driver's license could be waived for certain foster and homeless children and youths.

Payment of associated fees. Unless inadequate funds existed in the identification fee exemption account, the Texas Workforce Commission (TWC) would be required to, on request, pay the fees associated with meeting education and examination requirements for obtaining a driver's license for a person who was:

- eligible for a driver's license fee exemption under Transportation Code sec. 521.1811; or
- younger than 26 and was in the managing conservatorship of the Department of Family and Protective Services (DFPS) on the day before the person's 18th birthday or was a homeless child or youth as defined by federal law.

TWC would be required by rule to establish a process through which such children and youths could apply to the commission for the payment of fees and through which the commission would pay fees associated with meeting an educational or examination requirement to appropriate entities on behalf of the children and youths.

Accounts. From the money in the identification fee exemption account, TxDOT would have to:

- request that the comptroller transfer to TWC amounts sufficient to provide for the payment of fees to entities other than TxDOT; and
- pay TxDOT's costs associated with administering the transfer to TWC.

TxDOT could not request a transfer of money for the payment of fees associated with meeting driver's license educational or examination requirements if it was determined by the department in consultation with TWC that the balance of the identification fee exemption account was insufficient.

TxDOT, in consultation with TWC, would be required to establish a process through which transfers for the associated fees would be made.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

SB 2054 would provide additional support for youth in foster care and young adults experiencing homelessness in obtaining driver's licenses in Texas by allowing the waiver of fees associated with education and examination requirements.

Last session, the Legislature enacted a bill that created the identification fee exemption account to pay for costs associated with obtaining driver's licenses and state identification for youth in foster care and young adults experiencing homelessness. Even though Texans have been generous in making donations to the fund to support such youths, additional support is needed to aid them in overcoming other barriers associated with obtaining a driver's license, including the fees associated with education and examination requirements.

Many of these youth and young adults may not have anyone who can help pay the fee for driver's education. They might not have access to a vehicle or know anyone with a valid license and insurance to assist them with driving practice, requiring access to driving schools for the practice time. While the current exemption account helps offset the cost for the driver's license, many are unable to complete the requirements for a license due to other costs or lack of access to a car and cannot take advantage of the existing benefit.

The bill would provide access to driver's education and examination requirements. Having a driver's license improves access to jobs, postsecondary school, voting, safe housing, and healthcare.

CRITICS SAY:

No concerns identified.

NOTES: The House companion bill, HB 2286 by White, was considered by the House Human Services Committee in a public hearing on April 20, reported favorably on April 30, and sent to the Calendars Committee.

SUBJECT: Allowing student transfers to a district offering in-person instruction

COMMITTEE: Public Education — favorable, without amendment

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

1 nay — Allen

1 absent — Meza

SENATE VOTE: On final passage, April 9 — 31-0, on Local and Uncontested Calendar

WITNESSES: For — (*Registered, but did not testify*: Shannon Meroney, Academic Language Therapy Association; Eddie Conger, International Leadership of Texas Public Schools; Stephen Howsley, Texas Home School Coalition; Suzi Kennon, Texas PTA; Starlee Coleman, Texas Public Charter Schools Association; Jennifer Allmon, The Texas Catholic Conference of Bishops; Craig Chick, Yes. Every Kid; Karen Marshall; Calvin Tillman; Cory Vessa; Al Zito)

Against — None

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

DIGEST: SB 481 would allow a student enrolled in a public school district that provided notice to the student's parent of the district's intent to offer only virtual instruction for more than one grading period during a school year to transfer for that school year to another school district that:

- offered in-person instruction; and
- accepted the student's transfer.

"Virtual instruction" would mean instructional activities delivered to students primarily over the internet.

A student who transferred to another school district could not be charged tuition. The student would be included in the average daily attendance of the district in which the student attended school.

The commissioner of education could adopt rules necessary to implement the bill, which would apply beginning with the 2021-2022 school year.

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

SUPPORTERS SAY:

SB 481 would provide flexibility for families during a future pandemic or other event that resulted in an extended time during which a student's school district was offering only virtual instruction. The bill would allow a family to transfer a student to another school district that offered in-person instruction and accepted the student's transfer. Parents are in the best position to know if their child is struggling with remote learning and whether the parent is able to support the child in a home learning environment. The bill would empower families to seek out an alternative that works best for their situation.

The bill would not mandate that a receiving district accept a student's transfer and would not apply to a situation where the student's regular school was closed to in-person instruction for less than one grading period. Districts that did not want to lose students, and the funding associated with their school attendance, would have an incentive to provide in-person instruction.

While some say the bill could result in a district losing funding, any funding loss would be at least partially offset due to reduced costs for serving that student. A district that was providing only virtual classes also would experience savings in building maintenance and operations costs.

CRITICS SAY:

SB 481 could negatively impact a school district financially for making a reasonable decision to provide instruction remotely for health reasons during a pandemic. The district from which a student transferred under the bill would experience a loss in average daily attendance funding while still retaining costs for instructing the remaining students.

SUBJECT: Modifying certain insurance company board regulations, meeting dates

COMMITTEE: Insurance — favorable, without amendment

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

0 nays

SENATE VOTE: On final passage, April 9 — 31-0, on Local and Uncontested Calendar

WITNESSES: No public hearing.

BACKGROUND: Insurance Code sec. 822.152(b) specifies that the board of an insurance company other than a life, health, or accident insurance company consists of no fewer than seven directors. Sec. 822.153(b) requires shareholders of such an insurance company to meet before May 1 of each year as provided by the company's bylaws to elect successor directors. Sec. 841.153(b) requires the annual meeting of a life, health, or accident insurance company's shareholders to be held before May 1 of each year after the directors are first elected.

Sec. 841.154 establishes that the bylaws of a domestic life, health, or accident insurance company may provide that the company's directors, other than initial directors, may be elected to serve staggered terms. This provision applies only to domestic insurance companies with boards of directors consisting of at least nine members.

DIGEST: SB 918 would decrease from seven to five the minimum number of directors on boards of insurance companies, other than life, health, or accident insurance companies, and specify that the meetings required under Insurance Code secs. 822.153(b) and 841.153(b) would have to be held annually, rather than by May 1 of each year.

The bill also would repeal the statute limiting the ability to provide staggered terms for boards of directors of life, health, and accident insurance companies to boards with nine or more members.

The bill would take effect September 1, 2021, and would apply only to the election of members of the board of directors of an insurance company who were elected on or after that date.

SUPPORTERS SAY:

SB 918 would modernize the Insurance Code and provide more flexibility to insurance companies by lowering the minimum number of required directors on certain boards, creating a broader time frame for shareholder meetings, and allowing boards of life, health, and accident insurance companies of all sizes to provide staggered terms for board members.

The current requirement for boards of certain insurance companies to have seven members is unnecessary and diverts company funds that could be put to more productive uses. The bill updates the regulations on insurance company boards and brings them in line with industry best practices by lowering the minimum board size to five. The bill also provides greater flexibility to shareholders in determining the annual meeting date to elect directors by removing an arbitrary May 1 deadline.

Currently, the ability to stagger terms for directors is limited to life, health, and accident insurance companies with more than nine directors. By allowing companies with boards of all sizes to provide staggered terms, the bill would allow companies to provide greater stability in their boards' operations and retain the institutional knowledge of the directors.

CRITICS SAY:

No concerns identified.

NOTES:

The House companion bill, HB 2665 by Leman, was considered by the House Insurance Committee in a public hearing on April 6, reported favorably on April 9, and sent to the Local and Consent Calendars Committee.

SUBJECT: Requiring counties, cities, and ISDs to post certain election information

COMMITTEE: Elections — favorable, without amendment

VOTE: 7 ayes — Cain, J. González, Bucy, Clardy, Jetton, Schofield, Swanson

2 nays — Beckley, Fierro

SENATE VOTE: On final passage, April 13 — 31-0

WITNESSES: No public hearing.

DIGEST: SB 1116 would require a county that held or provided election services for an election and maintained an internet website or a city or independent school district that held an election and maintained an internet website to post, as applicable:

- the results of each election;
- the total number of votes cast; and
- the total number of votes cast for each candidate or for or against each measure.

This information would have to be posted as soon as practicable after the election and be accessible without having to make more than two selections or view more than two network locations after accessing the county, city, or district website home page, as applicable.

The bill would take effect September 1, 2021.

SUPPORTERS SAY: SB 1116 would increase transparency and public trust in the electoral process by requiring counties, cities, and independent school districts to post election results on their websites as soon as practicable after an election. The bill would ensure that these results were easily accessible to the public by requiring such information to be available within two clicks from the website home page.

The bill would not place a burden on small jurisdictions because elections are held relatively infrequently and the results for each election would have to be posted only one time as soon as practicable. SB 1116 does not prescribe the manner in which this information would have to be posted, beyond the provision relating to the number of clicks from the home page, which would give jurisdictions flexibility in complying with the requirements of the bill. Further, the bill does not require entities without a public internet website to post election results.

The secretary of state already posts certain election information, but the bill would require election results also to be posted by the entity that conducted or provided services for the election. This would give the public more chances to see the results of elections and stay informed.

CRITICS SAY:

SB 1116 could place an undue burden on small jurisdictions with limited staff to post election results on their websites. Instead of mandating counties, cities, and independent school districts post election results on their individual websites, the bill should require these entities to send election results to the secretary of state to be posted and accessible to the public in a single, centralized location.

NOTES:

The House companion bill, HB 2860 by Bucy, was considered by the House Elections Committee in a public hearing on April 29, reported favorably, and placed on the General State Calendar for May 13.

SUBJECT: Requiring certain attorneys to complete training on trauma-informed care

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

VOTE: 5 ayes — Neave, Cook, Ramos, Talarico, Wu

3 nays — Swanson, Frank, Vasut

1 absent — Leach

SENATE VOTE: On final passage, April 19 — 30-1 (Hughes)

WITNESSES: No public hearing.

BACKGROUND: Family Code sec. 107.004 requires attorneys on the court-maintained list of qualified attorneys ad litem for children in child protective cases to complete at least three hours of continuing legal education relating to the representation of children each year.

DIGEST: SB 904 would require an attorney who was on a court-maintained list as being qualified for appointment as an attorney ad litem for a child in a child protection case to provide proof that the attorney had completed a training program regarding trauma-informed care and the effect of trauma on children in the conservatorship of the Department of Family and Protective Services (DFPS). An attorney would have to complete the training as soon as practicable after being placed on the court-maintained list.

The trauma-informed training program required by the bill could satisfy the statutory requirement that an attorney on the court-maintained list complete at least three hours of continuing legal education related to the representation of a child in a court proceeding in a year in which an attorney completed the training.

Required training. The trauma-informed training would have to be designed to educate an attorney regarding the attorney's required duty under the Family Code to periodically review the child's safety and well-

being, including any effects of trauma to the child, and take appropriate actions, including requesting a review hearing when necessary to address an issue of concern.

The training program would include information on:

- the symptoms of trauma and the impact that trauma had on a child, including how trauma can affect a child's development, emotions, memories, behavior, and decision-making;
- attachment and how a lack of attachment can affect a child;
- the role that trauma-informed care and services can have in a child's ability to build connections, feel safe, and regulate emotions to help the child build resiliency and overcome the effects of trauma and adverse childhood experiences;
- the importance of screening children for trauma and the risk of mislabeling and inappropriate treatment of children without proper screening, including the risk associated with increased use of psychotropic medication;
- the potential for re-traumatization of children in the conservatorship of DFPS; and
- the availability of research-supported, trauma-informed, nonpharmacological interventions and trauma-informed advocacy to increase a child's access, while under DFPS conservatorship, to trauma-informed care and trauma-informed mental and behavioral health services.

The bill would take effect September 1, 2021, and would require that attorneys on the court-maintained list on that date complete the required training by September 1, 2022.

SUPPORTERS SAY:

SB 904 would improve care and outcomes for children in the child welfare system by requiring the attorneys assigned to represent them in court to undergo trauma-informed care training as soon as possible. Many attorneys and other professionals and individuals who interact with children under DFPS conservatorship lack the education necessary to recognize and distinguish behaviors that traumatized children exhibit and can mistake those behaviors for acting out by the child or a mental illness.

CRITICS SAY:

SB 904 would impose a premature requirement that attorneys undergo trauma training. Techniques and strategies for recognizing and treating trauma in children in the child welfare system are relatively new and the features that lead to successful implementation of trauma-informed care remain largely unexamined.

NOTES:

The House companion, HB 566 by Lopez, was considered by the House Juvenile Justice and Family Issues Committee in a public hearing on March 29 and left pending.

SUBJECT: Tax exemptions for leased property used in navigation-related commerce

COMMITTEE: Ways and Means — favorable, without amendment

VOTE: 9 ayes — Meyer, Thierry, Button, Cole, Guerra, Murphy, Noble, Rodriguez, Shine

0 nays

2 absent — Martinez Fischer, Sanford

SENATE VOTE: On final passage, April 27 — 29-2 (Perry, Seliger)

WITNESSES: For — Eduardo Campirano, Brownsville Navigation District for Port of Brownsville; (*Registered, but did not testify*: Stephen Grant, Popp Hutcheson PLLC; Ron Lewis, Port of Beaumont; Randy Delay and Mario A. Martinez, Port of Brownsville; Brian Yarbrough, Port of Corpus Christi Authority; Sarah Bagwell Rudy, Port of Port Arthur; R. Clint Smith, Texas Association of Property Tax Professionals; Elise Richardson, Texas Ports Association & Port Freeport)

Against — None

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

BACKGROUND: Under Tax Code sec. 25.07(b)(6), a lessee who holds a leasehold interest in property leased from a municipality, public port, or navigation district is exempt from paying property taxes on that leasehold interest if the leased property is used as an aid or facility incidental to or useful in the operation or development of a port or waterway or in aid of navigation-related commerce.

Water Code sec. 60.101 authorizes a navigation district to acquire and maintain port facilities, and sec. 61.162 allows a navigation district to lease and rent port facilities. Sec. 63.153 governs duties of self-liquidating navigation districts.

DIGEST:

SB 1315 would specify that property under Tax Code sec. 25.07(b)(6) would be exempt from property taxes if the property:

- was leased to a person engaged in the business of navigation-related commerce or for a purpose authorized under Water Code secs. 60.101, 61.162, and 63.153, or for the placement on the property of an improvement specified by current law;
- was located adjacent to a federal navigation project or was in a foreign trade zone established and operated under federal law; or
- included part of a rail facility that served the tenants and users of the port or waterway.

"Navigation-related commerce" would be defined as:

- an activity that required a person to hold a maritime-related license or permit or a franchise issued by a navigation district;
- possessing a leasehold interest in property owned by a navigation district that connected infrastructure to a public dock;
- hauling cargo into or across a public dock;
- commercial fishing;
- constructing, fabricating, cleaning, repairing, dismantling, or recycling vessels;
- pilotage; or
- an activity described by Water Code secs. 60.101, 61.162, and 63.153.

The bill would take effect September 1, 2021, and would apply only to the taxation of property for a tax year beginning on or after that date.

SUPPORTERS SAY:

SB 1315 would harmonize standards that county appraisal districts use to determine which activities qualify as "navigation-related commerce." Currently, county appraisal districts apply different standards for determining what activities qualify as "navigation-related commerce." This practice may affect the economic development of a community in one navigation district differently than a district in another area.

By clarifying which activities are included in navigation-related commerce, the bill would create uniformity and promote equal footing in economic development for communities.

CRITICS SAY:

SB 1315 would include an overly broad definition of "navigation-related commerce," inappropriately including activities such as commercial fishing. The bill also should not limit property tax exemptions to one area or industry of the state, as other industries, such as agriculture and timber, could benefit from property tax exemptions.

NOTES:

According to the Legislative Budget Board, taxable property values could be reduced and the related costs to the Foundation School Fund could be increased through the operation of the school finance formulas. Taxable property values and related property tax revenue for units of local government could be reduced.

SUBJECT: Entering conditions of bond imposed in family violence cases into TCIC

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

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

0 nays

SENATE VOTE: On final passage, March 30 — 31-0

WITNESSES: For — Allenna Bangs, for Tarrant County Criminal District Attorney Sharen Wilson; Krista Del Gallo, Texas Council on Family Violence; (*Registered, but did not testify*: Justin Leathers, Arlington Police Department; Christine Wright, City of San Antonio; Jennifer Szimanski, Combined Law Enforcement Associations of Texas; M. Paige Williams, for Dallas County Criminal District Attorney John Creuzot; Frederick Frazier, Dallas Police Association and FOP716 State FOP; James Parnell, Dallas Police Association; David Sinclair, Game Warden Peace Officers Association; Ray Hunt, HPOU; Noel Johnson, JPCA; Carlos Lopez and Jama Pantel, Justices of the Peace and Constables Association of Texas; Carlos Ortiz and Jimmy Rodriguez, San Antonio Police Officers Association; Brian Hawthorne, Sheriffs Association of Texas; Lindy Borchardt, for Tarrant County Criminal District Attorney Sharen Wilson; Katherine Strandberg, Texas Association Against Sexual Assault; Christina Puentes, Mary Lynn Rice-Lively, Frances Schenkkan, and Gyl Switzer, Texas Gun Sense; Mitch Landry, Texas Municipal Police Association; John Chancellor, Texas Police Chiefs Association; Aimee Mobley Turney, The League of Women Voters of Texas; Beverly Biehl; Tina Hester; Thomas Parkinson)

Against — None

BACKGROUND: Code of Criminal Procedure art. 17.49(b) allows a magistrate to require certain conditions of release on bond for defendants charged with offenses involving family violence, including to refrain from going to or near

locations frequented by alleged victims or to wear a global positioning monitoring system device and pay associated costs.

DIGEST:

SB 343 would require a magistrate to send a copy of an order imposing, modifying, or removing a condition of bond for a defendant charged with an offense involving family violence to the appropriate attorney representing the state and either the police chief or county sheriff of the city or county in which the victim lived, as applicable. The magistrate would have to send the copy as soon as possible but no later than the next business day after the date the order was issued.

The clerk of the court also would have to send a copy to the victim's last known address by the next business day after the date the order was issued. If the victim was not present when an order imposing, modifying, or removing a condition of bond was issued, the magistrate would be required to order a peace officer to make an effort to provide notice of the order within 24 hours by calling the victim's last known phone number.

A magistrate or clerk could delay sending a copy only if the magistrate or clerk lacked information necessary to ensure service and enforcement.

If the order prohibited the defendant from going to or near a child care facility or school, the magistrate also would have to send a copy of the order to the applicable facility or school.

A copy of the order could be sent electronically or in another manner that could be accessed by the recipient.

The bill would require the law enforcement agency, within three business days after receiving the copy of the order, to enter certain information into the statewide law enforcement information system maintained by the Department of Public Safety (DPS) or modify or remove that information, as appropriate. The agency would have to enter:

- certain information DPS is required to collect about defendants subject to conditions of bond imposed for the protection of victims in family violence cases;
- the date the order releasing the defendant on bond was issued; and

- the court that issued the order releasing the defendant on bond.

The law enforcement agency would have to enter the information in the same manner that the agency enters the information into the system for a protective order or magistrate's order of emergency protection and regardless of whether a protective order or magistrate's order of emergency protection had been issued or entered with respect to the defendant or protected the same person as the condition of bond.

DPS would have to modify the statewide law enforcement information system to enable the system to accept and maintain the information required under the bill so that a peace officer could quickly search and retrieve information necessary to enforce the condition of bond or prevent a violation. DPS also would have to ensure that a person who accessed the system to enter, modify, or remove information could add or remove notes regarding the condition, the defendant, or the protected victim.

The bill would take effect September 1, 2021.

SUPPORTERS SAY:

SB 343 would address concerns that victims, law enforcement, and other affected parties lack access to information on bond conditions for certain offenders convicted of domestic violence and other family violence offenses. Currently, there is no requirement for entry of conditions of bond in family violence cases into the Texas Crime Information Center (TCIC). By requiring the entry of certain conditions of bond information into TCIC and setting certain victim notification requirements, the bill would provide victims, law enforcement, and the community with additional protection when an offender had violated a condition of bond.

The bill would require information on conditions of bond to be entered into TCIC as a standalone record that was easily accessible to law enforcement. Under current law, officers are unable to access information on conditions of bond issued to protect survivors of family violence, making it difficult to verify if a violation occurred. However, TCIC currently allows law enforcement officers to access other valuable data within seconds, including information on whether an individual is wanted, missing, a sex offender, or is the respondent of a protective order. Giving officers the same access to information on conditions of bond would

better enable officers to verify conditions of bond and enforce them, which in turn would help protect victims, law enforcement officers, and communities.

Since conditions of bond, magistrate's orders of emergency protection, and final protective orders are similar types of orders, the time frame for entry into TCIC of conditions of bond for family violence offenses should mirror the statutorily required time frames for entry of the other orders. Law enforcement already is accustomed to the three-day time frame, and departments are encouraged to enter these orders as soon as possible. By conforming to the other time frames, the bill also would ensure that the requirement of additional entry for conditions of bond was reasonable and accounted for the varied departmental capacities.

CRITICS SAY:

While SB 343 would put necessary procedures in place for the protection of victims of family violence, the time frame to enter information into TCIC should be decreased to better protect victims and law enforcement officers responding to calls. The bill requires information on an order be entered into the system within three business days, but some have concerns that defendants could be most dangerous during the period immediately after the order was issued. The success of requirements could depend on how quickly law enforcement agencies entered the information.

SUBJECT: Expanding eligibility for certain surviving spouse homestead exemption

COMMITTEE: Ways and Means — favorable, without amendment

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

0 nays

1 absent — Martinez Fischer

SENATE VOTE: On final passage, April 8 — 29-1 (Johnson)

WITNESSES: For — (*Registered, but did not testify*: Mitch Fuller, Department of Texas, Veterans of Foreign Wars; J.D. Hale, Texas Association of Builders)

Against — None

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

BACKGROUND: Under Tax Code sec. 11.133, the surviving spouse of a member of the U.S. armed services who is killed in action is entitled to an exemption from taxation of the total appraised value of the spouse's residence homestead if the spouse has not remarried.

DIGEST: SB 611 would expand the eligibility for the residence homestead tax exemption provided to the surviving spouse of a member of the U.S. armed services. The bill would specify that the surviving spouse was entitled to the exemption if the member was killed or fatally injured in the line of duty, rather than killed in action.

The bill would take effect January 1, 2022, but only if the constitutional amendment revising the residence homestead exemption was approved by voters. If not approved, the bill would have no effect. The bill would apply only to a tax year beginning on or after the effective date.

SUPPORTERS SAY:

SB 611 would correct an oversight in current law by providing the residence homestead tax exemption to all surviving spouses of members of the U.S. armed services killed in the line of duty. Currently, the exemption is provided to spouses of members killed in action, which does not include incidents such as accidental vehicle crashes and other non-hostile events or terrorism. This means that surviving spouses of members who died in accidents or events that were not combat-related are not eligible for the property tax exemption on the total value of their residence homestead for which other surviving spouses are eligible. By expanding the eligibility to include surviving spouses of members who were killed or fatally injured in the line of duty, rather than just those killed in action, SB 611 would allow all surviving spouses to receive this exemption.

The legislation would apply to fewer than 10 individuals per year according to federal data, so there would not be a large impact to taxing units. Those who have been killed in tragic accidents have given their lives for their country, and their sacrifice is equally deserving of the exemption as those who were killed in active combat. SB 611 would ensure they were treated the same.

CRITICS SAY:

SB 611 would expand a property tax exemption provided to one group of people, increasing the tax burden on other property owners. The Legislature should instead work to lower the tax burden on all Texans.

NOTES:

According to the fiscal note, the bill could reduce taxable property values and the related costs to the Foundation School Fund could be increased through the operation of the school finance formulas. The bill could cost special districts $230,000, cities $288,000, and counties $266,000 in fiscal 2023.

SB 611 is the enabling legislation for SJR 35 by Campbell (Lopez), which was reported favorably by the House Ways and Means Committee on May 10 and placed on the Constitutional Amendments Calendar for May 21.