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HOUSE RESEARCH ORGANIZATION

daily floor report

Tuesday, April 11, 2023
88th Legislature, Number 38
The House convenes at 10 a.m.

One bill is on the Major State Calendar and 18 bills are on the General State Calendar for second reading consideration today. The table of contents appears on the following page.

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Alma Allen
Chairman
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HOUSE RESEARCH ORGANIZATION

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Tuesday, April 11, 2023

88th Legislature, Number 38

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SUBJECT: Revising junior college funding and establishing a financial aid program

COMMITTEE: Higher Education — committee substitute recommended

VOTE: 9 ayes — Kuempel, Paul, Bucy, Burns, Clardy, Cole, M. González,
Howard, Lalani

0 nays

2 absent — Burrows, Raney

WITNESSES: For — Russell Lowery-Hart, Amarillo College and Texas Association of Community Colleges; Michael Simon, Angelina College and TACC; Carol Scott, Community College Association of Texas Trustees; Jarrad Toussant and Tre' Black, Dallas Regional Chamber; William Serrata, El Paso Community College and Texas Association of Community Colleges; Steve Kemgang, Intercultural Development Research Association; Brenda Kays, Kilgore College and Texas Association of Community Colleges; Renzo Soto, Texas 2036; Ray Martinez, Texas Association of Community Colleges; Mike Meroney, Texas Association of Manufacturers; Justin Yancy, Texas Business Leadership Council; Hector Rivero, Texas Chemical Council; Victoria Hoover and Montoya Thomas, Texas Community College Student Advisory Council; Beaman Floyd, Texas Community College Teachers Association and Texas Association of College Teachers; Kelle Kieschnick, The Commit Partnership (*Registered, but did not testify*: Priscilla Camacho, Alamo Colleges District; Martha Landwehr, BASF Corporation; Will Davies, Breakthrough Central Texas; Ben Stratmann, Dallas Regional Chamber; Garry Jones, DFER Texas; John Fitzpatrick, Educate Texas and CFT; Kimberly Clarida, Every Texan; Jennifer Carter, Goodwill Central Texas; Travis Krogman, Greater Austin Chamber of Commerce; Christian Bionat, Greater Houston Partnership; Ashley Morgan, JP Morgan Chase; Annie Spilman, NFIB; Jennifer Rodriguez, North Texas Commission; Gilbert Zavala, Opportunity Austin; Rebekah Calahan, Philanthropy Advocates at Communities Foundation of Texas; Leticia Van de Putte, San Antonio Chamber of Commerce; Robert Nathan, Schneider Electric; J.D. Hale, Texas Association of Builders; Megan Mauro, Texas

Association of Business; Lori Henning, Texas Association of Goodwills; Martin Gutierrez, Texas Hispanic Chamber of Commerce Coalition; Julia Parenteau, Texas Realtors; Kelsey Streufert, Texas Restaurant Association; Jonathan Feinstein, The Education Trust; Ashley Harris, United Ways of Texas)

Against — None

On — James Hallmark, Texas A&M System and Texas Student Success Council; Woody Hunt, Texas Commission on Community College Finance; Harrison Keller, Texas Higher Education Coordinating Board; Bryan Daniel, Texas Workforce Commission (*Registered, but did not testify*); Alexis Bauserman and Von Byer, Texas Education Agency)

BACKGROUND: Ch. 130 of the Education Code gives the Texas Higher Education Coordinating Board authority for adopting policies, enacting regulations, and establishing general rules necessary for carrying out the responsibilities of public junior colleges. The coordinating board has the authority to:

- authorize the creation of public junior college districts;
- dissolve any public junior college district which has failed to establish and maintain a junior college within three years from the date of its authorization;
- adopt standards for the operation of public junior colleges;
- require reports from public junior colleges deemed necessary according to the board's rules and regulations; and
- establish advisory commissions composed of representatives of public junior colleges and other state citizens to provide advice and counsel to the coordinating board with respect to public junior colleges.

DIGEST: **Public junior college state finance program.** CSHB 8 would establish the public junior college state finance program. The program would consist of two funding tiers. The first would be a base tier of state and local funding, ensuring that each public junior college had access to a defined level of base funding for instruction and operations. The second

would be a performance tier of state funding, constituting the majority of state funding, which would be distributed based on measurable outcomes aligned with regional and state workforce needs and goals based on the state's higher education plan. The Texas Higher Education Coordinating Board (THECB) could adopt necessary rules, require reporting, and take other actions necessary to administer the program.

THECB would require each junior college district to report to THECB data necessary to calculate funding, provide timely data and analyses, administer or evaluate the effectiveness of the program, or audit the program.

A THECB-affiliated nonprofit organization could solicit and accept gifts, grants, or donations of personal property from any public or private source to implement or administer the program.

Data reporting and commissioner adjustments to funding. The higher education commissioner could review the accuracy of data reported to THECB by junior college districts and could adjust the distribution of funding for a fiscal year as needed to correct errors in data reporting. The commissioner also could adjust a junior college district's funding if the funding formulas would cause an unanticipated and substantial negative impact on the district's operations. The commissioner would be required to request and receive written approval from the Legislative Budget Board and the governor's office before making such adjustments. The request would be considered approved unless the budget board or governor's office issued a written disapproval within 60 business days of the date the request was received. The commissioner would be required to provide an explanation to the Legislature if an adjustment was made.

A junior college district could report any student in attendance on the district's approved course census date for the purpose of funding.

Overallocated funds recovery. The bill would require THECB to recover any overallocation provided to a junior college district by withholding subsequent allocations of state funds for the current or subsequent academic year or by requesting and obtaining a refund from the district. THECB could recover overallocated funds over a period of no more than

five academic years if the commissioner determined that the overallocation resulted from statutory changes and related reporting requirements.

THECB would be required report to the comptroller a district's failure to comply with a refund request. The comptroller could certify the amount of the debt to the attorney general for collection, and the district's governmental immunity would be waived as necessary to collect the debt.

THECB could review a junior college district as necessary to determine if the district qualified for each funding amount it received. THECB could establish a corrective action plan or withhold applicable funding to a district if the board determined that a district received an amount to which the district was not entitled. THECB could not review any junior college district expenditures that occurred seven or more years prior to the review.

THECB would exclude contact hours or semester credit hours related to a course for which a student generated formula funding for the third time from the contact hours or semester credit hours reported to the Legislative Budget Board for formula funding purposes.

Base tier funding. The bill would establish the base tier funding formula as an amount equal to the amount by which a junior college district's guaranteed instruction and operations funding exceeded the district's local share of base tier funding.

A district's guaranteed instruction and operations funding for a fiscal year would be equal to the sum of:

- the product of the district's basic allotment and the number of the weighted full-time equivalent students enrolled; and
- the district's contact hour funding.

A district's basic allotment for a fiscal year would be an amount per weighted full-time equivalent student set by the General Appropriations Act or other legislative appropriation.

THECB would be required to establish student weights that reflected the higher cost of educating certain students. The established student weights would have to result in appropriate funding to a district for the education of a student who was:

- 25 years old or older;
- economically disadvantaged, as defined by THECB; or
- academically disadvantaged, as defined by THECB.

The number of weighted full-time equivalent students enrolled at a district would be equal to the sum of such students in the district plus the sum of the weights assigned to the district's students. THECB would be required to establish an equitable adjustment to the number of such students for each district with a total enrollment of fewer than 5,000 full-time equivalent students. No later than November 1 of each even-numbered year, a low-enrollment district that received such an adjustment would be required to submit a report to the commissioner on the district's participation in partnerships and services to reduce costs and improve operational efficiency.

The amount of funding per contact hour would be weighted by discipline to reflect the cost of providing the applicable course. THECB would determine the total amount of contact hour funding for each district.

A district's local share of base funding would be equal to the sum of estimated revenue from imposing a \$0.05 maintenance and operations ad valorem tax and an amount of tuition and fees for the district's full-time equivalent students equal to the statewide average for such students, as assessed by junior college districts.

Performance tier funding. CSHB 8 would establish performance tier funding for junior college districts based on the district's achievement of certain measurable outcomes. A district's performance tier funding would be equal to the product of:

- the amount set by the General Appropriations Act or other legislative appropriation; and

- the sum of the number of times a given outcome was achieved by the district or the sum of applicable students weights for the students that achieved those outcomes.

The bill would define the applicable measurable outcomes as:

- the number of credentials of value awarded that equipped students for continued learning and greater earnings;
- the number of students who earned at least 15 semester credit hours or equivalent and subsequently transferred to a general academic institution or were enrolled in a structured co-enrollment program; and
- the number of students who completed a sequence of at least 15 semester credit hours or equivalent for certain dual credit courses.

Financial Aid for Swift Transfer (FAST) Program. CSHB 8 would require THECB and the Texas Education Agency (TEA) to jointly establish the FAST program to allow eligible students to enroll at no cost in dual credit courses at participating higher education institutions. A student would be eligible to enroll at no cost in such courses if the student was enrolled in high school and a dual credit course at a participating institution and was educationally disadvantaged at any time during the four preceding school years before the student's enrollment in the dual credit course. A higher education institution would be eligible to participate in the program only if it charged tuition for each dual credit course offered by the institution that would not exceed the amount prescribed by THECB.

Each school district or charter school would be required to determine whether a high school student met the program's criteria upon the student's enrollment in a dual credit course and notify the higher education institution that offered the course of the final determination. A school district or charter school could make such a determination based on the district's or school's records, TEA records, or any other method authorized by commissioner rule. Any determination based on a different method would have to be reported to TEA by the district or school for verification. On receipt of notice of such a determination, the relevant higher education

institution would be required to certify to TEA and THECB the student's eligibility for the program.

Money transferred to THECB would be distributed to the participating institutions in proportion to the number of dual credit courses in which eligible students were enrolled at the institution. TEA and THECB would coordinate as necessary to confirm an eligible student's enrollment in a participating institution and obtain or share data necessary to verify a student's eligibility.

The bill would require a school district to notify the parent of each enrolled high school student of the availability of and qualifications for funding for dual credit course enrollment.

A higher education institution participating in the FAST program would be entitled to an allotment equal to the amount of tuition for each dual credit course in which an eligible student was enrolled at the institution. TEA would transfer the amount to THECB for distribution and would coordinate as necessary to implement the allotment.

Other THECB provisions. CSHB 8 would allow THECB to participate in the establishment and operation of an affiliated nonprofit organization whose purpose would be to raise money for or provide services or other benefits to THECB. Additionally, the bill would allow THECB to provide administrative support and services to higher education institutions as necessary to implement the Public Junior College State Finance program and other programs.

THECB could establish an institutional collaboration center within the board to support implementation of the program and the operations of higher education institutions. THECB could use appropriated or otherwise available money to procure goods and services for the direct benefit of such an institution and enter into an interagency contract with the institution to reimburse THECB for the cost of the goods and services. A THECB-affiliated nonprofit organization could accept gifts, grants, or donations of personal property from any public or private source to pay for goods or services procured for the direct benefit of such an institution.

The bill would exclude public junior colleges from the list of institutions for which the THECB was required to devise, establish, review, and revise formulas, and would exclude representatives from public junior colleges from sitting on certain committees. The chancellor of a university system could recommend to the higher education commissioner at least one institutional representative for each institutional grouping to which a component of the university system was assigned. Alternatively, the president of an institution that was not a component of a university system could recommend to the commissioner at least one institutional representative for the institutional grouping to which the institution was assigned.

CSHB 8 would amend the list of circumstances that did not count for the purposes of determining whether certain students had previously earned a certain number of semester credit hours. Under the bill, semester credit hours earned by the student before receiving a previously awarded associate degree would not be counted.

The bill would allow THECB to partner with employers to analyze job postings and identify employers hiring roles with the skills developed by certain training programs. THECB would establish a standing advisory committee composed of public junior college representatives to provide advice and counsel to THECB on the funding of public junior colleges necessary to carry out the public junior college state finance program. THECB would consult with the committee and would adopt a payment schedule to appropriate and distribute funds to junior college districts. THECB could modify the amount of any installment required by the adopted payment schedule and could modify the amount of certain other installments.

The bill would remove the requirement for THECB to use certain negotiated rulemaking procedures. THECB could identify rules that should be adopted on an emergency basis for the purposes of the fiscal year beginning September 1, 2023.

Miscellaneous provisions. Any agreement between a school district and a higher education institution to provide a dual credit program would be required to ensure the accurate and timely exchange of information

necessary for an eligible student to enroll at no cost in such a dual credit course.

The bill would prohibit a higher education institution from counting toward the permitted number of dropped courses a course that a student dropped while enrolled in a baccalaureate degree program previously earned by the student or a dual credit course dropped by a student before graduating high school.

The higher education commissioner would be required to file with the comptroller and state auditor on or before September 1 of each year a list of each public junior college in the state that had certified to THECB that the college was in compliance with the established requirements. Only a public junior college included in that list would be eligible for and could receive money appropriated by the Legislature to public junior colleges.

The bill would make certain changes to how state treasury money was appropriated biennially to supplement local funds for public junior colleges, including removing contact hours from the considerations.

The bill would replace references to "proportionate share" in the Education Code with "allocation."

The bill would amend the provision for how the board of trustees of a junior college district could change the name of the district or a college within the district.

Statutory repeals and text removals. The bill would repeal certain sections of the Education Code, including:

- Sec. 61.0593, regarding student success-based funding recommendations;
- Sec. 61.884(d), regarding the consideration of certain postsecondary industry certifications and workforce credentials; and
- Sec. 130.003(d), regarding junior colleges certified by the higher education commissioner.

The bill would remove the definitions of and provisions related to "category 1 junior college" and "category 2 junior colleges" from Chapter 130 of the Education Code.

The bill would make conforming language changes throughout.

Application dates. Certain provisions of the bill pertaining to FAST would apply beginning with the 2023-2024 school year.

The bill would take effect September 1, 2023, and would apply to the allocation of state funding to junior college districts starting with the state fiscal biennium beginning September 1, 2023. Certain provisions of the bill pertaining to the Financial Aid for Swift Transfer Program would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, these sections would take effect September 1, 2023.

SUPPORTERS
SAY:

CSHB 8 would modernize the outdated public junior college funding model by prioritizing the education and training that would most benefit the state economy. This would uniquely position junior colleges to provide the credentials Texas students need to acquire high-quality jobs. By creating a performance tier of state funding, the bill would encourage junior colleges to pursue instruction for measurable outcomes that aligned with regional and state workforce needs and long-term state goals.

The FAST program established by the bill would give new educational opportunities to economically disadvantaged high school students. The bill also would adjust funding to support colleges that otherwise would not make enough money from their tax bases and tuition, and would benefit low-enrollment and rural junior colleges by providing more funding to districts with fewer than 5,000 full time equivalent students.

CRITICS
SAY:

No concerns identified.

NOTES:

According to the Legislative Budget Board, the cost to the state of the bill for the biennium would be \$95,581,504.

- SUBJECT:** Creating a mental health services district in the Permian Basin
- COMMITTEE:** County Affairs — committee substitute recommended
- VOTE:** 9 ayes — Neave Criado, Stucky, Gerdes, J. Jones, Orr, Rosenthal, Schatzline, Slaton, Tinderholt
- 0 nays
- WITNESSES:** For — Paul Meyers, Midland County Hospital District
(*Registered, but did not testify*: Wallace Dunn and Don Hallmark, Ector County Hospital District; Lyssette Galvan, NAMI Texas)
- Against — (*Registered, but did not testify*: Henry Bohnert)
- On — Jon Conant and Stephen Foster, Texas Facilities Commission;
(*Registered, but did not testify*: Russell Tippin, Medical Center Hospital)
- DIGEST:** CSHB 492 would authorize the Midland County Hospital District and the Ector County Hospital District to create a special district to provide mental health services to residents of the district.
- Creation and contract terms.** Under the bill, the Midland County and Ector County hospital districts could create the district by adopting concurrent orders that were approved by the governing body of each creating hospital district, contained identical provisions, and defined the boundaries of the district to be coextensive with the combined boundaries of each creating district. The creating hospital districts would be required to contract with the new district to provide mental health services to its residents. The contract would be required to include:
- the terms of the contract;
 - the purpose, terms, rights, and duties of the district as authorized;
 - the financial contributions made by each party to fund the district;
 - and

- the land, buildings, improvements, equipment, and other assets owned by a party to the contract that the district would be required to manage and operate, if any.

The district would be dissolved if the creating districts adopted concurrent orders to dissolve the district that contained identical provisions. The bill would establish provisions for the administration of property, debts, and assets and for accounting after dissolution.

Board of directors. The district would be required to have a board of six directors, with three directors appointed from each creating hospital district. Directors would serve staggered two-year terms, with one-half of the directors' terms expiring each year. The bill would establish certain provisions governing board appointments, term lengths, vacancies, and officer appointments. CSHB 492 would require that a director of the board was a resident or an officer of the appointing hospital district, and would prohibit an employee of the district from serving as a director. Officers and directors would serve without compensation, but could be reimbursed for certain expenses.

Powers and duties. Each creating hospital district could transfer to the mental health services district:

- the management and operation of any real property, improvements, and equipment located within that district that were used to provide mental health services; and
- operating funds and reserves budgeted for mental health services within the district.

The district would be authorized to perform certain actions necessary in the provision of mental health services, including:

- acquiring, constructing, operating, managing, and maintaining real property, improvements to property, and equipment or other personal property;
- entering into and performing contracts;
- appointing and employing officers, agents, and employees;

- suing and being sued;
- seeking and accepting gifts, grants, and donations; and
- other acts necessary to accomplish the district's purpose.

The board of directors would be required to appoint a district administrator and could appoint assistant administrators. Administrators would serve on an at-will basis and would be entitled to compensation determined by the board.

Financial operations. The bill would require each creating hospital district to provide the necessary funding for the district. The bill also would prohibit the district from imposing taxes or issuing bonds or other obligations.

CSHB 492 would require the district administrator to prepare an annual budget containing complete financial information for approval by the board. The board of directors would be required to approve an annual budget that provided for all district operation and maintenance expenses and to hold a public hearing on the proposed budget. The budget hearing would be required to be announced in a district newspaper at least 10 days prior to its occurrence and residents of the district would be entitled to attend and participate. The board would be required to adopt a budget at the conclusion of the hearing. The budget would be amended with board approval. Funds could only be spent on expenses included in the approved budget or amendment.

For each fiscal year, the board would be required to provide for an independent audit of the district's finances. The audit would be open to inspection along with other district records. At the end of each fiscal year, the district administrator would be required to prepare a report for the board which included a complete account of the district's funds and disbursements.

The district's authority to provide mental health services would not prohibit another political subdivision from providing, or taxing to provide for, mental health services within the boundaries of the district.

The bill would take effect September 1, 2023.

**SUPPORTERS
SAY:**

CSHB 492 would help to address a growing need for mental health treatment in the state, particularly in the rural areas of west Texas where health care providers often have difficulty meeting the needs of residents. During the 87th legislative session, the state appropriated \$40 million for a behavioral health center in the Permian Basin. The bill would create the mental health services district required to operate, fund, and maintain the facility. The bill would not request any additional funding or permit the new district to impose taxes. By establishing a mental health services district, CSHB 492 would help to complete the project that was initiated during the previous legislative session and support a critical need for mental health services in the region.

**CRITICS
SAY:**

While addressing growing mental health needs in Texas is important, there are already mental health care facilities within a reasonable distance of Midland, Texas. If these facilities were at capacity, it could be more cost effective to expand existing facilities rather than to construct a new one.

SUBJECT: Increasing the value cap for certain residential dwelling raffle prizes

COMMITTEE: Licensing & Administrative Procedures — favorable, without amendment

VOTE: 8 ayes — K. King, Walle, Goldman, Harless, Hernandez, T. King, Patterson, S. Thompson

0 nays

3 absent — Herrero, Schaefer, Shaheen

WITNESSES: For —Kathy Fairbanks, ALSAC, St. Jude Children’s Research Hospital; Randy Lee, St. Jude Children's & Research Hospital; Deron Stadler (*Registered, but did not testify*: J.D. Hale, Texas Association of Builders; Ashley Harris, United Ways of Texas; Phil Bunker)

Against — None

DIGEST: HB 1024 would increase the allowed maximum value from \$250,000 to \$1 million for a residential dwelling that can be offered or awarded as a prize at a charitable raffle that was purchased by the organization conducting the raffle or for which that organization provided any consideration. The change would apply only to charitable raffles conducted on or after the effective date of the bill.

The bill would take effect September 1, 2023.

SUPPORTERS SAY: HB 1024 would help charitable organizations sustain their programs by raising the cap on the value of a residential dwelling offered in a charitable raffle that the organization purchased or for which the organization had provided a consideration (a purchase required for entry or other in-kind exchange). While the cap has not been raised by the Legislature in over 15 years, the cost of new homes, construction, and home reselling has increased substantially in Texas. COVID-19 also has left a lasting negative impact on the fundraising abilities of qualified charitable organizations. Many charitable programs in Texas are being discontinued due to the insufficiency of the current \$250,000 cap, and

home builders who want to participate have had to step down from some of these programs, as they cannot build the desired homes for the amount organizations can offer them. HB 1024 would remove this barrier and empower charitable organizations and home builders to support Texas families.

**CRITICS
SAY:**

HB 1024 could help Texas families even more by eliminating the cap on altogether. Many other states have already removed the cap, and doing so in Texas would prevent the need to continue to raise the cap to compensate for increased costs while also further supporting charitable organizations in their goals.

SUBJECT: Allowing alcohol in certain performing arts facilities

COMMITTEE: Licensing & Administrative Procedures — committee substitute recommended

VOTE: 10 ayes — K. King, Walle, Goldman, Harless, Hernandez, Herrero, T. King, Patterson, Schaefer, S. Thompson

1 nay — Shaheen

WITNESSES: For — Michael Hill, Arlington ISD Board of Trustees (*Registered, but did not testify*: Rick Donley and JP Urrabazo, The Beer Alliance of Texas; Thomas Parkinson)

Against — None

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

BACKGROUND: Under Education Code sec. 11.179(a), the board of trustees of a public school district located in a county with a population of not more than 300,000 and in which a component university of the University of Houston System is located, may adopt a policy allowing the consumption, possession, and sale of an alcoholic beverage at an event held at a performing arts facility owned by the school district if the facility is leased to a nonprofit organization for an event not sponsored or sanctioned by the district.

DIGEST: CSHB 1825 would extend the authority granted under Education Code sec. 11.179(a) to a county with a performing arts facility within two miles of two or more stadiums with a capacity of at least 40,000 people.

The bill would take effect September 1, 2023.

SUPPORTERS SAY: CSHB 1825 would allow the board of trustees of the Arlington Independent School District to adopt a policy allowing alcohol to be served at the Center for Visual and Performing Arts (CVPA), a standalone

complex in Arlington ISD. With a precedent in the code for another Texas county, the bill would extend the same allowance to Arlington. Currently, the inability to have alcohol at the CVPA inhibits many nonprofits from using the venue to host events. This world-class facility is located at the center of Arlington's entertainment district and is more affordable than other venues in the area. CSHB would help smaller foundations and organizations host events in the beloved entertainment district. Events where alcohol could be consumed would be limited to events hosted by third parties, so school events would not be included.

Arlington ISD would benefit from CSHB 1825 because the district could have more events at the CVPA, and revenue generated from venue rental fees could be significant. Concerns about student safety would be addressed by safety measures laid out in statute, including not permitting events with the sale or consumption of alcohol during school hours.

CRITICS
SAY:

CSHB 1825 could put Texans at greater risk by expanding alcohol consumption within school districts. Serving alcohol should not be permitted where ISD students could be present.

SUBJECT: Allowing writs of habeas corpus based on evidence affecting sentencing

COMMITTEE: Criminal Jurisprudence — committee substitute recommended

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline

0 nays

WITNESSES: For — (*Registered, but did not testify:* M Paige Williams, Dallas County Criminal District Attorney John Cruzot; Jenny Andrews, Texas Catholic Conference of Bishops; Shea Place, Texas Criminal Defense Lawyers Association; Thomas Parkinson)

Against — None

On — Raoul Schonemann; (*Registered, but did not testify:* Maro Robbins, Office of Capital and Forensic Writs)

BACKGROUND: Code of Criminal Procedure art. 11.073 authorizes a court to grant a convicted person relief on a writ of habeas corpus if the court finds that certain scientific evidence is currently available that was unavailable at trial and on the preponderance of evidence, had the evidence been presented at trial, the person would not have been convicted.

DIGEST: CSHB 205 would extend a court’s authority to grant a convicted person relief on a writ of habeas corpus to cases in which a court found that, had relevant scientific evidence been presented at trial, the person would have received a different punishment.

The bill would take effect December 1, 2023, and would apply only to an application for a writ of habeas corpus filed on or after that date.

SUPPORTERS SAY: CSHB 205 would address a gap in current law and create more clarity for courts. Current law only allows a court to consider new scientific evidence in determining guilt or innocence, leaving a gap in case-law where the new evidence would not have overturned the conviction but could have

resulted in the individual receiving a different punishment. CSHB 205 would address this issue while also providing relief to courts who cannot act without a change to legislation.

CRITICS
SAY:

No concerns identified.

SUBJECT: Authorizing medical use of low-THC cannabis for certain conditions

COMMITTEE: Public Health — committee substitute recommended

VOTE: 10 ayes — Klick, Campos, Jetton, A. Johnson, J. Jones, V. Jones,
Oliverson, Price, Smith, Tinderholt

0 nays

1 absent — Collier

WITNESSES: For — Jokubas Ziburkus, Bluebonnet Wellness; J Canciglia, Coalition of Texans with Disabilities; Chase Bearden, Coalition of Texans with Disabilities and Texas Patients First Foundation; and six individuals (*Registered, but did not testify*: Nkem Okeke, Bluebonnet Wellness; Allison Francis, CHCS; M Paige Williams, Dallas County Criminal District Attorney John Creuzot; Michelle Wittenburg, KK125 Ovarian Cancer Research Foundation; Kevin Hale, Libertarian Party of Texas; Lyssette Galvan, NAMI Texas; Trent Townsend, Pharmacann; Byron Campbell, TexaRx; Sarah Reyes, Texas Center for Justice & Equity; David Reynolds, Texas Chapter American College of Physicians; Tom Holloway, Texas Neurological Society; Nico Richardson, Texas Original Compassionate Cultivation; Ashley Ford, The Arc of Texas; Susan Hays, Village Farms; Lisa Pittman; Susan Stewart; Jesse Williams)

Against — (*Registered, but did not testify*: Cindi Castilla, Texas Eagle Forum)

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

DIGEST: CSHB 1805 would revise the definition of "low-THC cannabis" from containing not more than one percent by weight of THC to containing not more than 10 milligrams of THC in each dosage unit.

The bill would expand the conditions for which a physician could prescribe low-THC cannabis to include a condition causing chronic pain

for which a physician would otherwise prescribe opioids or a medical condition designated by rule as debilitating by the Department of State Health Services (DSHS).

The bill would take effect September 1, 2023.

**SUPPORTERS
SAY:**

CSHB 1805 would allow more people with severe medical conditions to access medical cannabis as treatment. The bill would allow physicians to prescribe low-THC cannabis to people with chronic pain as an alternative to opioids, which could offer these patients similar pain relief while being less addictive and dangerous. By including medical conditions designated as debilitating by DSHS, the bill also would provide flexibility to DSHS to extend low-THC cannabis as a treatment to other serious medical issues that arise without having to return the issue to the Legislature.

CSHB 1805 would change the definition of low-THC cannabis from being based on weight to being based on volume. Under current law, dispensaries are required to create products that are diluted with carrier oils. Certain people may have to consume multiple products diluted in carrier oils for the dose they have been prescribed, which can cause gastrointestinal issues. This also requires people to buy more products to receive the dose of THC that they have been prescribed, which can be prohibitively expensive. Switching to a volumetric system would ensure that individuals with severe medical issues do not leave the state or turn to the black market to acquire their prescribed dose of THC to adequately address their pain.

**CRITICS
SAY:**

CSHB 1805 could allow for a psychoactive amount of cannabis to be prescribed to patients. Psychoactive substances, including cannabis, have been linked to psychological and psychiatric disorders. The potential benefits of expanding the use of medical cannabis are not worth the risk until more research on long-term effects can be conducted. The authority given to DSHS by the bill is too broad and could allow for medical cannabis to be prescribed for too many types of medical conditions.

SUBJECT: Creating a statewide interagency aging services coordinating council

COMMITTEE: Human Services — committee substitute recommended

VOTE: 8 ayes — Frank, Rose, Campos, Hull, Klick, Manuel, Noble, Ramos

1 nay — Shaheen

WITNESSES: For —Eddie Orum, AARP Texas; Jon Weizenbaum (*Registered, but did not testify*: Joshua Massingill, LeadingAge Texas; Bill Kelly, Mayor’s Office City of Houston; Patricia Ducayet, State Long-Term Care Ombudsman; Jessica Lynch, Texas Association of Health Plans; Matt Dowling, Texas Medical Association; Ashley Ford, The Arc of Texas; Ashley Harris, United Ways of Texas)

Against — None

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

DIGEST: CSHB 728 would create a statewide interagency aging services coordinating council to develop a strategic approach to interagency aging services.

Duties. The council would be required to develop a five-year statewide interagency aging services strategic plan and submit the plan to the executive commissioner of Health and Human Services Commission (HHSC) and the administrative head of each agency subject to the plan. By November 1 of each even-numbered year, the council would have to submit to the Legislature a biennial aging services expenditure proposal.

Annually, the council would be required to publish an updated inventory of state-funded interagency aging programs and services, including a description of how those programs and services furthered the purpose of the strategic plan. The council could facilitate opportunities to increase collaboration for effective expenditure of available state and federal

funding for interagency aging services and could establish subcommittees as necessary to carry out its duties.

Strategic and implementation plans. The council would be required to develop a new strategic plan for the next five state fiscal years by March 1 of the last state fiscal year covered by the most recent strategic plan. The council would have to submit the plan to HHSC's executive commissioner and the administrative head of each agency subject to the plan.

Within 90 days of receiving the plan, HHSC's executive commissioner and the administrative head of each agency subject to the plan would be required to develop and submit to the governor, the lieutenant governor, and the Legislature a plan to implement recommendations from the strategic plan. The implementation plan would have to include a justification for declining to implement a recommendation.

The council would be required to submit its first strategic plan by March 1, 2025.

Council membership. The council would have at least one representative appointed by each of the following entities:

- the governor's office;
- HHSC, including one representative of HHSC's aging services coordination office;
- the Department of Family and Protective Services;
- the Department of State Health Services;
- the Department of Agriculture's Office of Rural Health;
- the Texas Veterans Commission;
- the Texas Workforce Commission;
- the attorney general's office;
- the Barshop Institute for Longevity and Aging Studies at the University of Texas Health Science Center at San Antonio;
- the Texas Aging and Longevity Consortium at the University of Texas at Austin; and
- the Center for Community Health and Aging at Texas A&M University.

HHSC's executive commissioner would determine the number of representatives that each entity could appoint to the council. The council could authorize another entity that provided specific interagency aging services with the use of appropriated money to appoint a representative to the council.

Council members would serve six-year terms. A vacancy on the council would be filled in the same way as the original appointment, and a council member appointed to fill a vacancy would serve the remainder of the unexpired term. The representative of HHSC's aging services coordination office would serve as the presiding officer.

The appropriate entities would be required to make appointments to the council by January 31, 2024.

Meetings. The council would be required to meet at least once quarterly or more frequently at the call of the presiding officer. The council would be required to hold its first meeting by March 31, 2024.

Sunset review. The council would be subject to Sunset review during the same period as HHSC. Unless continued in statute, the council would be abolished and the bill's provisions would expire on the date on which HHSC was subject to abolishment.

Effective date. The bill would take immediate effect if finally passed by a two-thirds record vote of the membership of each house. Otherwise, it would take effect September 1, 2023.

SUPPORTERS
SAY:

The population of Texas is aging rapidly, and CSHB 728 would provide support to the population age 60 and older. A statewide approach is critical to address the increasing demand for essential services for the aging population. The strategic plan would coordinate aging services and programs to eliminate redundancy, replicate successful models for service coordination, ensure optimal service delivery, and collect data on results and effectiveness. CSHB 728 would help the state build an efficient, cost-effective system for aging services and programs.

CRITICS
SAY:

CSHB 728 is unnecessary because similar councils already exist, including the Legislative Committee on Aging and the Task Force on Disaster Issues Affecting Persons who are Elderly and Persons with Disabilities.

SUBJECT: Permitting HUD manufactured homes in certain zoning classifications

COMMITTEE: Land & Resource Management — favorable, without amendment

VOTE: 9 ayes — Burns, Rogers, C. Bell, K. Bell, Buckley, Ortega, Reynolds,
Schofield, Sherman

0 nays

WITNESSES: For — DJ Pendleton, Texas Manufactured Housing Association
(*Registered, but did not testify*: J.D. Hale, Ned Muñoz, Texas Association
of Builders)

Against — (*Registered, but did not testify*: Monty Wynn, Texas Municipal
League)

DIGEST: HB 2970 would require municipalities to allow the placement of Housing
and Urban Development (HUD) code manufactured homes in all zoning
classifications that permitted detached single-family or duplex dwellings
if the owner wished for the home to be treated as real property. The
municipality could adopt certain regulations to require HUD-code
manufactured homes to:

- have a value equal to or greater than the median taxable value of single family dwellings within 500 feet of the lot, as determined by the most recent tax appraisal;
- have siding, foundation fascia, roofing, and windows compatible with the single family dwellings located within 500 feet of the HUD-code manufactured home; or
- comply with the municipality's aesthetic, square footage, and other site requirements that would apply to single family dwelling constructed on site.

The value of a HUD-code manufactured home would be determined by its taxable or initial sales value and the value of the lot after the home was placed on the lot. Municipalities would be prohibited from enforcing measures that would impose requirements on HUD-code manufactured

homes more stringent than those for other single-family dwellings constructed on site. This provision would not affect deed restrictions or limit municipalities' authority to adopt measures relating to protected historic properties and districts.

This bill would take effect on September 1, 2023.

**SUPPORTERS
SAY:**

HB 2970 would increase the much needed supply of housing in Texas while balancing local control and market competition. The bill would give consumers a greater variety of home options and provide municipalities with the power to ensure that the home fit the architectural style, aesthetic, and value of the homes around it. This would help neighborhoods to maintain their character and value while creating more options for homeowners and greater competition within the market. HB 2970 could help to address the housing shortage in Texas by increasing supply and lowering costs.

**CRITICS
SAY:**

HB 2970 would restrict municipalities' ability to categorize residential land use to reflect the community's needs. Zoning classifications are necessary to maintain a neighborhood's character and uses, and are often created with the help of local community leaders, ensuring public scrutiny. Allowing HUD-code manufactured homes to be built in any zoning classification with single-family dwellings could disrupt these zoning plans and take the zoning process out of the hands of the community.

SUBJECT: Limiting local regulation of energy sources and engines

COMMITTEE: State Affairs — favorable, without amendment

VOTE: 10 ayes — Hunter, Hernandez, Geren, Guillen, Metcalf, Raymond,
Slawson, Smithee, Spiller, S. Thompson

1 nay — Turner

2 absent — Anchía, Dean

WITNESSES: For — Ivan Giraldo, Clean Scapes; Matt Coday, Oil & Gas Workers Association; Todd Staples, Texas Oil and Gas Association; John Gordon (*Registered, but did not testify*: Steven Albright, Associated General Contractors of Texas- Highway Heavy Utility and Industrial Branch; Matt Burgin, ConocoPhillips; Matt Welch, Conservative Texans for Energy Innovation; Mark Vane, Husch Blackwell Strategies; Greg Macksood, Ovintiv USA Inc.; Travis McCormick, Panhandle Producers & Royalty Owners Assoc; Michael D. Lozano, Permian Basin Petroleum Association; Neftali Partida, Phillips 66; Caleb Troxclair, Texas Alliance of Energy Producers; Glenn Hamer, Texas Association of Business; Kyle Bush, Texas Association of Manufacturers; Chris Noonan, Texas Chemical Council; Tom Glass, Texas Constitutional Enforcement; Charlie Leal, Texas Farm Bureau; Desiree Castro, Texas Food and Fuel Association; Ryan Paylor, Texas Independent Producers & Royalty Owners Association; Ryan Skrobarczyk, Texas Nursery & Landscape Association; Thure Cannon, Texas Pipeline Association; Mark Borskey, Texas Recreational Vehicle Association; Kelsey Streufert, Texas Restaurant Association; Jay Brown, Valero Energy Corporation; Julie Moore; Gregory Porter)

Against — Clayton Dana-Bashian (*Registered, but did not testify*: Clifford Sparks, City of Dallas; Guadalupe Cuellar, City of El Paso; Jason Sabo, Environment Texas; Tsion Amare, Environmental Defense Fund; Cyrus Reed, Lone Star Chapter Sierra Club; Bill Kelly, Mayor's Office, City of Houston; Joshua Houston, Texas Impact)

DIGEST: HB 2374 would prohibit political subdivisions from adopting or enforcing an ordinance, order, regulation, or similar measure that:

- limited access to an energy source, meaning any fuel or power source used to power an engine;
- resulted in the effective prohibition of certain entities and infrastructure, including service stations, necessary to provide access to an energy source; or
- directly or indirectly prohibited or restricted the use, sale, or lease of an engine based on its fuel source.

The bill would not limit a political subdivision's authority to adopt or enforce regulations that were not preempted by state or federal law and did not effectively prohibit or restrict the use, sale, or lease of an engine based on fuel source.

To the extent of any conflict, certain provisions of the Natural Resources Code related to political subdivisions' regulation of oil and gas operations would prevail over the bill's provisions limiting such entities' regulation of engines based on fuel source.

The bill would take effect September 1, 2023.

SUPPORTERS SAY: HB 2374 would protect consumer choice in energy by preventing local governments from restricting access to particular energy sources or the use an engine based on the type of fuel it used.

A Texas city is pursuing a plan to phase out gas-powered tools in the near future. Some communities outside the state have banned new gas stations entirely. In Texas, the state gas tax is a major source of transportation funding. Local restrictions targeting gasoline could undermine both consumer freedom and state revenue, and could harm various aspects of commerce and infrastructure. Landscapers still need gas-powered lawn equipment to operate efficiently, since electric alternatives increase costs, while many hospitals and nursing homes rely on gas-powered backup generators.

HB 2374 would ensure that consumers could continue to use the energy source of their choice, while making it clear that political subdivisions could still enforce reasonable regulations, such as noise and nuisance ordinances, that did not effectively ban or restrict the sale or use of a specific energy source. The bill also would not affect environmental standards regulated by the TCEQ. If more needed to be done to regulate emissions and protect air quality, these regulations should be addressed by the appropriate state and federal authorities. While local control is desirable within reason, the state has a responsibility to set a standard for preserving individual liberty, which local governments must meet.

CRITICS
SAY:

HB 2374 would impede local governments' ability to improve air quality and health outcomes for their citizens using reasonable regulations. The bill's language is too broad. Under the bill, any limitation of access, however minor, to an energy source would be prohibited, which could undermine cities' authority to zone areas for different purposes. Actions that "indirectly" restricted the use of a specific fuel type would be disallowed by the bill, which could be interpreted to prevent local governments from using or contracting exclusively with "clean" vehicles and equipment for their own operations, or from incentivizing electric charging stations.

Cities should have the authority to regulate energy sources in the interest of limiting nuisances, protecting public health, and reducing pollution. HB 2374 would make it more difficult for cities and other political subdivisions to meet federal air quality standards. Cities are accountable to voters, who could elect new officials if they did not support local energy-related regulations.

SUBJECT: Amending eligibility requirements for the CPA exam and certificate

COMMITTEE: Licensing & Administrative Procedures — committee substitute recommended

VOTE: 7 ayes — K. King, Walle, Goldman, Harless, Hernandez, Patterson, S. Thompson

0 nays

4 absent — Herrero, T. King, Schaefer, Shaheen

WITNESSES: For — Joshua LeBlanc, TXCPA (*Registered, but did not testify*: Eric Wright, CohnReznick; Mark Vane, Husch Blackwell Strategies; Martin Hubert, RSM; Kenneth Besserman, Texas Society of CPAs; Adam Jones, Weaver and Tidwell, LLP)

Against — None

DIGEST: CSHB 797 would decrease the minimum number of semester hours or quarter-hour equivalents required for courses recognized by the Texas State Board of Public Accountancy (TSBPA) from 150 to 120 hours for a certified public accountant (CPA) examination applicant. Twenty-four of these hours would be required to be from accounting or equivalent courses. The bill would prohibit the creation of rules requiring that an applicant completed more than 21 semester hours of upper-level accounting courses. Additionally, applicants would no longer be required to complete two years of work experience under the supervision of a CPA to be eligible to receive a certificate.

To be eligible for a CPA certificate, the bill would require an individual to complete at least 150 semester hours or quarter-hour equivalents in board-recognized courses, including an accounting concentration or equivalent courses that met certain eligibility requirements, as determined by the TSBPA.

The bill's provisions would only apply to applications for CPA certificates and examinations submitted on or after the effective date of the bill.

The bill would take effect September 1, 2023.

**SUPPORTERS
SAY:**

By revising the eligibility requirements for CPA examination applicants, CSHB 797 would allow students to take the CPA exam a year sooner while maintaining standard requirements for the certificate. As students are often discouraged by the high number of credit hours required, this change would incentivize more Texans to pursue accounting degrees while giving graduates more flexibility to enter the workforce sooner.

Additionally, rather than the two years of work experience required by current law, CPA candidates would only be required to have one year of experience prior to being certified under the bill. This would bring Texas statute in line with the Uniform Accountancy Act, a widely-accepted approach to regulation of the accounting profession, and could further encourage students to pursue accounting.

Incentivizing accounting in Texas would help businesses who have been struggling to recruit CPAs and help the state remain competitive with other states wherein these allowances have already been made.

**CRITICS
SAY:**

No concerns identified.

- SUBJECT:** Requiring the state to observe daylight saving time year-round
- COMMITTEE:** State Affairs — favorable, without amendment
- VOTE:** 11 ayes — Hunter, Hernandez, Geren, Guillen, Metcalf, Raymond, Slawson, Smithee, Spiller, S. Thompson, Turner
- 0 nays
- 2 absent — Anchía, Dean
- WITNESSES:** For — Erika Boyd, Texas Travel Alliance (*Registered, but did not testify*: Ron Hinkle, Texas Travel Alliance; Carolyn Albert Donovan; Justin Bragiel; Nicole Haldeman; Daniel Hodge; Jorge Martinez)
- Against — Oscar Rodriguez, Texas Association of Broadcasters (*Registered, but did not testify*: Linda Durnin; Keith Yancey)
- DIGEST:** HB 1422 would require the state to observe daylight saving time year-round.
- The bill would take effect September 1, 2023. The bill would not take effect unless the United States Congress enacted legislation authorizing the state to observe daylight saving time year-round.
- SUPPORTERS SAY:** HB 1422 would move Texans closer to no longer having to change clocks twice per year. Observing the time change is inconvenient and disruptive, and may make strokes and heart attacks more likely. Observing daylight saving time year round would provide more daylight hours after the working day, allowing families more opportunities for outdoor activities, shopping, and travel. Permanent daylight saving time also would help drivers avoid the danger of driving to and from work at times of direct glare from the low sun at sunrise and sunset, respectively.
- Many other states have already decided to observe year-round daylight saving time if federal law allows, so Texas would not be uniquely out of sync with the time zone system if HB 1422 was enacted.

CRITICS
SAY:

If HB 1422's implementation of year-round daylight saving time went into effect, broadcast media could be negatively affected. Year-round daylight saving time would disrupt time zone uniformity, making it more difficult for local television stations to manage viewing and marketing schedules for international and nationwide live broadcasts of major sporting, political, and other events.

Some AM radio stations are required by the FCC to turn off their transmitters from sunset to sunrise. Year-round daylight saving time would require these stations to be off the air during morning drive time, and in some cases listeners would not be able to receive information on weather and school closings in a timely manner. Other AM stations would be required to operate with reduced power during the same period, reducing their ability to compete for advertising revenue

OTHER
CRITICS
SAY:

While avoiding the annual time changes is desirable, for health and safety reasons, Texas should move to year-round standard time, not daylight saving time. Standard time aligns with natural human circadian rhythms, with sunrise coinciding with waking. Permanent daylight saving time would cause children to spend more time waiting for school buses in the dark morning hours. Federal law already allows states to opt out of daylight saving time, so the state could stop changing the clocks without waiting for legislation at the national level.

SUBJECT: Allowing certain peace officers to conduct police escorts

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

VOTE: 8 ayes — Guillen, Jarvis Johnson, Canales, Dorazio, Goodwin, Harless, Holland, Troxclair

0 nays

1 absent — Bowers

WITNESSES: For — (*Registered, but did not testify:* Joe Morris, Texas Game Warden Peace Officers' Association)

Against — Buddy Mills, Sheriffs' Association of Texas

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

DIGEST: HB 64 would add Ector County Hospital District (ECHD) police officers to the list of peace officers allowed to conduct police escorts.

SUPPORTERS SAY: HB 64 would allow ECHD police to assist in funeral processions by expanding their permitted functions. ECHD police officers are already considered peace officers in statute, and the bill would amend the Transportation Code to reflect this status.

This bill would take effect September 1, 2023.

CRITICS SAY: The bill is unnecessary because police escort functions can be performed by other Ector County law enforcement officers.

- SUBJECT:** Increasing penalties for non-fatal mass shootings
- COMMITTEE:** Community Safety, Select — favorable, without amendment
- VOTE:** 9 ayes — Guillen, Bowers, Burrows, Dorazio, Goodwin, Harless, T. King, Landgraf, Troxclair
- 0 nays
- 4 absent — Jarvis Johnson, Canales, Holland, Moody
- WITNESSES:** For — Jessica Anderson, Houston Police Department; CJ Grisham, Open Carry Texas (*Registered, but did not testify*: Robin Breed, Molly Bursey, Cilicia Landers, Heidi Ragsdale, and Sarah West, Moms Demand Action; Susana Carranza, League of Women Voters of Texas; Nicole Golden, Texas Gun Sense; Ray Hunt, Houston Police Officers' Union; Andy Kahan, Crime Stoppers Houston; Suzi Kennon, Texas PTA; Joe Morris, Game Warden Peace Officers Association; Laura Nodolf, Midland County District Attorney's Office; James Parnell, Dallas Police Association; Ambreen Rana, Moms Demand Action for Gun Sense in America Texas Chapter; Jennifer Szimanski, Combined Law Enforcement Associations of Texas (CLEAT); M Paige Williams, Dallas County Criminal District Attorney John Creuzot; Cynthia Van Maanen, Travis County Democratic Party; and nine individuals)
- Against — (*Registered, but did not testify*: Michael Belsick; Richard Bohnert; Henry Bohnert; Greg Rising)
- DIGEST:** HB 165 would define a "mass shooting" as an event involving the use of a firearm to cause or try to cause serious bodily injury or death, during which four or more people are injured.
- Increasing a penalty.** HB 165 would elevate the penalty for aggravated assault from a second-degree felony (two to 20 years in prison and an optional fine of up to \$10,000) to a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to \$10,000) if the offense was committed as part of a mass shooting.

Consecutive sentencing. HB 165 would require that sentences for crimes that were committed as part of the same event and were each punishable as first-degree felonies be served consecutively.

Right to severance. HB 165 would remove a defendant's right to have the offenses tried separately if the defendant committed two or more offenses as part of a mass shooting. If the court found that the defendant would be unfairly prejudiced by the joining of offenses, a judge could order the offenses to be tried separately.

The bill would take effect September 1, 2023 and would apply only to offenses committed on or after the effective date of the bill.

**SUPPORTERS
SAY:**

HB 165 would allow non-fatal mass shootings to be more appropriately punished by categorizing these offenses as first-degree felonies. Increasing the penalty would ensure that perpetrators of mass shootings were punished the same whether or not the crime resulted in death. Allowing the offenses to be served consecutively and prohibiting the right to severance would highlight the severity of mass shootings and increase safety while holding perpetrators accountable for the injuries they inflict.

**CRITICS
SAY:**

HB 165 would unfairly punish offenders for their use of a gun during an assault. Criminal penalties should be elevated based on the effect of the crime rather than the type of weapon.

- SUBJECT:** Expanding certain benefits for members of the Texas Military
- COMMITTEE:** Defense & Veterans' Affairs — committee substitute recommended
- VOTE:** 9 ayes — Wilson, R. Lopez, Bumgarner, Dorazio, Frank, Garcia, Morales Shaw, Muñoz, Jr., Slaton
- 0 nays
- WITNESSES:** For —Marvin Harris, National Guard Association of Texas; Robert Miller, State Guard Association of Texas; Steven Price, The VOICES of our Veterans; Hunter Schuler, TSEU; Mitch Fuller, Veterans of Foreign Wars (VFW) Department of Texas; Tony Dale; Heriberto Rodriguez (*Registered, but did not testify*: Sheena Rodriguez, Alliance for a Safe Texas; Joe Morris, Game Warden Peace Officers Association; Lenore Enzel, Military Officers Assn of America; James Cunningham, Military officers Association of America and Texas Coalition of Veterans Organizations; Jessica Dunn, MOAA; Denise Gordon, Texas Democratic Veterans Caucus; John Wilkerson, Texas Municipal Police Association; Tyler Sheldon, Texas State Employees Union; William West, The American Legion; Charlie Malouff; Kym Olson)
- Against — (*Registered, but did not testify*: Susan Stewart)
- On — Erica De La Cruz, Texas Department of Insurance, Division of Workers' Compensation; Shelia Taylor, Texas Military Department (*Registered, but did not testify*: Robin Hardaway, Employees Retirement System; Stephen Vollbrecht, State Office of Risk Management; Robin Gardner and Melissa Harden, Texas Military Department)
- DIGEST:** CSHB 90 would establish an assistance payment for certain survivors of a member of the Texas Military that died while on state active duty. The Texas Military Department would be required to determine the circumstances under which a member's death qualified for benefits and to certify whether a specific member's death qualified for payment. Survivors eligible for the payment would include the member's spouse, child if no surviving spouse, or parent if no surviving spouse or child.

Records related to assistance payments would be kept confidential and would not be subject to public disclosure unless a survivor filed an appeal and information related to the appeal became part of the public record of the administrative or judicial proceeding.

The bill would add post-traumatic stress disorder as a covered injury under workers' compensation if the disorder was caused by one or more events that occurred during a member's state active duty, and a preponderance of evidence indicated that the state active-duty events were a leading cause of the disorder. The bill would establish certain requirements for determining when the injury occurred.

CSHB 90 further would establish that travel of a member of the Texas Military to and from the member's duty location would be considered part of the member's employment for the purpose of a workers' compensation determination.

Under the bill, workers' compensation insurers would be required to accelerate and give priority to medical claims for members of the Texas Military that sustain serious bodily injury while on state active duty. Further, the bill would require the Department of Insurance to accelerate a contested case hearing or appeal related to denial of a claim from a member of the Texas Military that sustained a serious bodily injury while on state active duty.

The bill would be known as the Bishop Evans Act.

The bill would take effect September 1, 2023 and would apply only to deaths or injuries resulting in workers' compensation claims that occurred on or after the effective date of the bill.

**SUPPORTERS
SAY:**

CSHB 90 would extend important benefits to members of the Texas Military/Texas Guard. When a Texas Guard member is deployed on a national initiative and died on that deployment, the member's family receives survivor benefits. However, if the same member is sent to the Texas border and dies while serving on a state deployment, there are no survivor benefits. The state provides survivor benefits for law

enforcement officers, fire fighters, first responders and other public servants killed while on duty and should do the same for Guard members. The bill would establish parity for Guard members serving the state. As the scope of duty and length of deployment grows for certain Guard members, benefits should also be expanded. Extending survivor benefits would help ease the financial strain and burden on Guard families dealing with unexpected loss.

CRITICS
SAY:

CSHB 90 would establish future benefits for Texas Guard members and families, but the bill would not address the needs of families that have already experienced a loss. The bill should be revised so that families of Guard members who died while serving on a state deployment in recent years received benefits as well.

NOTES:

According to the Legislative Budget Board, CSHB 90 would have a negative impact of \$4,848,891 through August 31, 2025.

SUBJECT: Requiring crime laboratories to test certain evidence for fentanyl

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Moody, Cook, Bhojani, Bowers, Darby, Harrison, Leach, C. Morales, Schatzline

0 nays

WITNESSES: For — Paula Blackmon, City of Dallas; (*Registered, but did not testify:* Jennifer Szimanski, Combined Law Enforcement Associations of Texas (CLEAT); M Paige Williams, Dallas County Criminal District Attorney John Creuzot; Julio Gonzalez, Dallas Police Department; Natalie Ibe; Matt Long; Thomas Parkinson; Jason Vaughn)

Against — (*Registered, but did not testify:* Kevin Hale, Libertarian Party of Texas; Mary Palmer)

On — Brady Mills, Texas DPS Crime Laboratory; (*Registered, but did not testify:* Joyce H.)

DIGEST: HB 178 would require crime laboratories to test submitted evidence that may be a controlled substance for the presence of fentanyl when it was reasonably possible that the substance was or contained fentanyl. Crime laboratories would be required to follow validated laboratory procedures and sampling protocols when testing for the presence of fentanyl.

The bill would take effect September 1, 2023.

SUPPORTERS SAY: HB 178 would help protect the public by providing law enforcement agencies with the necessary tools to better understand the scope of the fentanyl crisis. More testing of controlled substance evidence for fentanyl would help law enforcement detect trends in how fentanyl was moving through communities. HB 178 also could provide an enhancement tool for prosecutors and other individuals who handled drug-related crimes.

Law enforcement officers and first responders can potentially expose themselves to fentanyl when conducting field tests for controlled substances. By requiring labs to establish a robust testing system, HB 178 could eliminate the need for first responders and law enforcement officers to conduct field tests, improving the safety of law enforcement and first responders.

Although HB 178 would be a cost to the state, the bill would be a worthy investment into solutions that could help Texas respond to the fentanyl crisis.

While HB 178 would require county and municipal crime labs to conduct additional testing, the Department of Public Safety (DPS) has drafted guidelines clarifying what substances could be understood as “reasonably possible” to be or contain fentanyl. These guidelines could prevent labs from conducting excessive testing.

CRITICS
SAY:

HB 178 could create a challenge for county and municipal crime laboratories that do not receive state funding. These labs handle about half of the testing in the state for controlled substance evidence and are not sufficiently resourced to handle the increase in testing HB 178 would mandate, as most evidence received by labs would require testing under the guidelines of the bill. HB 178 also would require local labs to test misdemeanor quantities and suspected drug material for cases that would not go to court, which could create an unnecessary burden for labs and result in significant backlogs.

Although HB 178 intends to protect law enforcement and first responders, the bill could have the opposite effect. The backlog in crime labs that could result from implementing HB 178 could drive first responders and law enforcement to conduct more field tests to keep up with the need for testing, posing an additional risk.

HB 178 would create additional costs for under-resourced county and municipal crime labs and would be a significant cost to the state.

OTHER
CRITICS
SAY:

HB 178 should clarify testing requirements for labs. The current language of the bill does not specify the testing requirement for large quantities of controlled substances, such as pills. HB 178 should clarify whether labs would be required to test each pill or other material in a large quantity of evidence, which is a time-consuming and resource-intensive process. Crime labs follow reliable sampling protocols when testing large quantities, and the bill should clarify if these sampling processes would be permitted.

NOTES:

According to estimates by the Legislative Budget Board, HB 178 would have a negative impact of \$17,777,699 in general revenue related funds during fiscal 2024-25 and result in an addition of 56 employees to the Department of Public Safety.

SUBJECT: Authorizing commission to take action on candidates for judicial office

COMMITTEE: Judiciary & Civil Jurisprudence — favorable, without amendment

VOTE: 9 ayes — Leach, Julie Johnson, Davis, Flores, Moody, Murr, Schofield, Slawson, Vasut

0 nays

WITNESSES: For — (*Registered, but did not testify:* Lee Parsley, Texans for Lawsuit Reform; Guy Herman, Statutory Probate Courts of Texas)

Against — None

On — (*Registered, but did not testify:* Jacqueline Habersham, State Commission on Judicial Conduct)

BACKGROUND: The 87th Legislature passed HJR 165, which proposed a constitutional amendment providing additional powers to the State Commission on Judicial Conduct with respect to candidates for judicial office. The constitutional amendment was approved by voters.

DIGEST: HB 367 would authorize the State Commission on Judicial Conduct to accept complaints, conduct investigations, and take any other action authorized by statute and the Texas Constitution regarding candidates for judicial office in the same manner the commission is authorized to take with respect to sitting judges.

The bill would take effect September 1, 2023.

SUPPORTERS SAY: HB 367 would function as enabling legislation for HJR 165, a constitutional amendment that was approved by voters. Currently, only incumbent candidates are held accountable to the Code of Judicial Conduct, while judicial candidates are not. HB 367 would ensure that all candidates are held to the same standards as sitting judges.

CRITICS SAY: No concerns identified.

SUBJECT: Creating a wholesale prescription drug importation program

COMMITTEE: Health Care Reform, Select — committee substitute recommended

VOTE: 7 ayes — Harless, Howard, Bonnen, Frank, Klick, Price, Walle
0 nays
4 absent — Bucy III, E. Morales, Oliverson, Rose

WITNESSES: For — Charles Cascio, AARP Texas; Emily Brizzolara-Dove, Texas 2036; Blake Hutson, Texas Association of Health Plans (*Registered, but did not testify*: Samuel Sheetz, Americans for Prosperity; Rebekah Chenelle, Dallas County Commissioners Court; Anne Dunkelberg, Every Texan; Alec Mendoza, Texans Care for Children; David Balat, Texas Public Policy Foundation; Cynthia Van Maanen, Travis County Democratic Party; and nine individuals)

Against — Sharon Lamberton, PhRMA; Wroe Jackson, Texas Association of Manufacturers; Duane Galligher, Texas Pharmacy Association (*Registered, but did not testify*: Victoria Ford, Texas Healthcare and Bioscience Institute; Mary Castle, Texas Values Action; Jackie Besinger)

On — Brandon Dyson, Texas Oncology (*Registered, but did not testify*: Timothy Stevenson, DSHS; JP Summers, Global Healthy Living Foundation; Keisha Rowe, Health and Human Services Commission)

DIGEST: CSHB 25 would create a wholesale prescription drug importation program to provide lower cost prescription drugs available outside of the United States to consumers in Texas. The Health and Human Services Commission (HHSC) would be required to implement the program by contracting with one or more prescription drug wholesalers and Canadian suppliers, as defined by the bill, to import prescription drugs and provide cost savings to consumers in Texas. HHSC also would be required to:

- develop a registration process for health benefit plan issuers, health care providers, and pharmacies to obtain and dispense imported drugs;
- develop and publish a list of prescription drugs, including their prices, that met certain safety requirements;
- establish an outreach and marketing plan to raise awareness of the program;
- administer a call center or electronic portal to provide information about the program;
- ensure that the program and prescription drug wholesalers under contract with the state comply with federal tracking, tracing, verification, and identification requirements;
- prohibit the distribution, dispensing, or sale of imported prescription drugs outside of the state; and
- perform any other duties HHSC's executive commissioner determines necessary.

HHSC would be required to ensure that the program meets federal requirements for the importation of prescription drugs. HHSC would be authorized to consult with interested parties to develop the program.

Prescription drugs could be imported into the state under the program only if the drug met the US Food and Drug Administration's standards related to prescription drug safety, effectiveness, misbranding, and adulteration, and the drug's importation did not violate any federal patent laws. Certain drugs could not be imported through the program, including controlled substances, biological products, infused drugs, intravenously injected drugs, drugs that are inhaled during surgery, or parenteral drugs. HHSC, in consultation with the attorney general, would be required to identify and monitor any potential anticompetitive activities in industries affected by the program.

HHSC would be allowed to impose a fee on each prescription drug sold under the program or establish another funding method to administer the program in addition to any funds that the Legislature appropriated.

HHSC's executive commissioner would be required to develop procedures by rule to audit prescription drug wholesalers participating in the program.

HHSC would be required to submit a report to the governor and the Legislature on the operation of the program by December 1 of each year. The report would include:

- which prescription drugs and Canadian suppliers were included in the program;
- the number of health benefit plan issuers, health care providers, and pharmacies participating in the program;
- the number of prescriptions dispensed through the program;
- the estimated cost savings since the establishment of the program and during the previous state fiscal year;
- information regarding the implementation of audit procedures; and
- any other information HHSC considers necessary or the governor or the Legislature requests.

HHSC's executive commissioner would be required to adopt any rules necessary to implement the program as soon as practicable after the effective date of the bill.

If a state agency determined that a waiver or authorization from a federal agency was necessary to implement a provision of the bill, the agency would be required to request the waiver and could delay implementation until the waiver or authorization was granted.

The bill would take effect September 1, 2023, and would be known as the Wholesale Prescription Drug Importation Act.

**SUPPORTERS
SAY:**

CSHB 25 would save lives and improve health outcomes by allowing certain low-cost prescription drugs to be safely imported from Canada. Many people are unable to afford their prescription drugs, causing them to ration doses or to stop taking prescriptions entirely. Canadian prescription drugs are often cheaper, and Canada has a regulatory system comparable to the United States. The bill would require all imported prescription

drugs to meet FDA standards, including tracking and tracing requirements, and the FDA would have to approve the program, which would ensure safety. Many prescription drugs and prescription drug ingredients are already manufactured outside of the United States, so importing Canadian drugs would not create a large safety risk. Certain prescription drugs could not be imported, including controlled substances and biologics, which would further ensure that only safe prescription drugs were imported.

These drugs also would have to generate cost savings to be imported, ensuring that the drugs would be affordable. Importing prescription drugs from Canada could save money for state agencies without posing any risk to public health and would introduce more competition to the market, driving down prices for consumers.

CRITICS
SAY:

CSHB 25 could harm patients by allowing unsafe prescription drugs to be imported from outside of the United States. Other countries do not have as strict of regulations regarding drug manufacturing, which could allow unsafe prescription drugs to enter the supply chain. The bill also is unlikely to generate cost savings because the cost of administering the program would outweigh potential savings. Though several states have pursued a wholesale prescription drug importation program, none have been approved by the FDA.

The United States' closed prescription drug system and high safety standards makes patients confident in prescription drug safety, and importing prescription drugs from outside of the country would undermine that confidence. Canada does not have a track-and-trace system for medical devices like the United States, which could increase the risk of unsafe medicines entering the state. Additionally, Canada is currently experiencing a prescription drug shortage, and Canada could be unwilling to export prescription drugs to the United States. Instead of allowing for wholesale drug importation, lawmakers should focus on other policies that address the underlying cost drivers of prescription drugs and could lower prescription drug prices.

NOTES: The fiscal impact of the bill could not be determined because of uncertainty regarding the potential costs and revenues related to prescription drug importation.

SUBJECT: Establishing limits on step therapy protocols for certain prescription drugs

COMMITTEE: Insurance — committee substitute recommended

VOTE: 9 ayes — Oliverson, A. Johnson, Cain, Cortez, Caroline Harris, Hull, Julie Johnson, Paul, Perez

0 nays

WITNESSES: For — Greg Hansch, National Alliance on Mental Illness (NAMI) Texas; Tony Aventa, TMA (*Registered, but did not testify*: Eric Wright, Behavioral Health Advocates of Texas; Dennis Borel, Coalition of Texans with Disabilities; Eric Woomer, Federation of Texas Psychiatry; Lindsay Lanagan, Legacy Community Health; Bill Kelly, Mayor's Office City of Houston; Bryan Mares, National Association of Social Workers-Texas; Simone Nichols-Segers, National MS Society; Tom Banning, Texas Academy of Family Physicians; Shannon Meroney, Texas Association of Health Underwriters; David Reynolds, Texas Chapter American College of Physicians; Seth Winick, Texas Coalition for Healthy Minds; Leela Rice, Texas Council of Community Centers; Sara Gonzalez, Texas Hospital Association; Jill Sutton, Texas Osteopathic Medical Association; Clayton Travis, Texas Pediatric Society; David Balat, Texas Public Policy Foundation)

Against — None

On — Blake Hutson, Texas Association of Health Plans (*Registered, but did not testify*: Debra Diaz-Lara, Texas Department of Insurance)

BACKGROUND: Insurance Code sec. 1369.051 defines "step therapy protocol" as a protocol that requires an enrollee to use a prescription drug or sequence of prescription drugs other than the drug that the enrollee's physician recommends for treatment before the health benefit plan provides coverage for the recommended drug.

Insurance Code Sec. 1355.001 defines "serious mental illness" as certain specified psychiatric illnesses, including bipolar disorders, major

depressive disorders, obsessive-compulsive disorders, paranoia, and schizophrenia.

DIGEST: CSHB 1337 would limit health plan use of step therapy protocols when determining coverage of a prescription drug prescribed to an enrollee age 18 or older to treat a serious mental illness.

Prior to providing coverage for an prescription drug, a health plan providing prescription drug coverage to treat a serious mental illness could not require an enrollee:

- to fail to respond to more than one different drug for each drug prescribed, excluding the generic of the prescribed drug; or
- to have a history of failing more than one different drug for each drug prescribed, excluding the generic or pharmaceutical equivalent of the prescribed drug.

As a condition of continued coverage, once per year a health plan could implement a step therapy protocol to require the enrollee to try a generic or pharmaceutical equivalent of a prescribed drug if the generic or pharmaceutical equivalent drug was added to the health plan's formulary.

The bill would take effect September 1, 2023 and would apply to a health plan delivered, issued, or renewed on or after January 1, 2024.

**SUPPORTERS
SAY:**

CSHB 1337 would help ensure patients with mental illness had access to the medications that best treated and managed their illness. Some step therapy protocols require patients to try and fail numerous medications prior to receiving access to the medication that works best for them. Such requirements could cause treatment disruptions that resulted in major life changes including job loss, homelessness, hospitalization, incarceration and even death. Limiting step therapy could reduce the time patients must wait to get the treatment their doctor believes is best for them.

Step therapy practices can have adverse impacts on patient health and add undue costs to the health care system. Patients subject to step therapies that require the patient to try medications not originally prescribed by their doctor could experience side effects and adverse reactions that

contribute to poorer health or lead to a patient ending treatment altogether. Untreated or improperly treated patients with serious mental illnesses could end up needing costly hospitalization and extensive medical treatment. In the most serious of situations, an untreated or improperly treated patient could lose their life to suicide or other avoidable tragedy. These unnecessary risks to patient health and increased health care costs could be avoided by limiting the use of step therapy and more quickly getting patients on the right medicine.

CRITICS
SAY:

No concerns identified.

- SUBJECT:** Authorizing school security volunteer programs in certain counties
- COMMITTEE:** Youth Health & Safety, Select — committee substitute recommended
- VOTE:** 6 ayes — S. Thompson, Hull, Allison, Capriglione, Landgraf, Lozano
- 2 nays — Dutton, A. Johnson
- 1 absent — T. King
- WITNESSES:** For — (*Registered, but did not testify:* Colby Nichols, Texas Association of School Administrators; Texas Association of Community Schools; Ruben Longoria, Texas Association of School Boards; Mark Terry, Texas Elementary Principals and Supervisors Association)
- Against — (*Registered, but did not testify:* Jaime Puente, Every Texan; Paige Duggins-Clay, IDRA; Skylor Hearn, Sheriffs' Association of Texas; Alejandro Pena, Texas American Federation of Teachers; Nicole Golden, Texas Gun Sense; Elaina Fowler, Texas State Teachers Association)
- On — (*Registered, but did not testify:* Eric Marin and Shane Sexton, Texas Education Agency)
- BACKGROUND:** Education Code sec. 37.108 requires each school district or public junior college district to adopt and implement a multihazard emergency plan. Such a plan provides for:
- training in responding to an emergency;
 - measures to ensure district employees have classroom access to a telephone;
 - measures to ensure district communications technology and infrastructure are adequate to allow for communication during an emergency;
 - mandatory school drills and exercises to prepare district students and employees for responding to an emergency, if the plan applies to a school district;

- measures to ensure coordination with the Department of State Health Services and local emergency management agencies, law enforcement, health departments, and fire departments in the event of an emergency; and
- the implementation of a safety and security audit.

DIGEST:

CSHB 249 would allow the board of trustees of a school district or the governing body of an open-enrollment charter school in a county of less than 200,000 people to approve a school security volunteer program. The district or school would be required to provide written regulations or written authorization for eligible persons to serve as school security volunteers. The regulations or authorization for volunteers would include providing security services for the district or school on school grounds, including any location where a district- or school-sponsored activity would take place, or in school vehicles. School security volunteers could carry a handgun to provide security services.

A person would be eligible to serve as a school security volunteer if the person was a military veteran or a qualified retired law enforcement officer who passed a criminal background check and was:

- not an employee of the district or school;
- not a contractor providing contracted services for a district or school; or
- not a person who would otherwise receive compensation from a district or school.

The bill would require a school district that approved a school security volunteer program to include the program in the district's multihazard emergency operations plan. An open-enrollment charter school that approved the program would be required to adopt and implement measures to ensure coordination in an emergency with the Department of State Health Services, local emergency management agencies, law enforcement, health departments, and fire departments.

A school district or open-enrollment charter school that approved a school security volunteer program would be required to provide a course of

instruction on the safety and security policies of the district or school to each school security volunteer. A district also would be required to include instruction about the district's multihazard emergency operations plan.

The bill would establish that a school security volunteer was immune from civil liability to the same extent as a professional employee of a school district. The liability of a volunteer would not be limited for intentional misconduct or gross negligence.

The bill would amend the Occupations Code to exempt school security volunteers from the rules and restrictions governing private security providers.

The change in law made by the bill would apply beginning with the 2023-2024 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, 2023.