HOUSE RESEARCH ORGANIZATION • TEXAS HOUSE OF REPRESENTATIVES
P.O. Box 2910, Austin, Texas 78768-2910
(512) 463-0752 • https://hro.house.texas.gov

HOUSE RESEARCH ORGANIZATION

daily floor report

Thursday, April 13, 2023
88th Legislature, Number 41
The House convenes at 10 a.m.

Three bills are on the Major State Calendar, one bill is on the Constitutional Amendments Calendar, and 11 bills are on the General State Calendar for second reading consideration today. The table of contents appears on the following page.

To access the Dynamic Floor Report, visit the following link: https://hro-dfr.house.texas.gov.

Alma Allen
Chairman
88(R) - 41

HOUSE RESEARCH ORGANIZATION

Daily Floor Report
Thursday, April 13, 2023
88th Legislature, Number 41

SUBJECT: Revising certain provisions related to property taxes

COMMITTEE: Ways & Means — committee substitute recommended

VOTE: 10 ayes — Meyer, Thierry, Button, Craddick, Gervin-Hawkins, Hefner, Muñoz, Noble, Raymond, Shine

1 nay — Turner

WITNESSES: For — Neal Patel, AAHOA; Blanca Aldaco, Aldacos Mexican Cuisine; Robin Armstrong, Galveston County Commissioner Pct4; Brad Wuest, Natural Bridge Caverns; Justin MacDonald, Texas Association of Builders; Skeeter Miller, The County Line (*Registered, but did not testify*: Corbin Van Arsdale, AGC-Texas Building Branch; Samuel Sheetz, Americans for Prosperity; Kyle Frazier, Mueller Inc; Cacie Madrid, San Antonio Chamber of Commerce; M. Scott Norman, Jr., Texas Association of Builders; Ron Hinkle, Texas Association of Campground Owners; Jim Dow, Texas Craft Brewers Guild; Garrett Coppedge, Texas Hotel and Lodging Association; James Quintero, Texas Public Policy Foundation; Kelsey Streufert, Texas Restaurant Association; John McCord, Texas Retailers Association; Ron Hinkle, Texas Travel Alliance; Jorge Martinez, The LIBRE initiative; Kerry Yarbrough)

Against — Dick Lavine, Every Texan; Bill Peacock, Huffines Liberty Foundation; Marcus Phipps, Texas Realtors; Cade Burr; Joseph Castellanos (*Registered, but did not testify*: Crystal Brown, Texas Building Owners and Managers Association; Carrie Griffith, Texas State Teachers Association; Fran Rhodes, True Texas Project; Patty Quinzi, TX- American Federation of Teachers; Susan Stewart)

On — Paul Pennington, Citizens for Appraisal Reform; Kevin Kavanaugh, Legislative Budget Board; Will Wiggins, NTPTS; Ray Head, TAPTP; Tim Hardin, Texans for Fiscal Responsibility; David Mintz, Texas Apartment Association; Glenn Hamer, Texas association of business; James LeBas, Texas Chemical Council, Texas Oil & Gas Association, and Texas Association of Manufacturers; Christy Rome, Texas School Coalition; Dale Craymer, Texas Taxpayers and Research

Association; Mark Hutcheson, Popp Hutcheson; Jim Popp, Popp Hutcheson; Joe Comparin; Tony Comparin; Lorri Michel; Foy Mitchell; Walter Wolff (*Registered, but did not testify*: Allison Mansfield, Comptroller of Public Accounts; Brad Reynolds, Comptroller of Public Accounts; Annie Spilman, NFIB; Mike Meyer and James Terry, Texas Education Agency; Steve Laas)

BACKGROUND:

Education Code sec. 48.2551 provides for the calculation of a school district's maximum compressed tax rate, which is the tax rate at which the district must levy a maintenance and operation tax to receive the full amount of the Tier 1 education allotment to which the district is entitled, and formulas to limit the growth of the maximum compressed rate.

DIGEST:

CSHB 2 would lower property tax rates by reducing the maximum compressed tax rate for school districts and lowering the appraisal cap on real property. The bill also would provide property owners with additional options for making tax payments by requiring local tax collectors to establish escrow accounts at the request of a property owner.

School district maximum compressed tax rate. CSHB 2 would reduce the maximum compressed tax rate for each school district by $0.15 during the 2023-24 school year. If applying the reduction would lower a district's maximum compressed tax rate to less than 90 percent of another district's maximum compressed tax rate, the district's maximum compressed tax rate would be adjusted to equal 90 percent of the other district's maximum compressed tax rate.

To determine funding for the 2023-24 school year, statutory references that pertain to a school district's maximum compressed tax rate would mean the maximum compressed rate for the district as determined by the bill for the 2023-24 school year.

When determining funding for the 2024-25 school year, the bill would require that the value of a district's prior year maximum compressed tax rate be the district's maximum compressed tax rate for the preceding year. The sections of the bill adjusting provisions related to a district's maximum compressed tax rate would expire September 1, 2025.

Appraisal cap. CSHB 2 would reduce the annual appraisal cap from 10 percent to 5 percent and would extend the cap to all real property. The bill would add to the definition of real property a manufactured home that qualifies as a residence homestead and would specify that the designation applied whether or not the owner of the manufactured home treated it as real property.

The reduced cap would take effect on January 1 of the tax year following the first tax year in which the owner owned the property on January 1. The bill also would specify the circumstances under which the annual appraisal cap would expire.

Escrow accounts. CSHB 2 would require a local property tax collector, at the request of a property owner, to enter into a contract that would allow the property owner to make payments into an escrow account maintained by the tax collector to pay the owner's property taxes. The bill would repeal two sections requiring tax collectors to enter into such contracts with designated parties. Under the bill, this article would apply only to a tax year beginning on or after the effective date of the article.

Homestead. References to "homestead" in applicable sections of the Tax Code would be changed to "property" to align with the extension of the annual appraisal cap to real property.

Effective dates. Changes that would be made to the school district maximum compressed tax rate would take effect on September 1, 2023. Changes related to escrow accounts would take effect on January 1, 2024. Changes to the limitation on appraised value would take effect January 1, 2024, provided voters approved a constitutional amendment proposed by the 88th Legislature, authorizing the Legislature to provide for a limitation on property taxes.

SUPPORTERS SAY:

CSHB 2 would provide property tax relief to homeowners and property owners throughout the state. The bill also would provide longer-term tax relief by sustaining lower tax levels into the future. Additionally, the bill would lower school property taxes, one of the largest components of property tax bills, and increase the state's share of public education funding over the next several years.

Lowering property taxes. Many Texans are struggling to afford increasing property taxes driven by dramatically increasing property values. Seniors and other homeowners on fixed incomes are least able to meet the higher tax demands, with some growing more concerned they will end up losing their homes when they cannot pay. To these lower-income individuals, even small property tax cuts could hold a significant financial benefit. Property tax obligations also are pricing potential homeowners out of homeownership. While an estimated mortgage payment could be within a potential homeowner's budget, adding the property tax obligation to the payment can make home buying cost prohibitive for many. Property tax relief is essential to business owners as well; lowering property tax obligations would help Texas businesses better cope with unprecedented inflation and losses due to COVID, not only sustaining the business but also enabling its growth and contribution to the state economy.

Appraisal cap. Reducing the appraisal cap from 10 percent to 5 percent could protect homeowners and businesses from rapid increases in property values and provide greater stability and predictability for property owners. Property value is a major determinant in property tax bills. Even as property tax rates decrease, Texans often must still pay higher taxes due to rising property values that outpaced the tax rate cuts. The lower cap would help level out property values for owners and reduce overall tax bills. Revenue saved by large property owners and businesses also could be used for investment and expansion. Slowing the growth of property values could provide incentives for businesses to relocate and expand in Texas, which could bring jobs and other tax revenue to bolster the state's economy.

Current statute restricting taxing jurisdictions from raising property taxes would not be impacted by lowering the appraisal cap. Existing law prevents most jurisdictions from increasing total maintenance and operations tax revenues by more than 3.5 percent without voter approval, and this law would still apply regardless of the appraisal cap. Additionally, reducing the appraisal cap would not reduce the existing taxable value of properties, meaning that local jurisdictions would not see a reduction in taxable value.

School district tax rate. Property taxes collected to support local schools are often the largest part of property owners' tax bills. CSHB 2 would lower the tax rate school districts could assess, both producing immediate property tax reductions and creating a lower base rate from which future taxes could be collected, helping to sustain these reductions into the future. CSHB 1, as passed by the House this session, would account for any lost funds within the school district with general revenue, increasing the state's contribution and investment in education. Lowering the tax rate would also reduce the number of school districts subject to state recapture payments, which occur when tax collections exceed the funding to which a district is statutorily entitled.

CRITICS SAY:

By reducing the school district property tax rate and lowering the appraisal cap, CSHB 2 would apply an approach to property taxes that may not benefit school districts or taxpayers.

Appraisal cap. Appraisal caps are based on an assumption that the local need for taxpayer dollars will remain steady from year to year. Caps do not lower the amount of revenue a local jurisdiction requires or demands, a disparity which local governments could solve by raising the relative tax rate. Reducing government spending could be a more effective way to lower property taxes. Capping appraisals also could redistribute the tax burden from more highly valued, rapidly appreciating properties to less valuable properties, which could result in taxpayers on the lower end of the economic spectrum benefiting less than those at the top.

Appraisal caps could create inequities across taxpayers depending on when property changed hands. New owners would pay taxes based on an assessment of the property's current market value while long term residents in the same neighborhood would pay taxes based on a taxed value that was capped years prior. In addition to real estate, this cap would apply to tangible personal property used by businesses such as machinery, equipment, and supplies. Unlike real estate, machinery and equipment often depreciate in value from year to year. Property declining in value would not benefit from a cap and could see higher tax rates.

School district tax rate. A similar reduction to school district property rates was made in 2019 that significantly reduced school revenue, and CSHB 2 would make even greater cuts. Using state dollars in lieu of property taxes could create problems for schools in the future if an economic downturn left the state with no choice but to cut school funding. While the state may currently have the funds to replace lost revenue, there is no guarantee it would be able to replace future losses. Inflation has already significantly impacted school budgets, and current school funding models do not provide the funds needed to keep up with rising costs. Reduced property taxes and the ensuing loss of recapture funds would not benefit school districts.

OTHER CRITICS SAY:

CSHB 2 would not adequately reform the property tax system. While lowering property taxes could provide a temporary remedy, it would not address larger property tax issues. The estimated tax reduction may not be large enough to provide sufficient relief or dramatically reduce tax bills.

NOTES:

According to the Legislative Budget Board, CSHB 2 would have a negative impact of about $12 billion on general revenue related funds.

SUBJECT: Continuing the Office of State-Federal relations (OSFR)

COMMITTEE: International Relations & Economic Development — favorable, without amendment

VOTE: 9 ayes — Button, Ordaz, Bumgarner, Clardy, Hayes, Meza, C. Morales, Plesa, Shine

0 nays

WITNESSES: For — (*Registered, but did not testify*: Carlton Schwab, Texas Economic Development Council)

Against — (*Registered, but did not testify*: Cynthia Van Maanen, Travis County Democratic Party; Idona Griffith; Maria Person)

On — (*Registered, but did not testify*: Jordan Hale, Governor's Office; Erick Fajardo, Sunset Advisory Commission (staff))

BACKGROUND: The Division of State-Federal Relations was established within the Office of the Governor in 1965 by the 59th Legislature. In 1971, the 62nd Legislature established the division as a separate agency, the Office of State-Federal Relations (OSFR). The mission of OSFR is to maximize the position of the state with regard to federal action that has regulatory, fiscal, or economic impact on the state.

Functions. The OSFR coordinates with the governor, the Legislature, and other state agencies to promote the interests of Texas, serving as the state's primary advocate to the federal government. It maintains contact with the Texas congressional delegation in Washington, DC in order to provide timely information to both state and federal partners and to act as a resource to government partners. In addition to an annual report, OSFR provides a weekly report with up-to-date information on its activities.

Governing structure. Per statute, the speaker of the House, governor, and lieutenant governor are all members of the agency's advisory policy board. The board meets with the agency's executive director to discuss upcoming

federal activities and to review and suggest changes to the office's priorities and strategies.

Funding. OSFR was appropriated about $985,000 in fiscal 2021, of which the office spent about $573,000.

Staffing. OSFR has three full-time employees, including the executive director and two additional staff members.

If not continued in statute, OSFR would be discontinued on September 1, 2023.

DIGEST:

HB 1550 would continue the OSFR until September 1, 2035. The bill would no longer require the inclusion of an analysis of federal funds availability and formulae in the office's annual report. The annual report would be required to be posted on the OSFR's publicly available website.

This bill would take effect on September 1, 2023.

SUPPORTERS SAY:

HB 1550 would continue OSFR, which plays a valuable role in helping Texas navigate its priorities with the federal government. While other agencies focus on how federal issues impact the specific agency, OSFR's holistic approach helps the state to coordinate priorities and limit unnecessary confusion between government agencies and partners. OSFR has been helpful in providing timely information to state and federal partners and in mobilizing federal resources in critical times, such as during a disaster. The agency also serves as an important resource to the Texas delegation in Washington, DC. The bill would eliminate statutory requirements that were no longer necessary, allowing OSFR to focus on its main duties more efficiently.

CRITICS SAY:

Many state agencies already have offices and liaisons in Washington, DC, which could reduce the need for the agency.

SUBJECT: Continuing the Texas Economic Development and Tourism Office

COMMITTEE: International Relations & Economic Development — committee substitute recommended

VOTE: 7 ayes — Button, Ordaz, Bumgarner, Hayes, Meza, C. Morales, Plesa

0 nays

2 absent — Clardy, Shine

WITNESSES: For — Justin Bragiel, Texas Hotel & Lodging Association; (*Registered, but did not testify*: June Deadrick, CenterPoint Energy; Leticia Van de Putte, Liftfund; Louie Sanchez, Space Exploration Technologies Corp.; Megan Mauro, Texas Association of Business; Ron Hinkle, Texas Association of Campground Owners; Carlton Schwab, Texas Economic Development Council; Kelsey Streufert, Texas Restaurant Association; Ron Hinkle, Texas Travel Alliance; Leticia Van de Putte, The City of Del Rio; Buddy Garcia)

Against — None

On — Tony Bennett, Texas Association of Manufacturers; Adriana Cruz, Texas Economic Development & Tourism, Office of the Governor; (*Registered, but did not testify*: Erick Fajardo, Sunset Advisory Commission (staff))

BACKGROUND: The 78th Legislature enacted SB 275 by Nelson, abolishing the Texas Department of Economic Development and the Texas Aerospace Commission. The functions of the abolished departments were transferred to the Texas Economic Development and Tourism Office (EDT) under the Texas Governor's Office. The mission of EDT is to market and promote Texas as a premier business location and travel destination.

Functions. EDT provides economic development assistance to companies that are considering relocating to Texas or expanding their operations within the state. EDT also coordinates with state agencies and local

partners to provide economic development programs, services, and other resources to help businesses succeed. EDT accomplishes these functions through three primary divisions:

- Business and Community Development (BCD);
- Economic Development Finance (Bank); and
- Travel Texas (Tourism).

Governing structure. EDT is a part of the trusteed programs within the Office of the Governor. The Governor appoints an executive director to serve as the policy and administrative head of the office.

Funding. For the 2022-23 biennium, EDT received an appropriation of about $322 million. According to EDT's most recent self-evaluation report, the agency received about $4.5 million in fees, about $3.3 million of which came from the Enterprise Zone Tax Refund and the Texas Enterprise Fund Revenue. EDT accomplished its functions with an operating budget of about $53.6 million in fiscal 2021, about half of which was for financial incentive and assistance programs.

Staffing. EDT employed 62 full-time employees during fiscal 2021, including 57 in the Austin headquarters, with the remaining staff allocated among five regional field offices.

Economic Development Finance (Bank). The EDF administers several programs primarily aimed at encouraging business relocation and expansion within the state. EDT facilitates incentives for these companies through loans, grants, and tax refunds.

Product Development and Small Business Incubator (PDSBI) Program. PDSBI offers long-term, asset-backed loans to product development companies and small businesses in Texas and is one of the many programs managed by the EDF.

Original Capital Access Program (OCAP). OCAP partners with non-profit lenders to increase access to financing for small and medium sized businesses that face barriers to accessing capital. OCAP loans for these

businesses are financed by non-profit lenders and the State's contributions to a loan loss reserve account.

Aerospace and Aviation Advisory Committee. In 2023, the 78th Legislature established the AAAC to advise the governor on the recruitment and retention of aerospace and aviation industry jobs and investments. The AAAC also advises EDT's funding of the Spaceport Trust Fund and recruitment and expansion of industry-related activities.

Small Business Assistance Advisory Task Force. The SBAATF advises the governor, the lieutenant governor, and the speaker of the House on issues relating to small business. The task force also assists the Office of Small Business Assistance, which coordinates assistance to and examines the role of small and historically underutilized businesses in Texas.

DIGEST:

HB 1515 would continue the Texas Economic Development and Tourism Office (EDT) until September 1, 2035. The bill would eliminate the Product Development and Small Business Incubator (PDSBI) program, depositing any remaining investment earnings into the Texas economic development bank fund. EDT would require the economic development finance bank to manage and oversee the wind up of the program. The bill would also remove the Original Capital Access Program (OCAP) from statute and require EDT to adopt rules for disbursing its funds to EDT's other capital access programs. HB 1515 would require EDT to develop a stakeholder engagement plan for administering and communicating about its lending programs, and require the *Annual Bank Report* (ABR) to include information on the financial status of each of its programs. Additionally, the bill also would exempt the Small Business Assistance Advisory Task Force from automatic abolishment.

EDT would be discontinued on September 1, 2035, if not continued in statute.

Authority over advisory committees. HB 1515 would authorize EDT to establish advisory committees to make recommendations to the office regarding their programs and policies. EDT would be required to establish rules for the committees regarding responsibilities, goals, committee membership, conflict of interest policies, period committee review, and

policies to ensure the committee did not violate applicable provisions. If the office were to establish an advisory committee to make recommendations regarding the aerospace and aviation industry, the governor would appoint those committee members.

Aerospace and aviation advisory committee. HB 1515 would remove the AAAC from statute. If EDT were to reinstate the AAAC, HB 1515 would require the governor to appoint members to its advisory committee.

Stakeholder engagement plan. HB 1515 would require EDT to develop a plan to engage with stakeholders to gather input and feedback on the development of rules related to lending programs. This would include rules regulating loan terms, loan recipient selection, and requirements for borrowers and disbursement of funds.

Strategic tourism plan. HB 1515 would decrease the frequency with which EDT must develop a strategic tourism plan from yearly to biennially. A plan would be required to be developed by December 1 of every even-numbered year. HB 1515 also would allow EDT to establish a process for submission of the plan using the input of each agency with which EDT led a memorandum of understanding, including Texas Parks and Wildlife Department, Texas Department of Transportation, Texas Historical Commission, and Texas Commission on the Arts.

Access to capital programs. HB 1515 would require EDT to develop procedures for disbursing funds to borrowers and lending partners for access to capital programs. EDT also would be required to develop documentation and recovery effort requirements of participating partners for a claim against a reserve account.

Reporting. HB 1515 would require that EDT consolidate the following annual reports into its *Annual Bank Report*:

- Capital Access Programs Annual Status Report;
- Micro-Business Disaster Recover Loan Guarantee Program Annual Status Report;
- Micro-Business Disaster Recovery Program Annual Status Report; and

- Small Business Disaster Recovery Loan Program Report.

The Aerospace and Aviation Office's biennial report also would be eliminated. The *Annual Bank Report* would include information on the status of each of the Bank's other active programs. The report would include:

- the number of grants, loans, and designations awarded in the previous fiscal year and the dollar amount;
- the total number of grants, loans, and designations awarded and the dollar amount;
- the number of applications received in the previous fiscal year;
- the number of outstanding loans and designations;
- a summary of outstanding loans and designations;
- the balance of each program’s fund and any reserve accounts; and
- primary challenges in administering each program and any proposals to address them.

The bill would take effect September 1, 2023.

SUPPORTERS SAY:

HB 1515 would retain an agency vital to the state's economy and tourism industry by continuing the EDT office in statute for 12 years. While local and regional actors perform their own business and tourism outreach, there is a continued need for a centralized office that takes a statewide approach to business and economic expansion in Texas. EDT is well-positioned to capitalize on the economic benefits that rapid population and business growth could bring to Texas over the next decade. Recent successes in business recruitment, export and trade, and tourism marketing have highlighted EDT's positive influence in the state.

The Aerospace and Aviation Advisory Committee should be removed from statute because EDT already has a staff member dedicated to strengthening Texas' relationship with the aerospace and aviation industry. Additionally, since EDT works with a broad range of essential industries, having a specific advisory committee for one industry is no longer appropriate.

HB 1515's consolidation of reports into its *Annual Bank Report* would help to more efficiently inform the Legislature on EDT's progress. Currently, ABR includes status reports on six of its programs, but excludes five others. Having EDT produce 12 separate reports is unnecessary and duplicated EDT's staff efforts. The strategic tourism plan also would be reported once every legislative session to align more closely with the Legislature's activities.

HB 1515 would also save money and resources by eliminating OCAP and PDSBI. Despite OCAP's current balance of $3.7 million, no new loans have been disbursed under the program since 2018 and PDSBI has not been shown to reach its goals, putting EDT's financial stability and future success at risk.

CRITICS SAY:

HB 1515 could hinder collaboration between EDT and the aviation industry by eliminating the AAAC. The AAAC is comprised of engaged and qualified industry leaders, and plays an important role in attracting aerospace and aviation business to the state. Removing this committee could send a negative message to the industry that Texas is less interested in investing in or partnering with the aerospace and aviation industry.

SUBJECT: Amending the constitution to authorize certain property tax revisions

COMMITTEE: Ways & Means — committee substitute recommended

VOTE: 10 ayes — Meyer, Thierry, Button, Craddick, Gervin-Hawkins, Hefner, Muñoz, Noble, Raymond, Shine

1 nay — Turner

WITNESSES: For — (*Registered, but did not testify*: Neal Patel, AAHOA; Corbin Van Arsdale, AGC-Texas Building Branch; Blanca Aldaco, Aldacos Mexican Cuisine; Samuel Sheetz, Americans for Prosperity; Spencer Lewis, Galveston County; Robin Armstrong, Galveston County Commissioner; Justin MacDonald, Texas Association of Builders; M. Scott Norman, Jr., Texas Association of Builders; Ron Hinkle, Texas Association of Campground Owners; Jim Dow, Texas Craft Brewers Guild; Garrett Coppedge, Texas Hotel and Lodging Association; Kelsey Streufert, Texas Restaurant Association; John McCord, Texas Retailers Association; Skeeter Miller, The County Line; Jorge Martinez, The LIBRE initiative; Rachel Lopez; Kerry Yarbrough)

Against — (*Registered, but did not testify*: Paul Pennington, Citizens for Appraisal Reform; Dick Lavine, Every Texan; Will Wiggins, NTPTS; William Daly, Oconnor Commercial; Scott Retzloff, Ryan LLC; Ray Head, TAPTP; Glenn Hamer, Texas Association of Business; Marcus Phipps, Texas Realtors; Carrie Griffith, Texas State Teachers Association; Dale Craymer, Texas Taxpayers and Research Association; Patty Quinzi, TX- American Federation of Teachers; Joe Comparin; Tony Comparin; Steve Laas; Foy Mitchell; Susan Stewart; Walter Wolff)

On — David Mintz, Texas Apartment Association (*Registered, but did not testify*: Allison Mansfield, Comptroller of Public Accounts; Brad Reynolds, Comptroller of Public Accounts; Mark Hutcheson, Jim Popp, Popp Hutcheson)

BACKGROUND: Texas Constitution Art. 8, sec. 1 requires taxation to be equal and uniform and that all real property and tangible personal property in the state, unless exempt as required or permitted by the Constitution, be taxed in

proportion to its value. This section also creates an exemption allowing for the limiting of appraisal values for a residence homestead for ad valorem tax purposes. This limit would be determined by either the most recent market value of the homestead or 110 percent of the appraised value of the homestead for the preceding tax year, whichever is lesser.

Texas Constitution Art. 8, sec. 22 requires that the growth rate of appropriations from state tax revenues not dedicated by the Constitution be no greater than the estimated growth rate of the state's economy.

DIGEST:

CSHJR 1 would amend the Texas Constitution to allow the Legislature to expand the limitation on appraised value to cover all real property and decrease the limitation on the allowable annual increase on a real property's appraised value from 110 percent to 105 percent.

The revised limit on appraised value would take effect in the tax year following the first tax year in which the owner owned the property on January 1 and would expire on January 1 of the tax year following the tax year in which the owner no longer owned the property. The resolution would allow the Legislature by general law to continue the appraised value limitation for the owner's spouse or surviving spouse.

Under the provisions of CSHJR 1, appropriations from state tax revenues not dedicated by the Constitution that were made for the purpose of providing property tax relief, as defined by the Legislature, would be excluded from the determination of whether the growth rate of appropriations exceeded the constitutional spending limit.

The ballot proposal would be presented to voters at an election on November 7, 2023, and would read: "The constitutional amendment to authorize the legislature to limit the maximum appraised value of real property for ad valorem tax purposes and to except certain appropriations to pay for ad valorem tax relief from the constitutional limitation on the rate of growth of appropriations."

SUPPORTERS SAY:

CSHJR 1 would provide the changes necessary in the Texas Constitution to give property tax relief to homeowners and other property owners throughout the state. Many Texans are struggling to afford increasing

property taxes driven by dramatically rising property values. Property tax relief is essential to business owners as well; lowering property tax obligations would help Texas businesses better cope with unprecedented inflation and losses due to COVID, not only sustaining the business but also enabling its growth and contribution to the state economy. Reducing the appraisal cap from 10 percent to 5 percent could protect homeowners and businesses from rapid increases in property values and provide greater stability and predictability for property owners. The lower cap would help level out property values for owners and reduce overall tax bills.

CSHJR 1 would ensure Texas voters have the opportunity to decide whether to move forward with property tax relief. The resolution also would ensure that the legislative appropriations made to offset any reductions to school funding that resulted from lowering property taxes would not be counted toward the constitutional spending limit.

CRITICS SAY:

Reducing the appraisal cap may not benefit taxpayers. Appraisal caps are based on an assumption that the local need for taxpayer dollars will remain steady from year to year. Caps do not lower the amount of revenue a local jurisdiction requires or demands, a disparity which local governments could solve by raising the relative tax rate. Reducing government spending could be a more effective way to lower property taxes.

Appraisal caps also could create inequities across taxpayers depending on when property changed hands. The cap also would apply to tangible personal property used by businesses such as machinery, equipment, and supplies. Unlike real estate, machinery and equipment often depreciate in value from year to year. Property declining in value would not benefit from a cap and could see higher tax rates.

OTHER CRITICS SAY:

The bill would not adequately reform the property tax system. While lowering property taxes could provide a temporary remedy, it would not address larger property tax issues.

NOTES:

According to the Legislative Budget Board, CSHJR 1 would have no cost to the state other than the cost of publication, which would be $204,406.

Any fiscal impact would depend on the corresponding enabling legislation.

CSHB 2 by Meyer, the enabling legislation for CSHJR 1, is set for second reading consideration today.

SUBJECT: Enhancing penalties for certain offenses with controlled substances

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

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

0 nays

WITNESSES: For — M Paige Williams, Dallas County Criminal District Attorney John Creuzot; Brett Ligon, Montgomery County District Attorney's Office; Jack Armstrong II, Rand Henderson, Michael Uber, Montgomery County Sheriff's Office (*Registered, but did not testify*: Jennifer Szimanski, Combined Law Enforcement Associations of Texas; James Parnell, Dallas Police Association; Julio Gonzalez, Dallas Police Department; Larry Young, Game Warden Peace Officers Association; Jessica Anderson, Houston Police Department; Ray Hunt, Houston Police Officers Union; Todd McCoy, Michael Landrum, Justin Schutzenhofer, Jason Prince, Montgomery County Sheriff's Office; John Wilkerson, TMPA; Elmer Beckworth; Jason Vaughn)

Against — (*Registered, but did not testify*: Kevin Hale, Libertarian Party of Texas; Joyce H; Jesse Williams)

BACKGROUND: Health and Safety Code sec. 481.122 states that a person commits a second-degree felony (two to 20 years in prison and an optional fine of up to $10,000) if the person knowingly delivers certain controlled substances or marihuana to:

- a child, defined as a person younger than 18 years old;
- a primary or secondary school student; or
- a person the offender knows or believes intends to deliver the controlled substance or marihuana to a child or student.

DIGEST: HB 513 would elevate the offense of knowingly delivering certain controlled substances or marihuana under sec. 481.122 of the Health and Safety Code from a second-degree felony 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) in certain circumstances. The offense would be a first-degree felony if it was shown in trial that the person to whom the controlled substance or marihuana was delivered died or suffered serious bodily injury as a result of injecting, ingesting, inhaling, or introducing into the person's body any amount of the controlled substance or marihuana. This would apply regardless of whether or not the controlled substance or marihuana was used by itself or with another substance.

The bill would make the offense of knowingly manufacturing or delivering a controlled substance a third-degree felony (two to 10 years in prison and an optional fine of up to $10,000) if the offense resulted in serious bodily injury to a person. This offense would be a second-degree felony if the offense resulted in the person's death.

The bill would create a defense to prosecution that the manufacture or delivery of a controlled substance was authorized by state or federal law. If the conduct of the offense constituted an offense under another chapter, the offense could be prosecuted under either or both sections.

The bill would take effect September 1, 2023.

SUPPORTERS SAY:

HB 513 would update the law related to certain drug offenses to address the emergence of fentanyl as a dangerous substance. Under current law, law enforcement and prosecutors are required to prosecute drug offenses based on the quantity of drugs found at a crime scene. Fentanyl is novel in that even small doses can result in death or serious bodily injury, meaning that only small amounts of the substance may be found at a crime scene, if any. The bill would enable law enforcement and prosecutors to charge offenders based on the individual's role in causing death or serious bodily injury, rather than relying on drug quantity as a determinant. The bill would also set higher penalties for causing serious harm or death to children, as they are especially vulnerable. The bill would not create any new offenses relating to marijuana, but would enhance existing penalties to address the serious threat posed by fentanyl.

CRITICS SAY:

While responding to the fentanyl crisis is important, HB 513 also could enhance certain criminal offenses related to marijuana, which could conflict with growing public support for its decriminalization.

SUBJECT: Adding a presumption for the offense of forgery

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

VOTE: 5 ayes — Moody, Bhojani, Bowers, Darby, Harrison

0 nays

4 absent — Cook, Leach, C. Morales, Schatzline

WITNESSES: For — Phillip Clark, Dallas County District Attorney's Office (*Registered, but did not testify*: M Paige Williams, Dallas County Criminal District Attorney John Creuzot; James Parnell, Dallas Police Association; Julio Gonzalez, Dallas Police Department; Jessica Anderson, Houston Police Department; Ray Hunt, HPOU; Buddy Mills, Sheriff Association of Texas; John Wilkerson, Texas Municipal Police Association)

Against — None

BACKGROUND: Sec. 32.21 of the Penal Code defines the criminal offense of forgery, including certain presumptions.

DIGEST: HB 1910 would add to Sec. 32.21 of the Penal Code a presumption that a person in possession of forged money intended to use its entire value to obtain property or services.

The bill would take effect September 1, 2023 and would only apply to offenses committed on or after the effective date. An offense would be committed before the effective date of this act if any element of the offense occurred before that date.

SUPPORTERS SAY: HB 1910 would allow for more effective prosecution of people who committed forgery. Currently, the severity of the penalty for forgery depends on the amount of counterfeit bills being spent when the offender is caught but does not account for other forged money in their possession that is yet to be used. This can result in disparities between the severity of the crime and the penalty, with some forgers possessing substantial

amounts of counterfeit bills only being charged with class C misdemeanors due to the small amount of money they were caught attempting to spend.

HB 1910 would address this issue by allowing prosecutors to contend that the amount of forged money found on the person of an offender indicated their intent to spend it. If a prosecutor was allowed this presumption, the amount could be factored into the penalty ensuring that the sentencing reflected the severity of the crime.

CRITICS SAY:

No concerns identified.

SUBJECT: Prohibiting spectators who harm officials from attending sports events

COMMITTEE: Public Education — committee substitute recommended

VOTE: 10 ayes — Buckley, Allen, Allison, Cunningham, Cody Harris, Harrison, Hinojosa, K. King, Longoria, Talarico

0 nays

3 absent — Dutton, Hefner, Schaefer

WITNESSES: For — Chris Champion, Michael Fitch, Texas Association of Sports Officials (*Registered, but did not testify*: Tricia Cave, Association of Texas Professional Educators; Eric Carcerano, Chambers County District Attorney; James Parnell, Dallas Police Association; Ray Hunt, Houston Police Officers' Union; Buddy Mills, Sheriffs' Association of Texas; Barry Haenisch, Texas Association of Community Schools; Casey McCreary, Texas Association of School Administrators; Whitney Broughton, Texas Association of School Boards; Kate Kuhlmann, Texas High School Coaches Association; John Wilkerson, Texas Municipal Police Association; Dee Carney, Texas School Alliance; Idona Griffith; Eve Margolis; Susan Stewart)

Against — (*Registered, but did not testify*: CJ Grisham)

On — Jamey Harrison, UIL (*Registered, but did not testify*: Eric Marin, Monica Martinez, Texas Education Agency; Carrie Griffith, Texas State Teachers Association; Henry Bohnert)

DIGEST: CSHB 2484 would prohibit a spectator of a University Interscholastic League (UIL) competition from attending any future extracurricular activity sponsored by the school district or UIL if the spectator engaged in violent conduct that caused bodily injury to a person serving as a sports official in retaliation for or as a result of the person's actions while performing their duties.

The bill would require a school district or charter school that held an extracurricular athletic activity or UIL competition on district or school property to provide a peace officer, school resource officer, administrator, or security personnel to ensure the safety of a sports official of the event until the official departed the property if:

- a participant or spectator of the event engaged in, attempted to engage in, or threatened violent conduct against the official or otherwise disrupted the official's duties or free movement; or
- the district or school reasonably suspected that such an incident could occur at the event.

The bill would include conforming language that would apply attendance eligibility criteria for extracurricular activities to non-student spectators.

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.

SUPPORTERS SAY:

CSHB 2484 would help to protect sports officials at public school sporting events. The bill would address a loophole in current law, which prevents non-student spectators who behaved violently at one event from being barred from attending future events. Threatening behavior is not accepted at other kinds of school events, and school sporting events should be no different. The bill would help keep sports officials secure and willing to work when a shortage already exists. The bill would not unfairly punish a spectator with a sports event ban unless the spectator's conscious actions resulted in the bodily harm of an official.

CRITICS SAY:

While protecting sports officials is important, CSHB 2484 could punish some spectators unduly for normal sports fan activities. The bill is too broad and could lead to some verbal conduct that otherwise would not have been classified as violent to result in an undeserved sports event ban.

SUBJECT: Regulating the processing and sale of kratom and kratom products

COMMITTEE: Public Health — favorable, without amendment

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

0 nays

1 absent — Collier

WITNESSES: For — Mac Haddow, American Kratom Association; Curt Bramble (*Registered, but did not testify*: Dennis Borel, Coalition of Texans with Disabilities; M Paige Williams, Dallas County Criminal District Attorney John Creuzot; David Reynolds, Texas Chapter American College of Physicians; Matt Dowling, Texas Medical Association)

Against — (*Registered, but did not testify*: Kevin Hale, Libertarian Party of Texas; Sarah Reyes, Texas Center for Justice & Equity; Joyce H; Susan Stewart)

DIGEST: HB 861 would define "kratom processor" as a person who:

- manufactured, represented, distributed, or maintained kratom products for sale;
- advertised or represented themself as a manufacturer, preparer, or seller of kratom products;
- was responsible for ensuring the purity and proper labelling of kratom products; or
- packaged or labeled kratom products.

Kratom retailers would be kratom processors who sold kratom products to consumers or advertised themself as a seller of kratom products. Kratom products would include a food, extract, capsule, or pill containing any form of kratom.

HB 861 would require kratom processors to label each kratom product with use directions necessary to ensure safe use of the product, including recommended serving sizes. Kratom retailers could only sell kratom products that were properly labeled.

Kratom processors or retailers could not prepare, distribute, sell, or offer to sell a kratom product that was adulterated with a dangerous non-kratom product that rendered it injurious to a consumer or contaminated with a poisonous or deleterious non-kratom substance, including controlled substances. Kratom products would be required to contain a level of 7-hydroxymitragynine in the alkaloid fraction that is two percent or less of the overall alkaloid composition of the product and could not contain any synthetic alkaloids.

The bill would establish a class C misdemeanor (maximum fine of $500) for distributing, selling, or exposing for sale a kratom product to someone younger than 18 years old. A person who violated provisions of the bill would be subject to certain civil penalties, including $250 for the first violation, $500 for the second violation, and $1,000 for each subsequent violation. Each day a violation continued or occurred would be a separate violation for the purposes of imposing a penalty. A kratom retailer would not be liable for a civil penalty if the retailer proved by a preponderance of the evidence that the violation was unintentional and due to the retailer's good faith reliance on the representation of another kratom processor. These penalties would be in addition to any other penalties prescribed by law.

The attorney general or the district or county attorney for the area where the violation was alleged to have occurred could bring an action to recover a penalty under the provisions of the bill. The executive commissioner of the Health and Human Services Commission could adopt rules consistent with the bill as necessary to ensure the safe consumption and distribution of kratom and kratom products.

The bill would take effect September 1, 2023, and would be known as the Texas Kratom Consumer Health and Safety Protection Act.

SUPPORTERS SAY:

HB 861 would ensure the safe consumption and distribution of kratom by setting quality standards and ensuring proper labelling of kratom products. Pure kratom products are safe, have a legitimate use as pain relievers, and can potentially treat opioid withdrawal. The bill would create labelling requirements for kratom products that are similar to requirements for food safety. Requiring clear labels and safe manufacturing would protect consumers from adulterated or contaminated kratom products. The bill's regulations and penalties are intended for kratom processors, not individuals.

CRITICS SAY:

HB 861 could have unintended consequences by creating a penalty for people who distributed kratom products to minors. If an 18 year old gave a kratom product to an individual who was around the same age but under 18, the 18 year old could receive a class C misdemeanor. Lawmakers also should not penalize the sale, distribution, or use of kratom products since they can be used to treat drug dependency.

SUBJECT: Creating an exemption from severance tax for certain natural gas products

COMMITTEE: Ways & Means — committee substitute recommended

VOTE: 9 ayes — Meyer, Craddick, Gervin-Hawkins, Hefner, Muñoz, Noble, Raymond, Shine, Turner

0 nays

2 absent — Thierry, Button

WITNESSES: For —Brent Whitehead, Giga Energy; Griffin Haby III, Mountain Lion Oil & Gas; Wayne Christian (*Registered, but did not testify*: Jay Brown, Crusoe Energy Systems; Kevin Hale, Libertarian Party of Texas; Reed Clay, Texas Blockchain Council)

Against — (*Registered, but did not testify*: Susan Stewart)

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

DIGEST: CSHB 591 would exempt from severance taxes gas produced from a qualifying well that was consumed on the well site that otherwise would have been lawfully vented or flared.

A qualifying well would be a well that:

- was connected to a pipeline on which pipeline takeaway capacity was not expected to meet demand for gas produced from the well;
- was not and could not feasibly be connected to a pipeline but was operated by a well operator who had contractually dedicated the well, its gas, or the land or lease on which the well was located to a pipeline operator; or
- was not connected to a pipeline and was operated by a well operator who had not contractually dedicated the well, its gas, or the land or lease on which the well was located to a pipeline operator.

A well operator and a pipeline operator could apply to the Railroad Commission for certification that a well was qualified for the exemption.

For each of the three categories of qualifying wells specified by the bill, an application would be required to:

- attest that the well met the criteria for the category, as applicable;
- be submitted jointly by the well operator and pipeline operator, or by the well operator alone, as applicable; and
- certify that the commission authorized gas from the well to be flared for at least 30 days during the year preceding that in which the application was filed.

The commission could require an applicant to provide any information relevant to determining whether a well was qualified for the exemption. If the application was approved, the commission would be required to issue a certificate designating the well as a qualifying well. The certificate would expire in one year.

A certified well that was connected to a pipeline on which takeaway capacity was not expected to meet demand would be required to use all available takeaway capacity before consuming gas on the site and receiving an exemption under the bill.

To qualify for the exemption under the bill, the person responsible for paying the gas severance tax would have to apply to the comptroller. The application would have to include the certificate issued by the Railroad Commission. The comptroller could require an applicant to provide any additional information the comptroller deemed relevant. The commission, well operator, or pipeline operator would be required to notify the comptroller in writing immediately if a certified well no longer qualified for the exemption.

The bill would take effect September 1, 2023 and would not affect tax liability accruing before that date.

SUPPORTERS SAY:

HB 591 would clarify the circumstances in which gas that otherwise would be lawfully vented or flared could be used without being subject to severance taxes. Lawfully flared or vented gas is not subject to severance tax, but it remains unclear whether gas purchased for use by mobile Bitcoin operators should be subject to the tax. HB 591 would provide this important clarification.

Venting and flaring are currently used to dispose of stranded natural gas created as a byproduct of oil production. Typically, oil producers prefer to sell the gas through a pipeline operator. However, when a pipeline connection does not exist or the pipeline does not have takeaway capacity, the gas will be vented or flared. In addition to wasting the gas, venting and flaring can create health risks for nearby residents.

Mobile Bitcoin mines are able to use stranded gas to generate electricity to run the large computer systems they use to create new Bitcoin. This gives a productive use for stranded gas and saves it from being vented into the air, reducing CO2 emissions. Bitcoin operators are mobile and are often able to move equipment from site to site to capture gas from multiple producers. Allowing Bitcoin miners to use the stranded gas provides a reasonable and effective solution to the problem of wasted stranded gas. While there will always be a need for emergency flaring or venting, this new use could be an important tool for years to come.

CRITICS SAY:

The bill would create a standing tax incentive to encourage the capture of gas that would have been flared or vented. The industry has a stated goal of ending routine flaring by 2030. In light of this goal, this tax incentive should be temporary.

A provision should also be added that requires any industry using stranded gas for power production to provide either financial assurance or bonding to ensure any equipment left on site would be cleaned up and properly disposed of in the future, similarly to requirements that are in place for solar and wind industries.

NOTES:

According to the Legislative Budget Board, the fiscal implications of the bill cannot be determined as it is not known how much natural gas would be used at the well site verses being lawfully vented or flared. The bill

would result in an indeterminate amount of revenue loss from the general fund, Economic Stabilization Fund, and State Highway Fund.

SUBJECT: Revising criteria for certain vehicle registration fee exemptions

COMMITTEE: Transportation — favorable, without amendment

VOTE: 11 ayes — Canales, Raney, Ashby, Davis, Gamez, Caroline Harris, Landgraf, Lozano, Ordaz, Patterson, Perez

0 nays

2 absent — Lujan, Romero

WITNESSES: For — David Wells, Texas Baptist Men (*Registered, but did not testify*: Robert Andrews, Austin Baptist Association Disaster Relief Team; Jay Crossley, Farm&City; Stephen Reeves, Fellowship Southwest; J.D. Hale, Texas Association of Builders; John Litzler, Texas Baptists Christian Life Commission; Scott Norman, Texas Builders Foundation; Roberto Lopez, Texas Civil Rights Project; Joshua Houston, Texas Impact; Jennifer Allmon, The Texas Catholic Conference of Bishops; Tiffany Patterson, United Ways of Texas; Scott White, Velo Paso Bicycle-Pedestrian Coalition)

Against — None

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

BACKGROUND: Transportation Code sec. 502.454(a) exempts from registration fees a commercial motor vehicle, trailer, or semitrailer from the otherwise required registration fee if the vehicle is owned by a nonprofit disaster relief organization and used exclusively for emergencies.

DIGEST: HB 53 would amend Transportation Code sec. 502.454(a) to exempt from registration fees a commercial motor vehicle, trailer, or semitrailer owned by a nonprofit disaster relief organization and used exclusively for emergencies, training, equipment maintenance, transportation of disaster relief, or other activities related to disaster relief.

The bill would include additional conforming language to reflect this change. The bill would take effect September 1, 2023.

SUPPORTERS SAY:

HB 53 would clarify the activities that qualified as emergency use for the registration fee exemption granted for vehicles owned and used by disaster relief nonprofit organizations. Registration fee exemptions provide significant savings for these organizations, allowing them to direct more funds to disaster relief costs. Current law is ambiguous about whether purposes such as training or maintenance are included in emergency use. HB 53 would provide clarity for all parties, including nonprofits and the DMV, ensuring that disaster relief organizations could continue their important work with the benefit of registration fee exemptions.

CRITICS SAY:

No concerns identified.

SUBJECT: Authorizing state grants for library construction

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

VOTE: 7 ayes — Ashby, Martinez, Bailes, Flores, Holland, Morrison, Troxclair

0 nays

2 absent — Collier, Garcia

WITNESSES: For — Gretchen Pruett, Texas Library Association (*Registered, but did not testify*: LaRessa Quintana, City of Denton; Rick Thompson, County Judges, and Commissioners Association of Texas; Bill Kelly, Mayor's Office, City of Houston; JJ Rocha, Texas Municipal League; Tiffany Patterson, United Ways of Texas)

Against — None

On — (*Registered, but did not testify*: Gloria Meraz, Texas State Library and Archives Commission)

DIGEST: HB 540 would authorize the Texas State Library and Archives Commission (TSLAC) to award construction grants for the new construction, rehabilitation, or renovation of a public library or the infrastructure of a library and associated expenses. The bill also would remove the current prohibition against using state grants for library construction. The bill would take effect September 1, 2023.

SUPPORTERS SAY: By allowing the use of state grants for library construction, HB 540 would enable greater library access to the nearly two million Texans living in communities without a public library. Funds were appropriated to TSLAC for the construction of new libraries during the 86th legislature, but it was discovered that using the funds for construction was prohibited under current law. By striking this prohibition, HB 540 would allow for library creation and improvements, providing residents with needed resources, such as greater broadband internet access and accommodations for those with disabilities.

CRITICS SAY:

No concerns identified.

NOTES:

The bill would result in an indeterminate cost to the state. The bill authorizes the Texas State Library and Archives Commission to award library construction grants, the costs of which would be dependent on future appropriations by the Legislature.

SUBJECT: Revising juvenile court proceedings for certain children

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

VOTE: 9 ayes — Dutton, Lujan, Cook, Leo-Wilson, J. Lopez, Martinez Fischer, Smithee, Talarico, Wu

0 nays

WITNESSES: For — Jeannie Von Stultz, Bexar County Juvenile Probation; Uche Chibueze, Harris County Juvenile Probation; Tressa Surratt, Harris County Public Defender's Office, Juvenile Division; Marc Bittner, Juvenile Probation Department, serving the counties of Blanco, Burnet, Gillespie, Llano, and San Saba; Claudia Ikonomopoulos, Nueces County Juvenile Department; William Carter; (*Registered, but did not testify*: Jennifer Balido, Dallas County Criminal District Attorney John Creuzot; Hannah Gill, NAMI Texas; Shannon Doyle, National Association of Social Workers Texas; Alycia Castillo, Texas Center for Justice and Equity; Leela Rice, Texas Council of Community Centers; Ikenna Okoro, Texas Psychological Association; Ashley Ford, The Arc of Texas)

Against — None

On — (*Registered, but did not testify*: Anne McGonigle, Health and Human Services Commission; Reilly Webb, Health and Human Services Commission; Amanda Britton, Texas Juvenile Justice Department; Susan Palacios, Texas Juvenile Justice Department)

DIGEST: HB 2730 would add, revise, and update certain provisions relating to juvenile court referrals and proceedings for children with mental illness or an intellectual disability. The bill also would revise the organization of the Family Code chap. 55.

Rather than reference criteria for commitment under the Health and Safety Code or refer to requirements for mental examinations under the Code of Criminal Procedure, the bill would provide criteria and processes related to court-ordered mental health services for juveniles with mental illness

and or an intellectual disability and amend language referencing "commitment" to mean court-ordered placement in a state juvenile justice facility. The bill would replace the terms "commitment" and "committed" with "ordered", "court-ordered mental health services", "court-ordered residential intellectual disability services", and other relevant, applicable terms depending on the section.

Examination of a child with mental illness or an intellectual disability. HB 2037 would establish the conditions under which a juvenile court could order a forensic mental examination and the qualifications required to be appointed as an examiner.

A juvenile court would be authorized to order a forensic mental examination if the court determined that probable cause existed to believe that a child who was alleged or found to have engaged in delinquent conduct or conduct indicating a need for supervision met the following conditions:

- was a child with mental illness;
- was unfit to proceed in juvenile court due to mental illness or an intellectual disability; or
- lacked responsibility for conduct due to mental illness or intellectual disability.

To qualify for appointment as an expert authorized to conduct a forensic mental examination, an individual would have to be a physician licensed in Texas or a psychologist licensed in Texas who had a doctoral degree in psychology. A licensed physician or psychologist would have to, as appropriate, meet the following criteria:

- have certification by the American Board of Psychiatry and Neurology with added or special qualifications in forensic psychiatry or the American Board of Professional Psychology in forensic psychology; or
- have training consisting of at least 24 hours of specialized forensic training relating to certain topics and at least eight hours of

continuing education relating to forensic evaluations, completed in the 12 months before the date of the appointment.

Additionally, a physician or psychologist would be required to complete six hours of continuing education in courses in forensic psychiatry or psychology, respectively, in the 24 months before the appointment. A court could appoint as an expert a physician or psychologist who did not meet these specified requirements only if the court determined that exigent circumstances required the court to appoint an expert with specialized expertise to examine the child.

Criteria for court-ordered mental health services. HB 2037 would authorize a juvenile court to order a child to receive temporary inpatient mental health services only if the court found, from clear and convincing evidence, that the child was a child with mental illness and as a result of the illness, was:

- likely to cause serious harm to the child's self or others; or
- suffering severe and abnormal mental, emotional, or physical distress, experiencing substantial mental or physical deterioration of the child's ability to function independently, and unable to make a rational and informed decision as to whether to submit to treatment or unwilling to submit to treatment.

A juvenile court could order a child to receive extended inpatient mental health services only if the court found, from clear and convincing evidence, that, in addition to the specified requirements, the child's condition was expected to continue for more than 90 days and the child had received court-ordered inpatient mental health services for at least 60 consecutive days during the preceding 12 months.

HB 2037 would authorize a court to order a child to receive temporary outpatient mental health services only if the court found that appropriate mental health services were available to the child and clear and convincing evidence was found that:

- the child was a child with severe and persistent mental illness;

- as a result of the mental illness, the child would, if not treated, experience deterioration of the ability to function independently to the extent that the child would be unable to live safely in the community;
- outpatient mental health services were needed to prevent a relapse that likely would have resulted in serious harm to the child or others; and
- the child could not effectively and voluntarily participate in outpatient treatment services, demonstrated either by the child's actions within the two-year period prior to the hearing dates or specific characteristics of the child's condition that significantly impaired the child's ability to make a rational and informed decision as to whether to submit to outpatient treatment.

A juvenile court would be authorized to order a child to receive extended outpatient mental health services only if the court found, from clear and convincing evidence, that the child's condition was expected to continue for more than 90 days and the child had received court-ordered inpatient mental health services for at least 60 consecutive days during the preceding 12 months or court-ordered outpatient mental health services during the preceding 60 days.

Criteria for court-ordered residential intellectual disability services. HB 2037 would prohibit a court from ordering a child to receive services at a residential care facility unless the child was a child with a disability and:

- evidence was presented showing that the child represented a substantial risk of physical impairment or injury to the child's self or others or was unable to provide for the child's most basic personal physical needs;
- the child could not be adequately and appropriately habilitated in an available, less restrictive setting;
- the residential care facility provided habilitative services, care, training, and treatment appropriate for the child's needs; and

- an interdisciplinary team, meaning a group of intellectual disability professionals and paraprofessionals, recommended placement in the residential care facility.

Determination of mental illness. If a court determined that probable cause existed to believe that a child was a child with mental illness, the court would be required to temporarily stay the court proceedings and order a forensic mental exam. Information obtained from the examination would be required to include expert opinion as to whether the child was a child with mental illness and whether the child met the criteria for court-ordered mental health services, including, if applicable, what specific criteria the child met.

If a court determined that evidence did not support a finding that the child was a child with a mental illness or that the child met the criteria for court-ordered mental health services, the court would be required to dissolve the stay and continue the court proceedings.

Standards of care. The bill would add outpatient mental health services to provisions relating to mental health service standards of care.

HB 2307 would require court-ordered treatment for a child with mental illness to focus on stabilization of the child's mental illness and on meeting the child's psychiatric needs in the least restrictive appropriate setting.

A least restrictive appropriate setting would be defined as a treatment or service setting closest to the child's home that provided the child with the greatest probability of improvement and was no more restrictive of the child's physical or social liberties than was necessary to provide the child with the most effective treatment or services and to adequately protect against any danger the child posed to the child's self or others.

Discretionary transfer to criminal court. HB 2037 would revise certain provisions relating to the transfer of proceedings from a juvenile court to a criminal court on the 18th birthday of a child for whom the court ordered inpatient mental health services or residential care. The bill would:

- authorize rather require the juvenile court to waive its original jurisdiction and transfer all pending proceedings to a criminal court;
- clarify that a waiver of jurisdiction and discretionary transfer may occur on or after the child's 18th birthday; and
- require that a court conducting a waiver of jurisdiction and discretionary transfer hearing conduct the hearing according to certain statutory provisions.

Unfit to proceed or lack of responsibility for conduct determination. The bill would create certain requirement for fitness to proceed and lack of responsibility examinations and reports.

In a report based on a forensic mental exam, the qualified expert would be required to consider the following:

- whether the child, as supported by current indications and the child's personal history, was a child with mental illness or an intellectual disability;
- the child's capacity to appreciate the allegations against the child, appreciate the range and nature of allowable dispositions that could be imposed against the child, understand the roles of the participants and the nature of the legal process, display proper courtroom behavior, and testify relevantly; and
- the degree of impairment resulting from the child's mental illness or intellectual disability and the specific impact on the child's capacity to engage with counsel in a reasonable and rational manner.

HB 2037 would require an expert's report to the court to state an opinion on the child's fitness to proceed or an explanation of why the expert could not state such an opinion.

The bill would require information obtained from the examination to include expert opinion on whether the child was a child with mental illness or an intellectual disability, whether the child met the criteria for

court-ordered mental health or intellectual disability services, and, if applicable the specific criteria the child met.

HB 2037 would establish the following provisions regarding a child that could be adequately treated in an alternative setting but who did not meet criteria for court-ordered inpatient services or residential intellectual disability services:

- the authority of the court to extend outpatient treatment services past 90 days; and
- the authority of juvenile probation departments to provide restoration classes in collaboration with the outpatient alternative setting.

Additionally, the bill would add provisions to reporting requirements for public and private facilities and alternative settings. The report to court would be required to include whether the child met the criteria for court-ordered mental health services or court-ordered intellectual disability services. An outpatient alternative setting collaborating with a juvenile probation department to provide restoration classes would also be required to include any information provided by the probation department regarding the child's assessment at the conclusion of such classes.

Restoration classes would be defined as curriculum-based educational sessions a child attended to assist in restoring the child's fitness to proceed, including the child's capacity to understand the proceedings in juvenile court and to assist in the child's own defense.

Proceedings for mental health or residential intellectual disability services. HB 2037 would revise provisions relating to juvenile court referral and proceedings for a child with mental illness and for a child found unfit to proceed or lacking responsibility for conduct due to mental illness or an intellectual disability. The bill would require the court to:

- direct the local mental health authority to file, before the date set for the hearing, its recommendation for the child's proposed treatment;

- identify the person responsible for court-ordered outpatient mental health services at least three days before the date of a hearing that could result in the court ordering the child to receive court-ordered outpatient mental health services; and;
- give consideration, following the hearing, to the least restrictive appropriate setting for treatment of the child and to the parent's, managing conservator's, or guardian's availability and willingness to participate in the child's treatment or services.

The bill would require the Health and Human Services Commission, on receipt of the court's order for mental health services, to identify a facility and admit the child to that facility.

HB 2037 would require a court to take the following action if the child was currently detained in a juvenile detention facility:

- order the child released from detention to the child's home or another appropriate place;
- order the child detained or placed in an appropriate facility other than a juvenile detention facility; or
- conduct a detention hearing and, if the court made findings to support further detentions of the child, order the child to remain in the detention facility subject to further detention orders from the court.

If a juvenile court initiated proceedings for court-ordered treatment services for a child found unfit to proceed or lacking responsibility for conduct due to a mental illness or an intellectual disability, the court would be required to send to the court clerk all papers relating to the child's mental illness or intellectual disability, the child's unfitness to proceed, and the finding that the child was not responsible for the child's conduct, if applicable.

For proceedings in juvenile court for a child found to be unfit to proceed or lacking responsibility for conduct due to an intellectual disability, the prosecuting attorney would be allowed to file an application for an

interdisciplinary team report and recommendation that the child was in need of long-term placement in a residential care facility.

Other provisions. HB 2037 would replace the term "mental retardation" with "intellectual disability" and make conforming changes.

The bill would take effect September 1, 2023, and would apply only to a juvenile court proceeding or hearing that commenced on or after that date.

SUPPORTERS SAY:

HB 2037 would streamline the processes for juvenile court proceedings involving a child who may be unfit to proceed, clarifying key elements and steps for judges, attorneys, juvenile probation departments, and other parties involved. The bill would not necessarily introduce new processes but would organize, simplify, and update the current code, which can be difficult to understand and lacks clarity regarding key elements of the process, such as examinations and reports. Current code is not organized sequentially and often references provisions and definitions in other codes, creating confusion for judges, attorneys, and other parties involved in the process. These issues often result in duplicate or contradicting actions, which can create long delays in court proceedings. HB 2037 would clarify the process by outlining the steps in sequential order, incorporating certain provisions referenced in other codes, and providing specific information for critical elements. These revisions could help to improve the quality and coordination of the juvenile court proceedings, and result in more timely resolutions.

The bill could reduce long delays in juvenile court proceedings by creating clear pathways for courts to order mental health services. Currently, a child could be required to remain in a detention facility for extended periods as they await court proceedings or court-ordered mental health services. Such delays are difficult for children with mental illness or an intellectual disability and can strain county detention centers that may not be fully equipped to support the needs of these children. The bill would clarify the mechanism by which a court could order mental health services, which could reduce costly delays and expediting adjudication.

HB 2037 would expand pathways for treatment for a child who is deemed unfit to proceed but did not fit the criteria for court-ordered mental health

services. Currently, the code does not specify whether a judge could order mental health services for such children. HB 2037 would remedy this ambiguity by allowing a judge to initiate an order for appropriate mental health services. The bill also would expand pathways for treatment by allowing juvenile probation departments discretion to work with alternative outpatient programs and provide restoration classes for a child deemed unfit to proceed. This measure could help counties use community resources more effectively.

The bill would revise outdated and contradictory terms and language that are not specific to youth. Current code was written using language from codes that apply to adults. HB 2037 would revise the code to make it more appropriate and specific for youth.

HB 2037 would not require the Health and Human Services Commission to implement outpatient mental health services, so there would not be an additional cost to the state.

HB 2037 would not create new definitions but rather add existing definitions from various parts of code into one chapter. The bill would not alter current definitions stipulating that a child with mental illness or an intellectual disability be diagnosed by a licensed physician or psychologist. While an expert conducting a forensic mental examination would not be prohibited from taking into consideration the diagnosis of other professionals, their reported opinions would go beyond determining the existence of a mental illness or an intellectual disability.

CRITICS SAY:

HB 2037 could limit who could diagnose children with a mental illness or an intellectual disability. Some school districts diagnose children’s mental illnesses and HB 2037 should specify that educational diagnosticians could diagnose children with a mental illness or an intellectual disability.

SUBJECT: Including sex trafficking of disabled individuals as a first degree felony

COMMITTEE: Criminal Jurisprudence — favorable, without amendment

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

0 nays

WITNESSES: For — (*Registered, but did not testify*: Jason Sabo, Children at Risk; Jennifer Szimanski, Combined Law Enforcement Associations of Texas; Andy Kahan, Crime Stoppers Houston; M Paige Williams, Dallas County Criminal District Attorney John Creuzot; James Parnell, Dallas Police Association; Jessica Anderson, Houston Police Department; Ray Hunt, Houston Police Officers Union; Lindsay Lanagan, Legacy Community Health; Lindy Borchardt and Phil Sorrells, Tarrant County Criminal District Attorney; Carlos Ortiz, SAPOA; Ashley Brooks, Texas Association Against Sexual Assault; Jenny Andrews, Texas Catholic Conference of Bishops; John Wilkerson, Texas Municipal Police Association; Ashley Ford, The Arc of Texas; Thomas Parkinson; Leticia Ybarra)

Against — None

BACKGROUND: Under Penal Code sec. 22.021(b), a "disabled individual" is defined as a person older than 13 years of age who by reason of age or physical or mental disease, defect, or injury is substantially unable to protect the person's self from harm or to provide food, shelter, or medical care for the person's self.

DIGEST: HB 279 would apply the offense for conduct constituting child sex trafficking to the same conduct towards an individual with disabilities and makes conforming changes. The conduct would be a first-degree felony (life in prison or a sentence of five to 99 years and an optional fine of up to $10,000) regardless of whether the actor knew that the victim was disabled at the time of the offense. For a personal injury arising from the

sex trafficking of a disabled individual, a person would be required to bring suit not later than 30 years after the day of the incident.

The changes made in HB 279 would apply only to an offense committed on or after the effective date of the bill. The bill would take effect September 1, 2023.

SUPPORTERS SAY:

HB 279 would help prosecutors bring justice to sex traffickers who take advantage of individuals with disabilities. People with disabilities are often targeted by traffickers due to their unique vulnerabilities. Individuals with disabilities often have a reduced ability to assess situations and make safe decisions, which may put them at a higher risk of being trafficked. Stronger protections have been granted to children for being similarly at-risk of being trafficked; the bill would extend the same protection for individuals with a disability.

Currently, it can be difficult for prosecutors to bring traffickers of individuals with disabilities to justice because prosecutors typically must prove the existence of force, fraud, or coercion to convict an offender. Force, fraud, and coercion for disabled individuals may look different than what is preconceived of by a court. Proving the existence of force, fraud, or coercion often must involve the cooperation of a survivor, but the trauma and lasting psychological effects of coercion that often result from sex trafficking can make it more difficult for these individuals to participate. By aligning requirements for these offenses with trafficking cases involving child victims, the bill would eliminate the requirement for prosecutors to prove the presence of force, fraud, or coercion in cases involving disabled individuals.

CRITICS SAY:

No concerns identified.

SUBJECT: Amending reports of community health worker expenses in Medicaid

COMMITTEE: Human Services — favorable, without amendment

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

0 nays

1 absent — Campos

WITNESSES: For — Kay Ghahremani, Texas Association of Community Health Plans; (*Registered, but did not testify*: Nadia Islam, City of San Antonio; Elisa M. Tamayo, El Paso County; Elisa Hernandez, El Paso Health; Anne Dunkelberg, Every Texan; Jennifer Biundo, Healthy Futures of Texas; Lindsay Lanagan, Legacy Community Health; Christine Yanas, Methodist Healthcare Ministries of South Texas, Inc.; Diana Forester, Texans Care for Children; Jessica Lynch, Texas Association of Health Plans; Leela Rice, Texas Council of Community Centers; Caitlin Flanders, Texas Medical Association; Clayton Travis, Texas Pediatric Society; Rachel Wolleben, Texas Women's Healthcare Coalition; Ashley Harris, United Ways of Texas)

Against — None

On — (*Registered, but did not testify*: Emily Sentilles, Health & Human Services Commission)

DIGEST: HB 113 would require the Health and Human Services Commission to allow managed care organizations providing health care services under the STAR Medicaid program to categorize services provided by community health workers as a quality improvement cost instead of an administrative cost, as authorized by federal law.

If an 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.

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

SUPPORTERS SAY:

HB 113 would address a funding barrier to hiring additional community health workers by allowing managed care organizations to report associated expenses as a quality improvement cost. Currently, expenses associated with community health workers are considered administrative costs, which are capped at a certain amount. While managed care organizations are not prohibited from reporting these expenses as quality improvement costs, many are hesitant to do so because of broad definitions within the state's Medicaid contract. Community health workers offer valuable services as community liaisons, helping people to access quality medical care and social services. Clarifying that managed care organizations could report these expenses as quality improvement expenses, which are not capped, would enable them to hire more community health workers.

CRITICS SAY:

No concerns identified.

SUBJECT: Exempting certain contracts from procurement notice requirements

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 — None

Against — (*Registered, but did not testify*: Cynthia Van Maanen, Travis County Democratic Party; Susana Carranza; Linda Guy; Leslie Hall; Maria Person; Claudia Torres Yanez)

On — (*Registered, but did not testify*: Molly Keller, General Land Office)

DIGEST: HB 3013 would exempt contracts for services necessary to respond to a natural disaster from the statutory requirement that, for procurements over $20 million, state agencies must notify interested parties at least two months before soliciting the procurement.

The bill would take effect September 1, 2023, and would apply only to a contract for which a state agency first advertised or otherwise solicited bids, proposals, offers, or qualifications on or after that date.

SUPPORTERS SAY: HB 3013 would enable the General Land Office (GLO) to more quickly solicit vendors for large contracts to provide necessary services in the event of a disaster, ensuring that recovery efforts would not needlessly be delayed. Timely completion of recovery projects helps to minimize the damage caused by a disaster. A law passed by the 87th Legislature intended to streamline the procurement process for state agencies has had the unintended consequence of making the process more burdensome for GLO's disaster recovery projects, about half of which involve contracts

for more than $20 million. HB 3013 would help solve this problem by exempting these contracts from the current notice requirement.

The bill would not significantly reduce transparency because the exemption would affect only GLO, whose large contracts for disaster response are mostly related to federal grant programs with their own oversight mechanisms. Regulations for these grants can require re-procurement before the end of the grant term, and restarting the programs with new vendors during a disaster could delay recovery and increase costs.

CRITICS SAY:

HB 3013 could reduce transparency and public scrutiny in procurements for some state contracts, which are especially important during a disaster when stakes are high and people's well-being is at risk. The bill could achieve a better balance between the need for a timely response and transparency by requiring shorter notice for disaster-related contracts rather than eliminating the notice completely.